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Via Hand Delivery

August 25, 2015

151010

Holly Wolcott  
LA City Clerk  
200 N. Main Street, Room 360  
Los Angeles, CA 90012

Kevin James, Board President  
Fernando Campos, Exec. Officer  
Board of Public Works  
200 North Spring Street, Room 356  
Mail Stop 464  
Los Angeles, CA 90012-4801

Re: **Appeal of 8/24/15 Approval of Board Public Works Tree Removal Permit  
1720 East Cesar E. Chavez Avenue**

Dear Clerk Wolcott and President James:

Advocates for the Environment, a non-profit organization, with this Office as its representative, hereby appeals the referenced approval under Pub. Res. Code 21151c to the Los Angeles City Council.

The basis for the appeal is, *inter alia*, the California Environmental Quality Act because: a) 40 mature trees in this urban area is a "stand" that cannot be removed on a CEQA exemption, b) the staff report site plan only identified the locations of 24, not 40, trees – leading to a vague project description thwarting informed decisionmaking, c) the City has not properly adopted its definition/threshold of a "stand" under CEQA. *Pub. Res. Code 15064.7* "Thresholds of Significance. . . (b) Thresholds of significance to be adopted for general use as part of the lead agency's environmental review process must be adopted by ordinance, resolution, rule, or regulation, and developed through a public review process and be supported by substantial evidence."

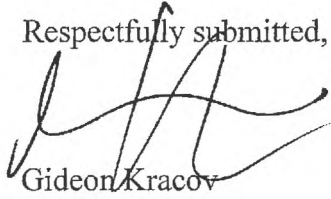
If this procedure continues, the City will be able to chop hundreds or many thousands of trees in the urban environment, 20, 50 or more at a time, with no substantive CEQA review for mitigation, alternatives, etc.

The Appeal incorporates the attached comment letter, and the entire Administrative Record for the approval. Appellant reserves the right to provide supplemental legal and factual justifications for the appeal.



Appellant further requests that all tree removals be stayed pending resolution of the appeal.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Gideon Kracov', written over the typed name.

Gideon Kracov

Attach.

Cc: Councilman José Huizar  
200 N. Spring Street, Room 465  
Los Angeles, CA 90012

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## 8/24/15 Item #3 BSS TREE REMOVAL – 1720 East Cesar E. Chavez Avenue

By: Advocates for the Environment, Land Protection Partners, Gideon Kracov, Dean Wallraff, Travis Longcore, Ph.D. and Catherine Rich

1. *CEQA exemption not applicable* – These 40 trees are a “stand.” The City of Los Angeles CEQA Guidelines Section 1, Class 1, Category 3 **DO NOT ALLOW** the use of a Categorical Exemption for repair of a sidewalk if it would result in the removal of a scenic resource such as “stand of trees.” In forestry, “stand” is a term that refers to trees that are “a contiguous group of trees sufficiently uniform in age-class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.” The 40 trees to be removed meet this definition and in fact include a few different stands (contiguous groups) not just one stand of trees. They are the largest contiguous stand of tall shade trees in the vicinity in Boyle Heights next to freeway, which raises cumulative impact issues. The very large number of trees to be removed, in this neighborhood sandwiched between the 10 and 101 freeways, is an unusual circumstance that creates a reasonable possibility of a substantial environmental impact. **See attached expert comment letter and photos.**
2. *Removal not necessary for many trees.* At least 12 to 15 of the trees/tree wells do not have raised sidewalks. Why must they be removed? **See attached photos.**
3. *Unlawful piecemealing at this site and cumulative impacts.* At least 5 street trees on Chavez, 2 on State and 5-10 on Bailey already have been recently cut and replanted. All this should be added to the 40 trees here. Under CEQA, you cannot chop (literally) a project into multiple small parts in order to avoid CEQA compliance. **See attached photos.**
4. *The site plan transmittal doesn't depict all 40 trees to be removed.*
5. *Pattern and practice of CEQA violations for tree removals.* All commentors' public comment and agenda comment and the entire record for 8/24/15 item #4 and special agenda item #1, 7/27/15 item #4, 7/24/15 item #9, 6/17/15 item #4, 6/5/15 item #1, 2/18/15 item #5 are hereby incorporated by this reference. **See attached** and *Venice Town Council v. City of LA* (1996) 47 Cal.App.4th 1547, 1566; *Californians for Native Salmon v. Dept. of Forestry* (1990) 221 Cal.App.3d 1419, 1427-29.
6. *Unlawful piecemealing for entire sidewalk program.* Categorical exemptions cannot be used for the repair of sidewalks under the *Willits* settlement, because the cumulative result will be the loss of thousands of trees and hundreds of thousands of square feet of tree canopy. The City is obligated to undertake an environmental review for its sidewalk repair program as a whole, and we recommend this occur at the program level. The preparation of a Program EIR that discloses

those impacts and sets up enforceable and verifiable mitigation measures is necessary to minimize those impacts as required by law. **See attached expert comment letter.**

DEPARTMENT OF PUBLIC WORKS  
BUREAU OF STREET SERVICES  
REPORT NO.2

Date: August 24, 2015  
CD # 14

Honorable Board of Public Work  
of the City of Los Angeles

Commissioners:

**1720 EAST CESAR E CHAVEZ AVENUE – REQUEST BOARD AUTHORIZE A NO-FEE PERMIT TO REMOVE FORTY INDIAN LAUREL FIG (FICUS MICROCARPA ‘NITIDA’) TREES FOR THE RECONSTRUCTION OF THE OFFGRADE PUBLIC SIDEWALK IN THE INTEREST OF PUBLIC SAFETY. TREE REPLACEMENTS ARE REQUIRED.**

**RECOMMENDATION:**

That your Board:

1. FIND that the tree removal (1) classifies as operation, repair, maintenance or minor alteration of existing street, sidewalk, and gutter, involving negligible or no expansion of use beyond that previously existing; and does not involve the removal of a scenic resource; (2) that the action is exempt under Article III, Section 1, Class 1, Category 3 (existing facilities – sidewalk repair or maintenance) of the City of Los Angeles Environmental Quality Act Guidelines (2002); and (3) that none of the exceptions to the use of a categorical exemption as set forth in Section 153.00.2 of the State CEQA Guidelines apply.
2. Review and approve this tree removal permit request for forty Indian Laurel Fig trees for the reconstruction of offgrade sidewalks. Tree replacements are required.

**TRANSMITTALS:**

1. Copy of fax sheet sent to Council office.
2. Application for a tree removal permit.
3. Service Request #14051577-1.
4. Letter from Councilmember Jose Huizar, Council District 14, dated December 1, 2014.
5. Class A Permit A2014-001708.
6. Plot Plan.
7. Fifteen pages of photographs of the trees to be removed.

**CONDITION:**

The applicant shall plant thirty-seven 24-inch box size Pink Trumpet trees (*Handroanthus impetiginosa*) and provide watering for a minimum three year period. Additionally, the applicant shall deliver forty-three 15-gallon size Australian Willow trees (*Geijera parviflora*) to the Urban Forestry Division nursery to fulfill the Board of Public Works (BPW) 2:1 tree replacement policy.

The applicant shall defend, indemnify, and hold harmless the City, its agents, officers, or employees from any claim, action, or proceeding against the City or its agents, officers, or employees relating to or to attack, set aside, void or annul this approval.

**ALTERNATIVE METHODS AND OPTIONS EXPLORED:**

The size, species, and location of the trees negate the possibility of tree preservation or relocation.

**RECITAL:**

Juan Moreno, property owner's representative, applied to the Bureau of Engineering (BOE) for a Class A Permit to reconstruct the offgrade sidewalk conditions at the White Memorial Medical Center located at 1720 East Cesar E Chavez Avenue. Mr. Moreno was informed by the BOE that street tree removal requires BPW approval. Therefore, Mr. Moreno contacted the Bureau of Street Services (BSS) requesting the site be inspected to determine the relationship between the offgrade conditions and street trees.

A Bureau Arborist inspected the subject location on September 23, 2014 and December 24, 2014. The inspection revealed forty Indian Laurel Fig trees on East Cesar E Chavez Avenue and surrounding streets. The Indian Laurel Fig trees are located as follows: three on East Cesar E Chavez Avenue, twelve on Boyle Avenue, nine on Pennsylvania Avenue, and sixteen on State Street. All of the trees are in fair condition an average of twenty-two inches diameter by thirty feet in height. The trees on Cesar E Chavez Avenue, Boyle Avenue, and State Street are growing in four foot tree wells in a nine foot monolithic sidewalk and the trees on Pennsylvania Street are growing in a three foot continuous parkway with an adjacent six foot sidewalk. The roots and root crowns of the subject trees have significantly contributed to the defective condition of the public sidewalks. Surface roots are prevalent throughout the tree wells and parkway sometimes growing several inches above the soil surface grade. The defective sidewalk conditions have created a potential liability to the City. Due to the minimal tree well and parkway size, the required root pruning to allow the trees to remain while continuing to provide Americans with Disabilities (ADA) required access will significantly and adversely affect the trees' health and root structural integrity leaving them potentially unstable. Therefore, sidewalk reconstruction requires tree removal.

The Bureau of Street Services finds the tree removal (1) classifies as operation, repair, maintenance or minor alteration of existing street, sidewalk, and gutter, involving negligible or no expansion of use beyond that previously existing; and does not involve the removal of a scenic resource; (2) the action is exempt under Article III, Section 1, Class 1, Category 3 (existing facilities – sidewalk repair or maintenance) of the City of Los Angeles Environmental Quality Act Guidelines (2002); and (3) that none of the exceptions to the use of a categorical exemption as set forth in Section 15300.2 of the State CEQA Guidelines apply. The CEQA Guidelines for Street Tree Removal and Replacement were used in making this finding and are on file with the Bureau and available to the public upon request.

DEPARTMENT OF PUBLIC WORKS  
BUREAU OF STREET SERVICES  
REPORT NO.2  
Page 3 of 3

Therefore, to allow for sidewalk reconstruction and in the interest of public safety, it is recommended that your Board approve the request for a no-fee tree removal permit.

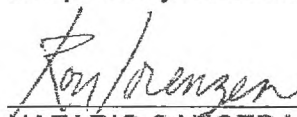
Councilman Huizar, in whose district this project resides, submitted a letter dated December 1, 2014, fully supporting the project and required tree removals. Nate Hayward, Public Works Deputy, Fourteenth Council District Office, was again informed of the tree removal request on February 27, 2015 and the Council office will inform the Bureau of any tree removal objections received prior to the Board hearing this matter. Public notification of this tree removal project was provided as follows: the trees were physically posted on September 29, 2014 and again on December 24, 2014; posting on the BSS Tree Removal Notification System; and communication of the project to the Community Forest Advisory Committee (CFAC).

The applicant shall plant thirty-seven 24-inch box size Pink Trumpet trees and provide watering for a minimum three year period. Additionally, the applicant shall deliver forty-three 15-gallon size Australian Willow trees to the Urban Forestry Division nursery to fulfill the Board of Public Works (BPW) 2:1 tree replacement policy.

The applicant has been advised of the recommendations contained in this report and shall defend, indemnify, and hold harmless the City, its agents, officers, or employees from any claim, action, or proceeding against the City or its agents, officers, or employees relating to or to attack, set aside, void or annul this approval.

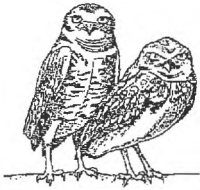
(HB----RL)

Respectfully submitted,

  
\_\_\_\_\_  
NAZARIO SAUCEDA, DIRECTOR  
BUREAU OF STREET SERVICES

Prepared by:  
Urban Forestry Division  
Ext. 7-3077

NS/RL/HB:hb  
S:\Board Reports\2014Board Reports\1720 E Cesar Chavez Av



## Land Protection Partners

P.O. Box 24020, Los Angeles, CA 90024-0020  
Telephone: (310) 247-9719

### **Improper Categorical Exemption for Removal of Forty (40) Street Trees at 1720 East Cesar E. Chavez Avenue, Los Angeles as Part of Citywide Sidewalk Repair Program**

August 23, 2015

Travis Longcore, Ph.D.  
Catherine Rich, J.D., M.A.

#### **1 Introduction and Summary**

The City of Los Angeles Board of Public Works has before it on August 24, 2015, and item to approve removal of 40 street trees around 1720 East Cesar E. Chavez Avenue at White Memorial Medical Center. The proposed finding for the application asserts that the project is Section 1, Class 1, Category 3 exempt from the California Environmental Quality Act (CEQA) as sidewalk repair or maintenance. City CEQA guidelines do not allow for use of an exemption from CEQA for removal of a “stand” of trees. The trees to be removed meet the definition of a stand. Furthermore, cumulative impacts from the City’s newly funded sidewalk repair program render it ineligible for a Categorical Exemption from CEQA review. A Program Environmental Impact Report would be necessary before tree removals are approved for the City’s sidewalk repair program.

#### **2 Removal of a Stand of Trees Is Not Exempt from CEQA**

The City of Los Angeles CEQA Guidelines (Section 1, Class 1, Category 3) do not allow the use of a Categorical Exemption for repair of a sidewalk if the repair would result in the removal of a scenic resource such as a “stand of trees.” The question is whether the 40 trees to be removed for this project constitute a “stand” of trees that is a scenic resource.

The CEQA Guidelines do not provide a definition of a stand of trees. The generally accepted definition of the term therefore applies. In forestry, “stand” is a term that refers to trees that are “a contiguous group of trees sufficiently uniform in age-class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit” (Helms 1998). The 40 trees to be removed as a result of the proposed project meet this definition, and in fact are probably made up of a few different stands (contiguous groups). In several places across the project site, the trees to be removed are contiguous (their canopies are

touching), they are of a similar age-class, of the same species, and of generally the same structure. They are furthermore of similar quality and certainly therefore meet the definition of a “stand” as the term is used in forestry.

One cannot presume that the drafters of the Los Angeles CEQA Guidelines were trained as foresters, and so consideration of the commonsense definition of a “stand” is also warranted. The applicable dictionary meaning of the word “stand” is, “A set of objects of a specified kind ... a group of growing plants of a specified crop, spec. one of trees” (New Shorter Oxford English Dictionary, 1993). Again, the group of 40 trees of the same species that are proposed to be removed meet the definition of a stand.

The City has sometimes indicated that it interprets a “stand” as trees that depend on each other for survival. This condition is inconsistent with the way the word is used and defined in science and in common usage. In fact, we have never heard the word defined in that way.

### **3 Tree Removal Will Result in Significant Visual Impacts**

The trees in question are in many instances the only living green vegetation on the streetscapes in the area. The trees have developed large canopies and are the dominant visual element in some of the views. Their removal, even with replacement at a 1:1 ratio, would result in a substantial degradation of the visual character of the neighborhood. This removal of green vegetation from the landscape and the long period it will take to recover similar canopy coverage would constitute a significant adverse impact on the environment for the impacts that it would have on human well-being by degrading the visual environment. This project involves removal of 40 mature trees, not a few.

Over the past 25 years, research scientists have explored the influence of views of the built and natural environment on a whole range of measures of human well-being and have learned that being able to see green vegetation in daily life has profound and widespread benefits.

A classic study of the influence of views of green on health tracked patients who had undergone the same operation for 3–5 days during recovery. One group had a view of a brick wall out their hospital windows, while the other group had a view of a natural scene. The group with the brick wall view used more powerful painkillers for a longer period, had more post-operative complications, stayed in the hospital longer, and had more complaints recorded in notes kept by their nurses (Ulrich 1984). This finding is particularly important, given that the site of the proposed tree removals is a medical facility.

The view from a window is important to health outside of the hospital as well. Prisoners whose cells faced a barren courtyard had a 24% higher frequency of sick-calls than those whose cells had a view of open farmland (Moore 1981). Students whose dormitory windows faced a natural view with trees and shrubs scored higher on tests of their ability to pay attention than those whose dormitory windows faced a built view of brick and buildings (Tennessen & Cimprich 1995).

Work satisfaction and productivity is correlated with views of natural elements such as trees. Workers are more satisfied with their views when more natural elements are included (Kaplan

1993) and prefer environments with plants (Larsen et al. 1998). A sample group of students completed a repetitive computer task 12% faster and with fewer errors when plants were included in their work room than when no plants were provided (Lohr et al. 1996). Workers in offices with green plants overall had 21% fewer health complaints than those in offices without plants (Fjeld et al. 1998). This research strongly indicates that the loss of tree cover is not just an aesthetic impact, but also a degradation of visual character that affects the health and productivity of the employees and residents in an area.

Further research illustrates the point that loss of green cover and degradation of visual resources affects the ability of people to function. Residents of public housing were studied, where the windows of their various apartments either looked out on trees or looked out on no trees. Those residents who had a view of green from their apartments performed better on memory tests than those who did not; importantly, they ranked better in terms of managing major issues in their lives than those who did not have a view of trees (Kuo 2001; Kuo 2003). Furthermore, Kuo reports, "Residents living in buildings without nearby trees and grass reported more procrastination in facing their major issues and assessed their issues as more severe, less soluble, and more long-standing than did their counterparts living in greener surroundings." In short, the author concluded that a worse visual environment makes it more difficult to cope with the challenges of living in poverty (Kuo 2001).

Furthermore, in a paired study, Kuo and Sullivan (2001) demonstrated that public housing developments with identical architecture, but varying in the amount of vegetation, had strikingly different levels of crime. Both property crime and violent crime increased as the amount of vegetation decreased (Kuo & Sullivan 2001), a finding that has been replicated elsewhere (Wolfe & Mennis 2012).

The evidence of the benefits of being able to see trees and other vegetation is widespread (Kaplan 1993; Laumann et al. 2001, 2003; Staats et al. 2003; Ulrich 1979; van den Berg et al. 2007) and preference for such environments increases as the amount of green increases. That is, a view with more trees is preferred over one with fewer trees and more built elements (Kaplan 2001). The loss of tree cover is directly linked to increased mortality in human populations. In a study of the effects of the loss substantial forest cover to the invasive emerald ash borer across a large area of the eastern United States, researchers found significant increases in deaths from cardiovascular disease and lower respiratory tract illness in counties infested by the insect, even when controlling for demographic covariates (Donovan et al. 2013). The researchers identified over 20,000 additional deaths attributable to loss in forest cover.

Adverse impacts to visual character in Los Angeles through removal of tree cover also increases environmental injustice. Parks, greenspace, and tree cover in the City of Los Angeles are unequally distributed by economic status (Lee 2012; Loukaitou-Sideris 1995; Wolch et al. 2005). This pattern reinforces itself because real estate prices correlate positively with surrounding green cover (Conway et al. 2008). Consequently, the amount of greenspace in a neighborhood, and in particular the amount of tree cover, is an important environmental justice issue in Los Angeles, especially in East Los Angeles.

This research provides a scientific basis to conclude that the loss of trees around White Memorial Medical Center can be expected to have real effects on human health and will adversely impact the community through a degradation of scenic resources.

#### **4 Tree Removal Will Result in Adverse Impacts on Biological Resources**

Protection of biological resources is a fundamental policy incorporated in CEQA. Loss of urban tree cover is often considered to be a significant adverse biological impact, such that removal of trees triggers mitigation. Such impacts are in part strictly biological—urban forest canopy is habitat for wildlife. In Los Angeles, this includes habitat for resident bird species and for migratory species both during migration and as wintering habitat.

It is a common error in environmental planning and impact assessment to draw the conclusion that the removal of exotic vegetation will have no environmental impact. Although non-native trees do not contribute to native plant diversity, and may or may not support native insects, they do provide habitat for native birds and other vertebrates (e.g., bats, which are important insectivores). A body of research indicates that native birds in cities are attracted to, and their distribution is influenced by, tree canopy cover and structural characteristics, with little regard to native status of the trees. For example, wooded streets promote native bird diversity and movement in a Mediterranean biome city (i.e., one that is similar in climate to Los Angeles) (Fernández-Juricic 2000), tree abundance and height (but not native status) predicts bird diversity along streets (Murgui 2007), and tree species diversity (but not native status) is positively associated with bird diversity (Husté et al. 2006). In short, birds are attracted to increased vegetation structure and diversity (Evans et al. 2009). Because the proposal to remove 40 trees would substantially decrease tree canopy and simplify vegetation structure, it can be seen as having an adverse impact on biological resources in the project area.

Recognizing the loss of non-native tree cover as a potentially significant adverse impact on nesting of migratory bird species is commonly accepted in CEQA analysis. For example, the UCLA Long Range Development Plan in 2002 specified that a tree replacement plan be developed for each project to mitigate for “resident and migratory avian species of special concern and raptors” (see <http://www.capitalprograms.ucla.edu/Planning/LongRangeDevelopmentPlan>).

The loss of biological resources such as street trees affects other aspects of the environment. Although street trees make up less than 10% of the typical urban forest (Moll & Kollin 1993), they are disproportionately important to the urban experience and confer unique environmental benefits (Maco & McPherson 2002). These benefits include:

- Extending the longevity of pavement by shading, thereby reducing expenses for repaving (McPherson & Muchnick 2005);
- Mitigating the urban heat island (Akbari et al. 1990; Huang et al. 1987) by increasing shade on paved surfaces (Asaeda et al. 1996);
- Ameliorating the urban heat island by transpiration of water through leaves (Akbari 2002);
- Reducing emissions of volatile compounds from parked vehicles (Scott et al. 1999);

- Improving air quality by removing various pollutants from the atmosphere, including carbon monoxide, nitrogen oxides, sulfur oxides, ozone, and cancer-causing particulate matter (Benjamin & Winer 1998; Nowak et al. 2000);
- Increasing carbon dioxide sequestration (McPherson et al. 2005);
- Increasing residential property values, thereby increasing a city's tax base (Conway et al. 2008);
- Reducing stormwater flows (Xiao et al. 1998);
- Providing other wildlife and quality of life benefits (Fernández-Juricic 2000; Luck et al. 2011).

The ecosystem services provided by biological resources such as urban street trees are cumulatively significant and already in short supply in the project area. The trees in question are in many instances the only living green vegetation on the streetscapes.

## **5 Mitigation Is Insufficient to Offset Impacts**

CEQA directs public agencies to avoid or reduce environmental damage when possible by requiring alternatives or mitigation measures (CEQA Guidelines § 15002(a)(2) and (3)). Because the City proposes to exempt the project from CEQA review, it relies only on standard form mitigation to comply with street tree replacement to minimize the adverse environmental impacts from the project. This mitigation is insufficient.

Existing large street trees in the City of Los Angeles represent an enormous embodied investment on the part of the City. They grew up and were cared for during a period when the Urban Forestry Division had considerably more funding for the care of trees than is now provided. Street trees, especially on public land, represent the use of a large but warranted amount of water over the course of decades. These investments in tree care and irrigation pay back, through environmental benefits from reduction in maximum temperatures by shading and evaporative cooling (Bowler et al. 2010), and associated reductions in energy consumption for air conditioning and avoidance of excess heat-related human mortality, not to mention the psychological and ecological benefits discussed above. The loss of these benefits, and the large public investment they represent, is not offset or made insignificant by planting a single small tree per tree removed.

The entire framework for the mitigation of street tree losses in the City of Los Angeles is flawed. Rather than concentrating on the inputs that will be provided in the mitigation process (i.e., number trees to be planted, number of years of maintenance), the mitigation measures should be constructed around performance. In this instance, performance should be expressed in terms of replacement of square footage of tree canopy. Concentration on outputs and performance of mitigation measures rather than inputs to mitigation efforts is critically important to successful environmental management (Meffe et al. 2002).

The replacement trees will not produce the same amount of canopy as is currently found on the site. Pink trumpet trees, which are proposed to be the replacements for the fig trees to be removed, do not have as dense a canopy and grow to be somewhat smaller than the fig trees. Additional trees planting locations on site would be needed to compensate for the loss of the

existing canopy. Furthermore, development of the replacement canopy would take decades, during which time the community will suffer a significant, unmitigated loss of tree canopy, with all its concomitant negative effects on the environment.

The mitigation for the project also involves future planting of trees at other locations. These plantings are not tracked and reported and so are not verifiable mitigation under CEQA and also do not mitigate the impacts at the project site.

## **6 Citywide Sidewalk Repair Program Will Have Cumulatively Significant Impacts**

Categorical exemptions cannot be used for the repair of sidewalks in the City of Los Angeles because the cumulative result will be the loss of thousands of trees and hundreds of thousands of square feet of tree canopy. CEQA explicitly forbids the use of categorical exemptions for projects of this sort.

(b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant. (Section 15300.2, California Code of Regulations).

The City, therefore, is obligated to undertake an environmental review for its new sidewalk repair program, and we recommend this occur at the program level. The sidewalk repair program as a whole will certainly result in a significant decrease in the tree canopy in the City of Los Angeles, which will result in significant adverse impacts. The preparation of a Program EIR that discloses those impacts and sets up enforceable and verifiable mitigation measures is necessary to minimize those impacts as required by law.

## **7 Statement of Qualifications**

Dr. Travis Longcore and Catherine Rich are the principals of Land Protection Partners. Dr. Longcore is Assistant Professor of Architecture and Spatial Sciences at the University of Southern California. He was previously Associate Adjunct Professor at the UCLA Institute of the Environment and Sustainability where he taught, among other courses, Bioresource Management, Environmental Impact Analysis, Field Ecology, and the Environmental Science Practicum. He was graduated *summa cum laude* from the University of Delaware with an Honors B.A. in Geography, holds an M.A. and a Ph.D. in Geography from UCLA, and is professionally certified as a Senior Ecologist by the Ecological Society of America and as a Certified GIS Professional. Catherine Rich holds an A.B. with honors from the University of California, Berkeley, a J.D. from the UCLA School of Law, and an M.A. in Geography from UCLA. She is Executive Officer of The Urban Wildlands Group and lead editor of *Ecological Consequences of Artificial Night Lighting* (Island Press, 2006) with Dr. Longcore. Longcore and Rich have authored or co-authored over 35 peer-reviewed scientific papers and book chapters in journals such as *Conservation Biology*, *Biological Conservation*, *Current Biology*, *Environmental Management*, and *Frontiers in Ecology and the Environment*. Land Protection Partners has provided scientific review of environmental compliance documents and analysis of complex environmental issues for local, regional, and national clients for 17 years.

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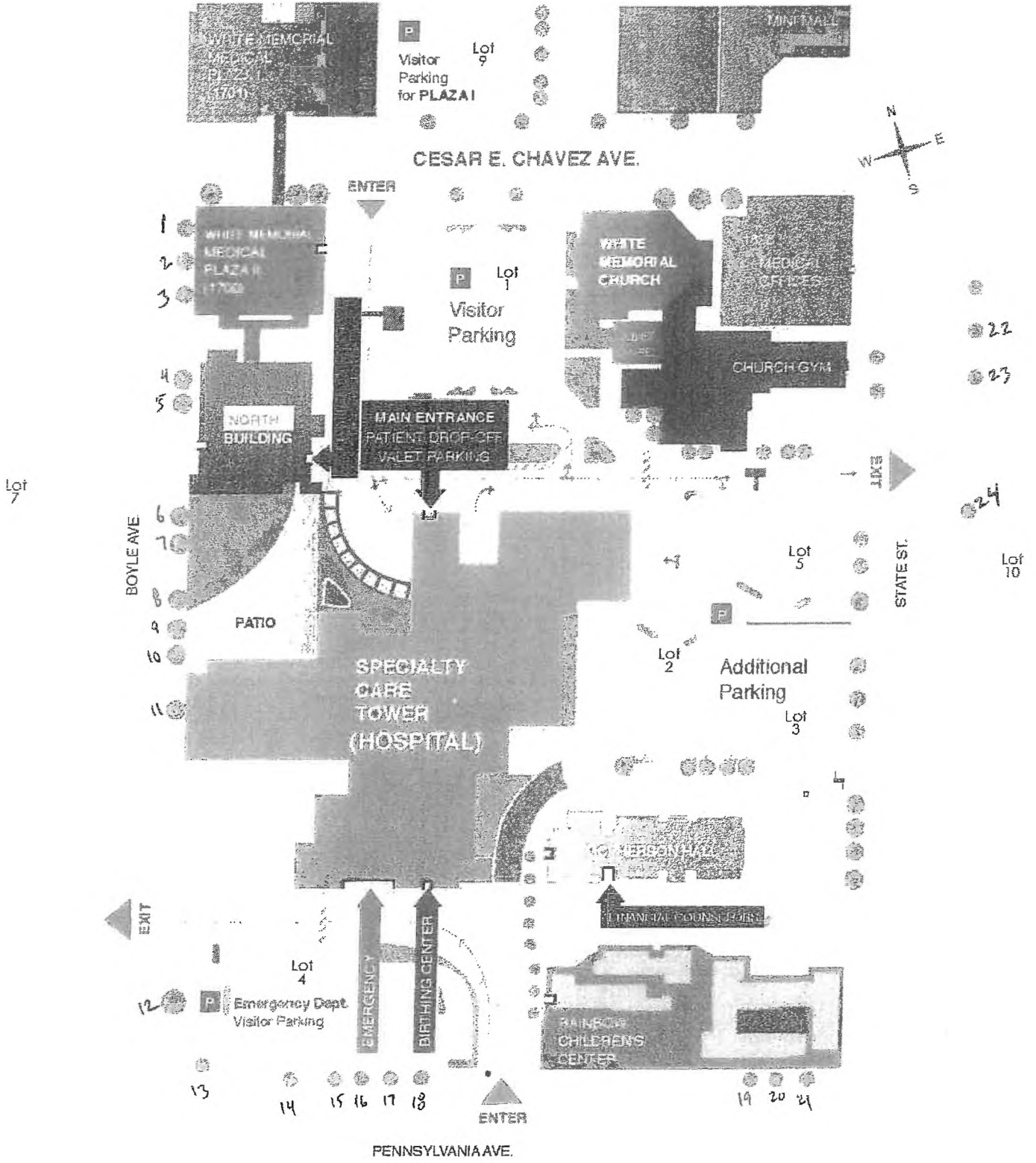
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# CAMPUS MAP

White Memorial  
Medical Center

Adventist  
Health



INBOX

Compose

Webmail Info

Current Folder:

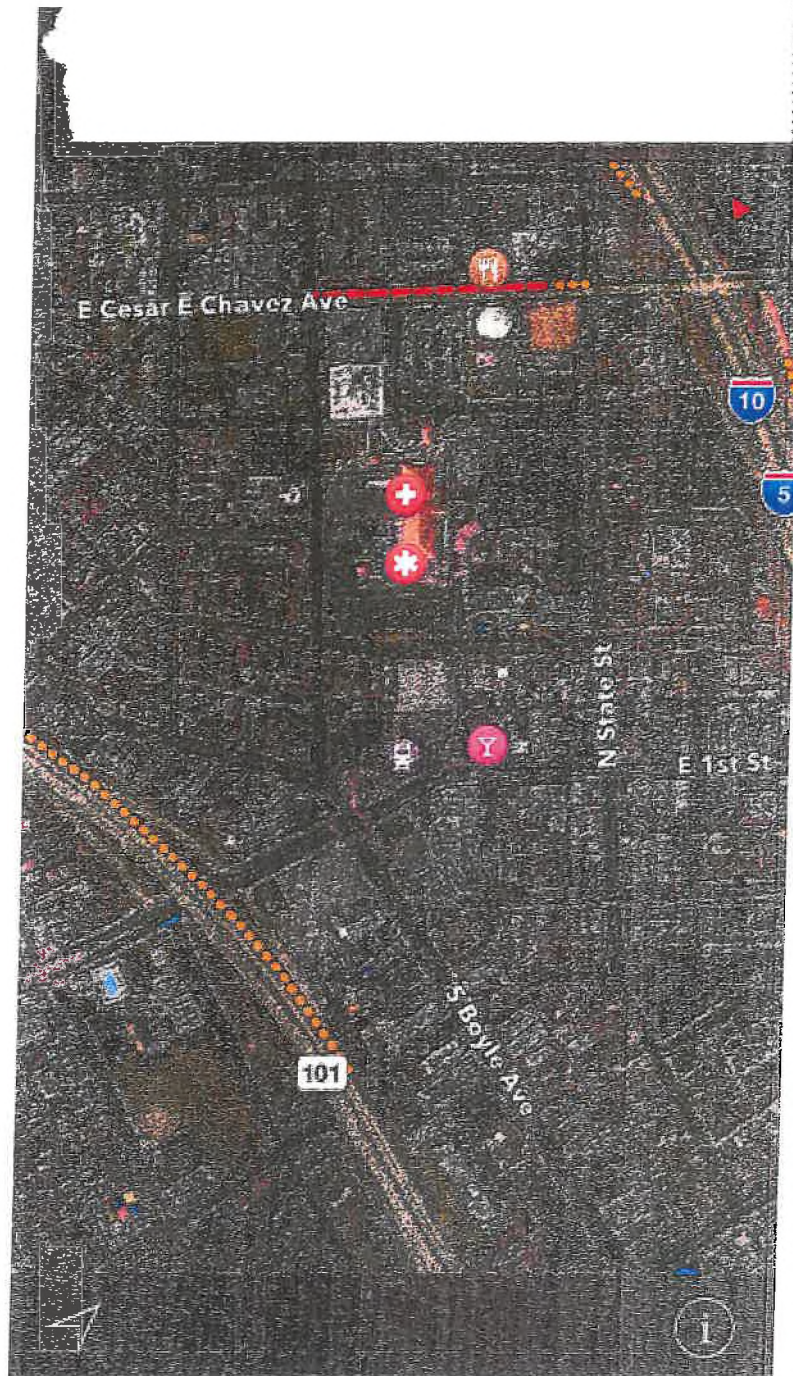
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Chr sil



BOYCE AV.

LOOKING  
SOUTH TREE

STAND OF

12 TREES.





STATE ST.  
LOOKING SOUTH

A STAND  
OF 12  
TREES TO  
BE REMOVED

NO LARGE  
TREES ON  
EAST SIDE  
OF STREET

PENN AVE  
LOOKING  
WEST.  
SECOND  
STAND



PEARL AVE.  
LOOKING WEST.  
FIRST STAND.  
~~STRE~~WALK NOT  
UPLIFTED



PENN AVE.  
CANOPY @  
TREE 16-1:





STATS ST.

LOOKING

EAST.

NB LARGS

TREES

IN VICINITY



PENN. AVE  
LOOKING SOUTH  
NO LONGER  
STREET LIGHTS  
IN VICINITY.

#1 32K097



#2 130465



#8 BOYLE



#9 BOYCS



# 10 BOYLE



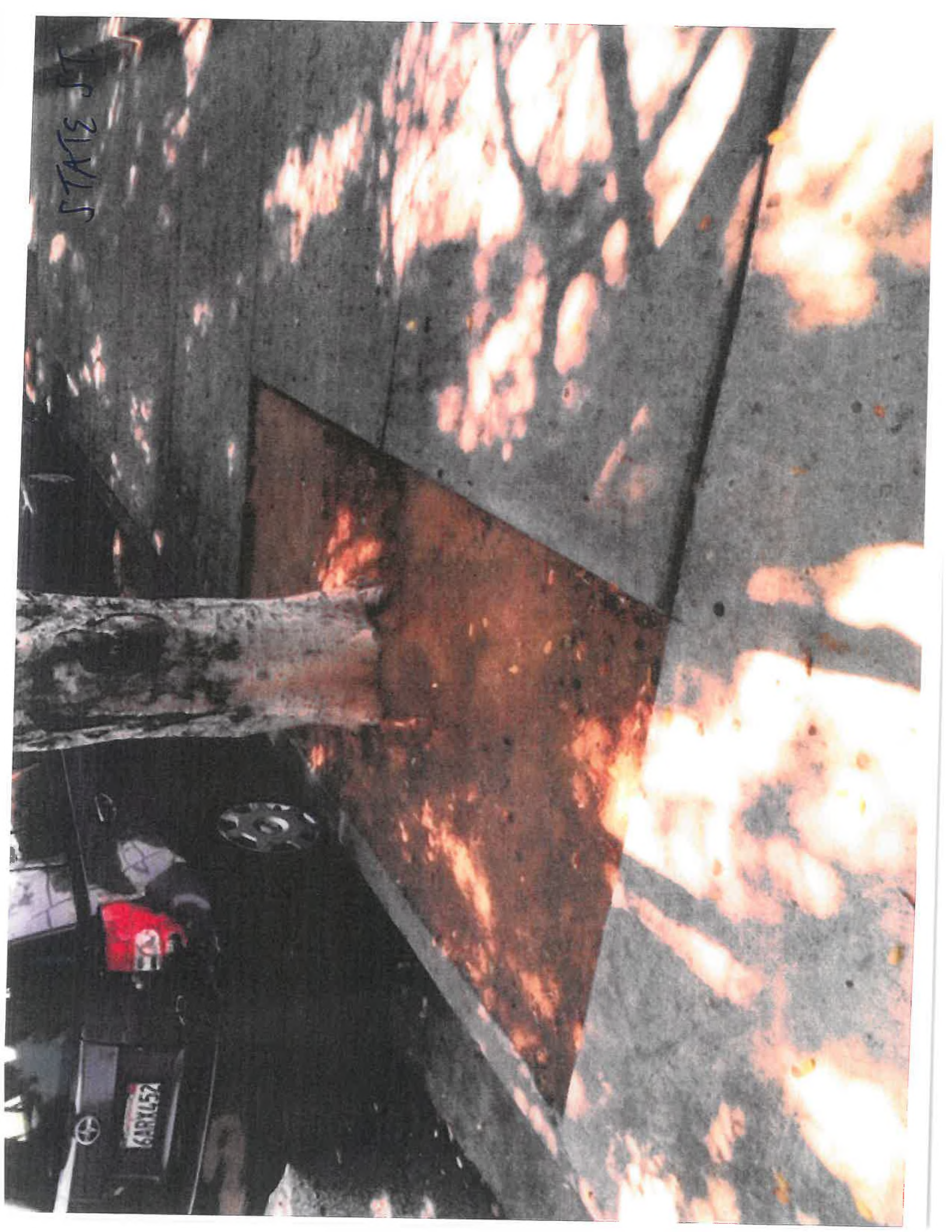
#11 37409



STATE ST.



STATE ST



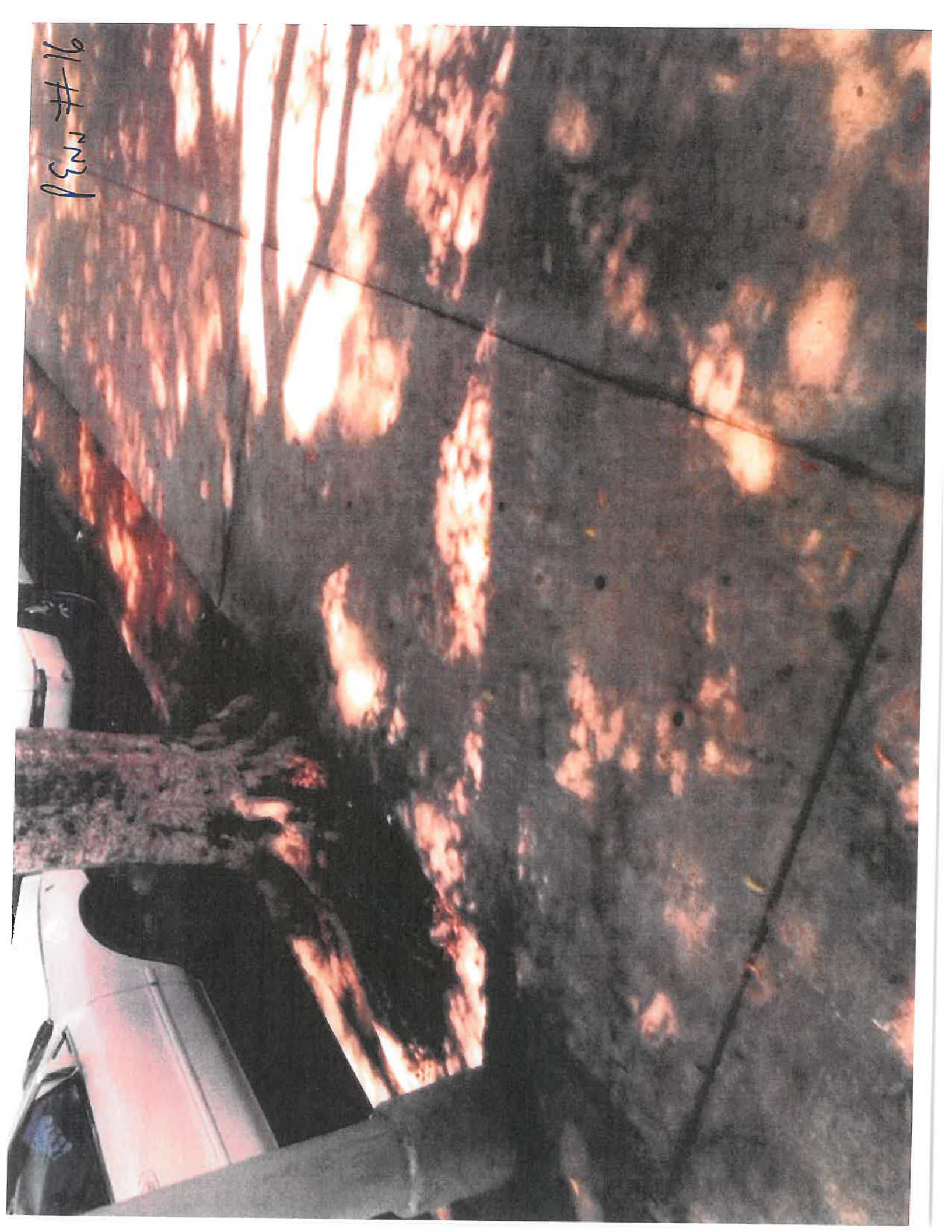
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51 # MSB



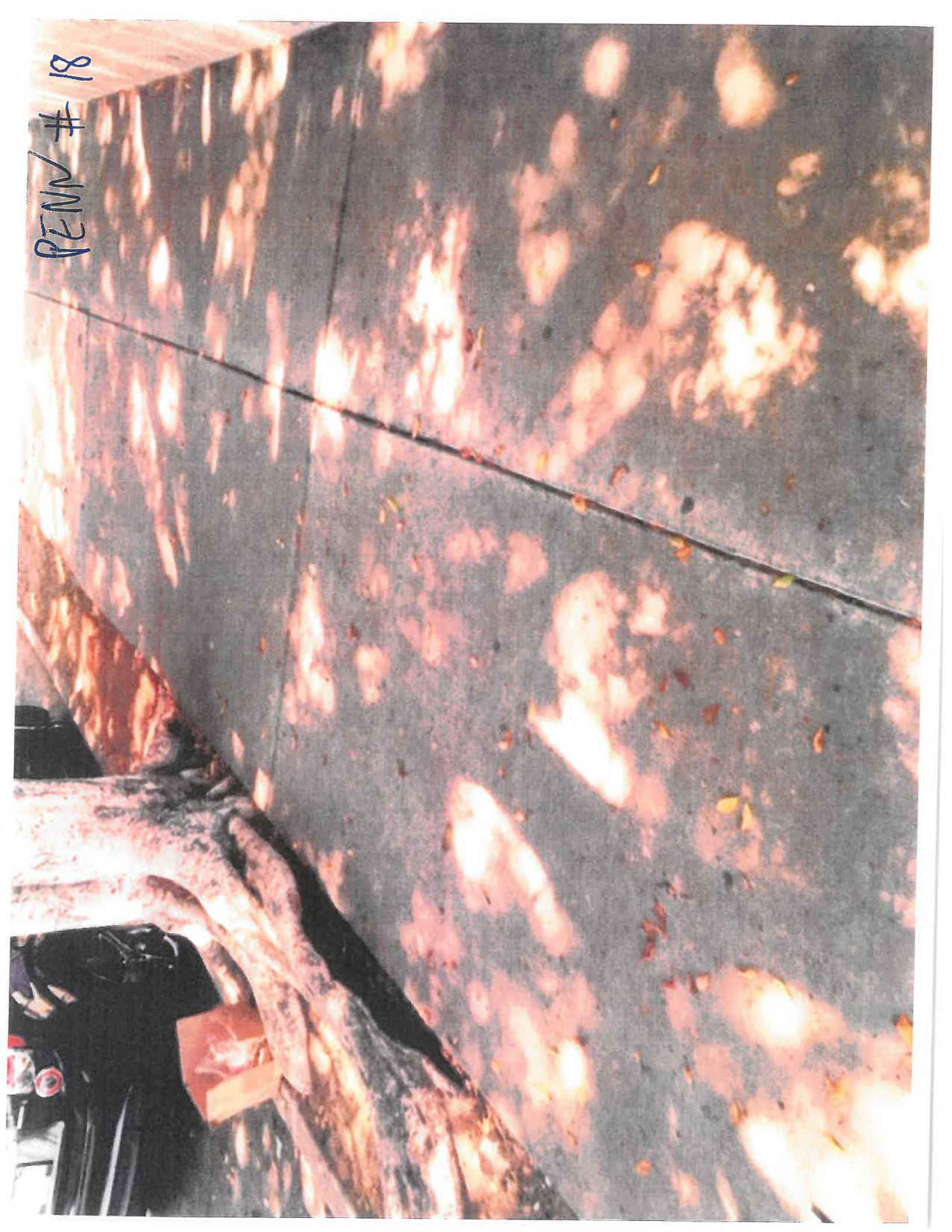
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Pl # N23



PENN # 18



- s. Projects for the development of a regional transportation improvement program or the state transportation improvement program.
- t. Zone change ordinances initiated by the City for the purpose of complying with Section 65860 (d) of the California Government Code, provided that the zone change provides for the least intensive use category allowed by the applicable provisions of the General Plan of the City of Los Angeles.”

**Section 4.** Article VII of the City CEQA Guidelines is hereby renumbered as Article III and reads as follows:

**“ARTICLE III: CATEGORICAL EXEMPTIONS    ARTICLE    III CATEGORICAL EXEMPTIONS**

1. Classes of Categorical Exemptions.

The Secretary for Resources has provided a list of classes of projects which he has determined do not have a significant effect on the environment and which are therefore exempt from the provisions of CEQA. The following specific categorical exemptions within such classes are set forth for use by Lead City Agencies, provided such categorical exemptions are not used for projects where it can be readily perceived that such projects may have a significant effect on the environment.

a. Class 1. Existing Facilities.

Class 1 consists of the operation, repair, maintenance or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that previously existing.

- 1) Interior or exterior alterations involving remodeling or minor construction where there be negligible or no expansion of use.
- 2) Operation, repair, maintenance or minor alteration of existing facilities of both investor and publicly owned utilities, electrical power, natural gas, sewage, water, and telephone, and mechanical systems serving existing facilities, including alterations to accommodate a specific use.
- 3) Operation, repair, maintenance or minor alteration of existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, storage areas, parking lots, aircraft parking areas, wharves, railroads, runways, taxiways, navigable waterways, bridle trails, service roads, fire lanes and golf-cart paths, except where the activity will involve removal of a scenic resource including but not limited to a stand of trees, a rock outcropping or an historic building.

8/23/2015

Re: Item 4 today

From: "Kevin James" <kevin.james@lacity.org>  
Subject: Re: Item 4 today  
Date: Mon, July 27, 2015 12:39 pm  
To: "Gideon Kracov" <gk@gideonlaw.net>  
Cc: "ron.lorenzen@lacity.org" <ron.lorenzen@lacity.org>,"Ted Jordan" <ted.jordan@lacity.org>

---

Gideon.

Yes. Thank you for the suggestion - the key parts of it will be easier to manage, obviously.

Kevin

On Mon, Jul 27, 2015 at 8:02 AM, Gideon Kracov <gk@gideonlaw.net> wrote:

Hi Kevin:

If the Board is going to rely on a prior EIR or CEQA document to justify tree removal, it should include that actual EIR or CEQA document in its approval staff report. This will also help the public review.

A memo generated years later (like what staff gave you here) summarizing the EIR or CEQA document is not sufficient. See CEQA Guideline 15096 (responsible agency decision maker must consider environmental document).

Maybe you don't have to include the entire EIR or actual CEQA document, but at least the key parts of it.

Thanks.

[http://boe.lacity.org/docs/dpw/agendas/2015/201507/20150727/bss/20150727\\_ag\\_br\\_bss\\_2.pdf](http://boe.lacity.org/docs/dpw/agendas/2015/201507/20150727/bss/20150727_ag_br_bss_2.pdf)

Sent from my iPhone. Please excuse typos.

Gideon Kracov  
Law Office of Gideon Kracov  
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. Please excuse typos.

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--  
Kevin James, President  
Board of Public Works  
Kevin.James@lacity.org

---

Attachments:

**untitled-[1]**

Journal

City of Los Angeles

BOARD OF PUBLIC WORKS

**Monday, July 27, 2015**

10:00 a.m. - Edward R. Roybal BPW Session Room  
Room 350 City Hall  
200 North Spring Street  
Los Angeles, California 90012

Members: Kevin James, President  
Monica Rodriguez, Vice President  
Michael Davis  
Heather Marie Repenning

(Fernando Campos, Executive Officer 213-978-0261)

Agenda, related board reports and attachments are available on BPW website at:

<http://bpw.lacity.org/>

BPW meetings can be listened to by dialing:

213-621-CITY (Metro), 818-904-9450 (Valley), 310-471-CITY (Westside),  
310-547-CITY (San Pedro Area); or live audio on-line at:

<http://lacity.org/city-government/elected-official-offices/city-council/council-and-committee-meetings?laCategory=1817>

As a covered entity under Title II of the Americans with Disabilities Act, the City of

Los Angeles does not discriminate on the basis of disability and, upon request, will

provide reasonable accommodation to ensure equal access to its programs, services

and activities. Assistive listening devices are available at the meeting; upon advance

notice, other accommodations, such as sign language interpretation, and translation

services can be provided. Contact the Executive Officer's office at 213-978-0262.

TDD available at 213-978-2310.

Written material supporting agenda items can be reviewed prior to each Board meeting at the public counter, 200 North Spring Street Room 355, between the hours of 8:00 a.m. and 4:00 p.m.

#### PUBLIC INPUT AT BOARD MEETINGS:

An opportunity for the public to address the Board on public interest items will be provided for up to two (2) minutes per person for a cumulative total of twenty (20) minutes. Testimony shall be limited in content to matters which are within the subject matter jurisdiction of the Board. The Board may not take any action on matters discussed during the public comment period.

The Board will also provide an opportunity for the public to address the Board on agenda items before or during consideration of the item for up to two (2) minutes per person for a cumulative total of up to ten (10) minutes.

Members of the public who wish to speak under public comments or on any item are requested to complete a speaker card for each item they wish to address, and present the completed card(s) to the Executive Officer. Speaker cards are available at the back of the Board Hearing Room.

**VOTING AND DISPOSITION OF ITEMS** – Items require a majority vote of the entire membership of the Board (3 votes) for approval.

Any member of the Board may move to “reconsider” any vote on any item on the agenda, except to adjourn, suspend the Rules, or where an intervening event has deprived the Board of jurisdiction, providing that said member originally voted on the prevailing side of the item. The motion to “reconsider” shall only be in order

once during the meeting, and once during the next regular meeting. The member requesting reconsideration shall identify for all members present the Agenda number, meeting date and subject matter previously voted upon. A motion to reconsider is not debatable and shall require an affirmative vote of three members of the Board.

The Board rules provide that all items adopted by the Board will not be distributed or presented to the Mayor, or other designated office, until the adjournment of the regular Board meeting following the date of the Board action. A motion to send an item "forthwith", if adopted by three (3) votes, suspends these rules and requires the Board Secretariat to forward the matter to the Mayor, or other office, without delay.

BPW07-27-2015

-2-

PUBLIC COMMENTS: Board will hear public testimony on non-agenda items under the Board's jurisdiction.

DISPOSITION: NO PUBLIC COMMENTARY

MINUTES: Friday, July 10, 2015 APPROVED

COMMENDATORY RESOLUTIONS, INTRODUCTIONS AND PRESENTATIONS

AGENDA ITEMS

(1)

#1 BOE Recommending Board authorize the City Engineer to amend

Task Order Solicitation No. 24 to HDR Engineering to  
continue  
to provide design and program management support services  
for  
the Sidewalk Repair Program with a total authorized budget of  
\$2,400,000 (C-115230, W.O. E1907731)

CD all

DISPOSITION: REPORT ADOPTED, FORTHWITH

(2)

JT#1  
BOE BSS  
Task Order Solicitation No. 14-080 to AECOM-URS to provide  
pre-design, design and design support services during  
construction  
for the Paseo Del Mar (White Point) Permanent Restoration  
project  
with a budget authority of \$3,017,923 which includes  
contingency  
(C-121569, W.O. E1907791)

CD 15

DISPOSITION: REPORT ADOPTED, FORTHWITH

BPW07-27-2015

-3-

(3)

#1 BSS  
TREE REMOVAL – 3484 South Nicolet Avenue on the August  
Street side  
Recommending Board find that the tree removal (1) classifies  
as  
operation, repair, maintenance or minor alteration of existing  
street,  
sidewalk, and gutter, involving negligible or no expansion of  
use  
beyond that previously existing; and does not involve the  
removal  
of a scenic resource; (2) action is exempt under Article III,

repair  
 Quality  
 the  
 of  
 Shamei  
 curb  
 side

Section 1, Class 1, Category 3 (existing facilities – sidewalk or maintenance) of the City of Los Angeles Environmental Act Guidelines (2002); and (3) has none of the exceptions to use of a categorical exemption as set forth in Section 153.00.2 the State CEQA Guidelines; and approve the request for a no-fee permit to remove three Ash trees for the reconstruction of an offgrade sidewalk and located at 3484 South Nicolet Avenue on the August Street - tree replacements are required

CD 10

DISPOSITION: REPORT ADOPTED, FORTHWITH

(4)

#2 BSS  
subsequent  
pursuant to  
 prepared  
 transportation  
 widening.  
 Warner  
 which  
 project  
 the

TREE REMOVAL – 21440-21606 West Victory Boulevard  
Recommending Board find that the street widening and  
tree removals are a project mitigation measure required  
 the 1993 City adopted Environmental Impact Report (EIR) for the Warner Center Specific Plan. The EIR included improvement elements including the Victory Boulevard street Another EIR was conducted relative to the revised 2035 Center Specific Plan that was adopted by the City in 2013 in the street widening requirements remain. Thus, the proposed is a mitigation measure adopted pursuant to the provisions of

CEQA California Environmental Quality Act (CEQA) and no further review is required; and  
 (continued next page)

BPW07-27-2015

-4-

(4) – continued

Modesto approve the request for a no-fee permit to remove eighteen  
 sidewalk Ash trees for street widening and the construction of a new  
 sidewalk located at 21440-21606 West Victory Boulevard  
 - tree replacements are required

CD 3

DISPOSITION: REPORT ADOPTED, FORTHWITH

(5)

#3 BSS TREE REMOVAL – 22633-22639 West Waterbury Street  
 Recommending Board find that the tree removal (1) classifies  
 as operation, repair, maintenance or minor alteration of existing  
 street, sidewalk, and gutter, involving negligible or no expansion of  
 use beyond that previously existing; and does not involve the  
 removal of a scenic resource; (2) action is exempt under Article III,  
 Section 1, Class 1, Category 3 (existing facilities – sidewalk  
 repair or maintenance) of the City of Los Angeles Environmental  
 Quality Act Guidelines (2002); and (3) has none of the exceptions to  
 the use of a categorical exemption as set forth in Section 153.00.2  
 of the State CEQA Guidelines; and  
 American approve the request for a no-fee permit to remove four

sidewalk Sweetgum trees for the reconstruction of an off-grade  
 located at 22633-22639 West Waterbury Street  
 - tree replacements are required \*with three trees to be  
 replaced at the same site with 3' x 5' tree wells

CD 3

DISPOSITION: REPORT ADOPTED AS AMENDED\*,  
FORTHWITH

BPW07-27-2015

-5-

(6)

#4 BSS TREE REMOVAL – 5950 West Venice Boulevard  
 Recommending Board find that the tree removal (1) classifies  
 as operation, repair, maintenance or minor alteration of existing  
 street, sidewalk, and gutter, involving negligible or no expansion of  
 use beyond that previously existing; and does not involve the  
 removal of a scenic resource; (2) action is exempt under Article III,  
 Section 1, Class 1, Category 3 (existing facilities – sidewalk  
 repair or maintenance) of the City of Los Angeles Environmental  
 Quality Act Guidelines (2002); and (3) has none of the exceptions to  
 the use of a categorical exemption as set forth in Section 153.00.2  
 of the State CEQA Guidelines; and  
 Paperbark approve the request for a no-fee permit to remove four  
 trees for the reconstruction of an off-grade sidewalk located at

5950 West Venice Boulevard  
- tree replacements are required

CD 10

DISPOSITION: REPORT ADOPTED, FORTHWITH

(7)

COMMUNI-  
Notice  
CATIONS

Universal Asphalt Co., Inc., transmitting Release of Stop  
in the amount of \$2,900 against Hercon Construction Services  
in connection with the Highway Safety Improvement Program  
Woodley Avenue/Raymer Street and DeSoto Street/Knapp

Street

Inc.

Metrolink Crossing Improvement project – contractor: KDC,  
DBA Dynalectric

DISPOSITION: RECEIVED, FORTHWITH

BPW07-27-2015  
\*\*\*END\*\*\*

-6-

DEPARTMENT OF PUBLIC WORKS  
BUREAU OF STREET SERVICES  
REPORT NO.2  
Page 1 of 3

Date: July 27, 2015  
CD # 3

Honorable Board of Public Work  
City of Los Angeles

Commissioners:

**21440-21606 WEST VICTORY BOULEVARD REQUEST BOARD AUTHORIZE A NO-FEE PERMIT TO REMOVE EIGHTEEN MODESTO ASH TREES (FRAXINUS VELUTINA) FOR STREET WIDENING AND THE CONSTRUCTION OF A NEW PUBLIC SIDEWALK. TREE REPLACEMENTS ARE REQUIRED.**

---

**RECOMMENDATION:**

That your Board:

1. FIND that the street widening and subsequent tree removals are a project mitigation measure required pursuant to the 1993 City adopted Environmental Impact Report (EIR) prepared for the Warner Center Specific Plan. The EIR included transportation improvement elements including the Victory Boulevard street widening. Another EIR was conducted relative to the revised 2035 Warner Center Specific Plan that was adopted by the City in 2013 in which the street widening requirements remain. "Thus, the proposed project is a mitigation measure adopted pursuant to the provisions of the California Environmental Quality Act (CEQA) and no further CEQA review is required." (transmittal 3)
2. Review and approve this request for a no-fee tree removal permit for eighteen Modesto Ash trees for street widening and the construction of a new sidewalk. Tree replacements are required.

**TRANSMITTALS:**

1. Service Request Number 15033323-1.
2. Copy of fax sheet sent to Council office.
3. Inter-Departmental Correspondence (dated April 2, 2015).
4. Urban Forestry Division Inspection Form (dated April 14, 2015).
5. Bureau of Engineering Street Widening Plan (5 pages).
6. Photographs of the trees to be removed and posting (six pages).

**CONDITION:**

The Bureau of Engineering (BOE) contractor shall plant twenty-four 36-inch box size Bloodgood, (*Platanus x hispanica*) trees on site and deliver twelve fifteen-gallon container

size Bloodgood trees to the Urban Forestry Division Nursery.

**ALTERNATIVE METHODS AND OPTIONS EXPLORED:**

The size, species, and location of the trees negate the possibility of tree preservation or relocation.

**RECITAL:**

Ramnik Mungra, BOE project manager, contacted the Urban Forestry Division regarding street widening and the installment of a new sidewalk at 21440-21606 Victory Boulevard. The street widening requires the removal of street trees. Therefore, Ramnik Mungra requested the Urban Forestry Division inspect the location to determine the specific street tree removal impacts.

A Bureau Arborist inspected the subject location on April 14, 2015. The inspection revealed eighteen Modesto Ash trees measuring an average twenty inches in diameter by twenty-two feet in height. The trees are in fair health and are growing in four by six feet tree wells contained in an eight feet monolithic sidewalk. The trees are growing in the direct path of the planned street widening and therefore require removal.

**The trees were posted on April 14, 2015.**

The street widening and subsequent tree removals are a project mitigation measure required pursuant to the 1993 City adopted Environmental Impact Report (EIR) prepared for the Warner Center Specific Plan. The EIR included transportation improvement elements including the Victory Boulevard street widening. Another EIR was conducted relative to the revised 2035 Warner Center Specific Plan that was adopted by the City in 2013 in which the street widening requirements remain. "Thus, the proposed project is a mitigation measure adopted pursuant to the provisions of the California Environmental Quality Act (CEQA) and no further CEQA review is required." (transmittal 3)

The previous CEQA findings were used in making this finding and are on file with the Bureau and available for public review.

Michael Owens, Director of Community Affairs, Third Council District Office, was informed of the tree removal request on May 18, 2015 and will notify the Bureau of any objections received by their office prior to the Board hearing.

The Bureau of Engineering (BOE) contractor shall plant twenty-four 36-inch box size

DEPARTMENT OF PUBLIC WORKS  
BUREAU OF STREET SERVICES  
REPORT NO. 2  
Page 3 of 3

Bloodgood trees on site and deliver twelve fifteen-gallon container size Bloodgood, trees to the Urban Forestry Division Nursery.

(TT ----RL)

Respectfully submitted,



NAZARIO SAUCEDA, DIRECTOR  
BUREAU OF STREET SERVICES

Prepared by:  
Urban Forestry Division  
Ext. 7-3077

RL/TT: tt  
S:\Board Reports\ 2015 Board Reports\21440-21606 W. Victory BL.

8/23/2015

Item 9 Fri - 18 trees removal

From: "Gideon Kracov" <gk@gideonlaw.net>  
Subject: Item 9 Fri - 18 trees removal  
Date: Wed, July 22, 2015 3:59 pm  
To: "Kevin James" <kevin.james@lacity.org>,"Travis Longcore" <tlongcore@mac.com>,"Sara Nichols" <srnichols@mac.com>,"Gk" <gk@gideonlaw.net>  
Cc: "Ted Jordan" <ted.jordan@lacity.org>,"lynette" <lynette.kampe@gmail.com>,"heather.repenning@lacity.org" <heather.repenning@lacity.org>,"Rick Mayer" <rmayer@trollermayer.com>

---

Chair James:

This tree removal item is an issue. Removing 18 mature trees on a CEQA exemption is stretching it. The exemption does not cover a "stand" of trees.

Also, this is part of a larger courthouse reconstruction project-where is the environmental review for that project, and what does it say about the tree issue? Urban Forestry has to get in habit of asking for the underlying environmental review when tree removal is part of a larger project. This is a chronic fault.

Also this isn't really 2-1. It's 1-1 replacement with small box trees, with a deposit of 18 other box trees to the Urban Forest yard? Can't we and the federal government do better, in the heart of downtown, right next to City Hall??

Finally this mentions contacting CD13 for objections. Is this project in that District?

Thanks for your consideration.

[http://boe.lacity.org/docs/dpw/agendas/2015/201507/20150724/bss/20150724\\_ag\\_br\\_bss\\_3.pdf](http://boe.lacity.org/docs/dpw/agendas/2015/201507/20150724/bss/20150724_ag_br_bss_3.pdf)

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Sent from my iPhone. Please excuse typos.

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**Attachments:**

<b>20150724_ag_br_bss_3.pdf</b>
Size: 421 k
Type: application/pdf

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8/23/2015

Forest stands

From: "Gideon Kracov" <gk@gideonlaw.net>  
Subject: Forest stands  
Date: Thu, July 23, 2015 11:37 pm  
To: "Kevin James" <kevin.james@lacity.org>

---

Push back on staff. Stand does not mean dependent on each other for survival. I don't see that anywhere. Not just for tomorrow but as policy matter.

Unless there is legislative history to support that meaning (ask staff) the normal plain language meaning is what governs:

<http://fennerschool-associated.anu.edu.au/mensuration/stand.htm>

<http://www.na.fs.fed.us/Spfo/Pubs/misc/ecoforest/stand.htm>

Thanks for your consideration!

Sent from my iPhone. Please excuse typos.

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---

8/23/2015

Fwd: Forest stands

From: "Gideon Kracov" <gk@gideonlaw.net>  
Subject: Fwd: Forest stands  
Date: Fri, July 24, 2015 12:47 pm  
To: "Kevin James" <kevin.james@lacity.org>

---

See below from my Ph.D expert on "stand" issue.

Sent from my iPhone. Please excuse typos.

Gideon Kracov  
Law Office of Gideon Kracov  
801 S. Grand Ave., 11th Floor  
Los Angeles, CA 90017  
213-629-2071  
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www.gideonlaw.net

PRIVILEGED AND CONFIDENTIAL: This electronic message contains information from the Law Office of Gideon Kracov and is attorney work product confidential or privileged. The information is intended solely for the use of the individual(s) or entity(ies) named above. If you have received this transmission in error, please destroy the original transmission and its attachments without reading or saving in any manner.

Begin forwarded message:

**From:** Travis Longcore <longcore@urbanwildlands.org>  
**Date:** July 24, 2015 at 8:36:38 AM PDT  
**To:** Gideon Kracov <gk@gideonlaw.net>  
**Subject: Re: Forest stands**

"Stand" is a term used in forestry and generally refers to trees that are "a contiguous group of trees sufficiently uniform in age-class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit" (Helms, J.A., ed. 1998. The dictionary of forestry. Bethesda, MD: Society of American Foresters). A stand can be all one species (the goal of commercial forestry), all one age (even-aged), different ages (mixed-age), or different species (mixed-species). But it needs to be a contiguous group of trees and most foresters would think of a stand as a way to divide up a forest into patches for the purpose of management, meaning that there is a presumption that the trees are in some sort of naturalistic setting.

All that said, I have never heard of the idea that the trees in a stand depend on each other for survival. That is inconsistent with the way the word is used and defined in science and in common usage. You could argue that one tree provides a windbreak for another and if the one is cut the other is more likely to fall down — that might be what they are thinking about. But that isn't a necessary condition for a group of trees to be thought of as a "stand."

--

**Travis Longcore, Ph.D.**  
Science Director  
The Urban Wildlands Group  
longcore@urbanwildlands.org

On Jul 24, 2015, at 7:08 AM, Gideon Kracov <gk@gideonlaw.net> wrote:

FYI. Thoughts?

Sent from my iPhone. Please excuse typos.

Gideon Kracov  
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Begin forwarded message:

Journal

City of Los Angeles

BOARD OF PUBLIC WORKS

**Friday, July 24, 2015**

10:00 a.m. - Edward R. Roybal BPW Session Room  
Room 350 City Hall  
200 North Spring Street  
Los Angeles, California 90012

Members: Kevin James, President  
Monica Rodriguez, Vice President  
Michael Davis  
Heather Marie Repenning

(Fernando Campos, Executive Officer 213-978-0261)

Agenda, related board reports and attachments are available on BPW website at:

<http://bpw.lacity.org/>

BPW meetings can be listened to by dialing:

213-621-CITY (Metro), 818-904-9450 (Valley), 310-471-CITY (Westside),

310-547-CITY (San Pedro Area); or live audio on-line at:

<http://lacity.org/city-government/elected-official-offices/city-council/council-and-committee-meetings?laCategory=1817>

As a covered entity under Title II of the Americans with Disabilities Act, the City of

Los Angeles does not discriminate on the basis of disability and, upon request, will

provide reasonable accommodation to ensure equal access to its programs, services

and activities. Assistive listening devices are available at the meeting; upon advance

notice, other accommodations, such as sign language interpretation, and translation

services can be provided. Contact the Executive Officer's office at 213-978-0262.

TDD available at 213-978-2310.

Written material supporting agenda items can be reviewed prior to each Board meeting at the public counter, 200 North Spring Street Room 355, between the hours of 8:00 a.m. and 4:00 p.m.

#### PUBLIC INPUT AT BOARD MEETINGS:

An opportunity for the public to address the Board on public interest items will be provided for up to two (2) minutes per person for a cumulative total of twenty (20) minutes. Testimony shall be limited in content to matters which are within the subject matter jurisdiction of the Board. The Board may not take any action on matters discussed during the public comment period.

The Board will also provide an opportunity for the public to address the Board on agenda items before or during consideration of the item for up to two (2) minutes per person for a cumulative total of up to ten (10) minutes.

Members of the public who wish to speak under public comments or on any item are requested to complete a speaker card for each item they wish to address, and present the completed card(s) to the Executive Officer. Speaker cards are available at the back of the Board Hearing Room.

**VOTING AND DISPOSITION OF ITEMS** – Items require a majority vote of the entire membership of the Board (3 votes) for approval.

Any member of the Board may move to “reconsider” any vote on any item on the agenda, except to adjourn, suspend the Rules, or where an intervening event has deprived the Board of jurisdiction, providing that said member originally voted on the prevailing side of the item. The motion to “reconsider” shall only be in order

once during the meeting, and once during the next regular meeting. The member requesting reconsideration shall identify for all members present the Agenda number, meeting date and subject matter previously voted upon. A motion to reconsider is not debatable and shall require an affirmative vote of three members of the Board.

The Board rules provide that all items adopted by the Board will not be distributed or presented to the Mayor, or other designated office, until the adjournment of the regular Board meeting following the date of the Board action. A motion to send an item "forthwith", if adopted by three (3) votes, suspends these rules and requires the Board Secretariat to forward the matter to the Mayor, or other office, without delay.

BPW07-24-2015

-2-

PUBLIC COMMENTS: Board will hear public testimony on non-agenda items under the Board's jurisdiction.

DISPOSITION: NO PUBLIC COMMENTARY

MINUTES: Wednesday, July 8, 2015 APPROVED

COMMENDATORY RESOLUTIONS, INTRODUCTIONS AND PRESENTATIONS

AGENDA ITEMS

(1)

JT#1	ACCEPTANCE
BCA DOT	Highway Safety Improvement Program (HSIP) Cycle 4 -
	48 <sup>th</sup> Street Safety Improvements and Bike Lanes Project
	(C-122760, W.O. E1907551) completed by

CD 8,9                    KDC, Inc. DBA Dynalectric  
 DISPOSITION: REPORT ADOPTED, FORTHWITH  
 (2)

JT#1                    ACCEPTANCE  
BCA BOE            681 Mt. Washington Drive Bulkhead (C-123912,  
W.O. E1907590) completed by Mike Prlich and Sons, Inc.  
 CD 1  
 DISPOSITION: REPORT ADOPTED, FORTHWITH

(3)

JT#2                    ACCEPTANCE  
BCA BOE            White Point Landslide – Dewatering Containment Pumping  
(C-123908, W.O. E1907775) completed by  
Environmental Construction, Inc.  
 CD 15  
 DISPOSITION: REPORT ADOPTED, FORTHWITH

BPW07-24-2015                    -3-

(4)

JT#3                    ACCEPTANCE  
BCA BOE            15329 & 15333 De Pauw Street Slope Remediation at  
Potrero Canyon Park (C-122913, W.O. E1907583)  
completed by John S. Meek Company, Inc.  
 CD 5,11  
 DISPOSITION: REPORT ADOPTED, FORTHWITH

(5)

JT#4                    ACCEPTANCE  
BCA BOE            Arbor Vitae Street Widening from La Cienega Boulevard to  
Airport Boulevard (C-115478, W.O. E6000885) completed by  
Palp, Inc. DBA Excel Paving Company  
 CD 11  
 DISPOSITION: REPORT ADOPTED, FORTHWITH

(6)

#1 BOE            Recommending Board authorize \$100,000 in additional  
contingency  
\_\_\_\_\_ and approve a revised construction budget of \$944,496.40 for  
\_\_\_\_\_ the Balboa Boulevard and San Fernando Road Intersection  
\_\_\_\_\_ Improvement project, Federal Project No. HPLUL-5006(49);  
and  
\_\_\_\_\_ authorize the City Engineer to issue Change Order No. 3 to  
\_\_\_\_\_ Sully-Miller Contracting Company for this project to correct the  
\_\_\_\_\_ discrepancy between the contract plans and the existing  
geometry  
\_\_\_\_\_ of the site (C-123891, W.O. E1906350)  
CD 12  
DISPOSITION: REPORT ADOPTED, FORTHWITH

BPW07-24-2015

-4-

(7)

#1 BSS            TREE REMOVAL – 7045 Van Nuys Boulevard  
\_\_\_\_\_ Recommending Board find that the tree removal (1) classifies  
as  
\_\_\_\_\_ operation, repair, maintenance or minor alteration of existing  
street,  
\_\_\_\_\_ sidewalk, and gutter, involving negligible or no expansion of  
use  
\_\_\_\_\_ beyond that previously existing; and does not involve the  
removal  
\_\_\_\_\_ of a scenic resource; (2) action is exempt under Article III,  
\_\_\_\_\_ Section 1, Class 1, Category 3 (existing facilities – sidewalk  
repair  
\_\_\_\_\_ or maintenance) of the City of Los Angeles Environmental  
Quality  
\_\_\_\_\_ Act Guidelines (2002); and (3) has none of the exceptions to  
the

of use of a categorical exemption as set forth in Section 153.00.2  
 of the State CEQA Guidelines; and  
 Chinese approve the request for a no-fee permit to remove two  
 of Flame trees and four Carrotwood trees for the reconstruction  
 of an offgrade sidewalk located at 7045 Van Nuys Boulevard  
 – tree replacements are required  
 CD 6 DISPOSITION: REPORT ADOPTED, FORTHWITH

(8)

#2 BSS DISPOSITION: REPORT WITHDRAWN

BPW07-24-2015

-5-

(9)

#3 BSS TREE REMOVAL – 350 West 1<sup>st</sup> Street  
Recommending Board find that the tree removal (1) classifies  
as  
operation, repair, maintenance or minor alteration of existing  
street,  
 use sidewalk, and gutter, involving negligible or no expansion of

removal beyond that previously existing; and does not involve the  
 repair of a scenic resource; (2) action is exempt under Article III,  
 Quality Section 1, Class 1, Category 3 (existing facilities – sidewalk  
 the or maintenance) of the City of Los Angeles Environmental  
 of Act Guidelines (2002); and (3) has none of the exceptions to  
 street use of a categorical exemption as set forth in Section 153.00.2  
 reconstruction of the State CEQA Guidelines; and  
 CD 9 approve the request for a no-fee permit to remove eighteen  
 trees (various species) for sidewalk, curb and gutter  
 at 350 West 1<sup>st</sup> Street – tree replacements are required  
 DISPOSITION: REPORT ADOPTED, FORTHWITH

(10)

#1 BPW Requesting the Mayor authorize Board to execute the  
proposed  
Letter of Agreement between the City of Los Angeles,  
Community  
Partners for City Plants, and Los Angeles Metropolitan  
Transportation  
 Authority as mitigation for tree removal associated with the  
 I-405 Freeway Widening project and to provide funding in the  
 amount of \$709,825 to carry out the proposed replanting tree project for  
 a period of three years  
 CD 5,11 DISPOSITION: REPORT ADOPTED & REFERRED TO  
 THE MAYOR, FORTHWITH

City of Los Angeles

NOTE: MANAGEMENT MEETING WAS CANCELLED

BPW07-24-2015  
\*\*\*END\*\*\*

-6-

DEPARTMENT OF PUBLIC WORKS  
BUREAU OF STREET SERVICES  
REPORT NO. 3

Date: July 24, 2015  
CD # 9

Honorable Board of Public Work  
of the City of Los Angeles

Commissioners:

**350 WEST 1<sup>TH</sup> STREET – REQUEST BOARD AUTHORIZE A PERMIT TO REMOVE EIGHTEEN VARIOUS SPECIES TREES FOR SIDEWALK, CURB AND GUTTER RECONSTRUCTION. TREE REPLACEMENTS ARE REQUIRED.**

---

**RECOMMENDATION:**

That your Board:

1. FIND that the tree removal (1) classifies as operation, repair, maintenance or minor alteration of existing street, sidewalk, and gutter, involving negligible or no expansion of use beyond that previously existing; and does not involve the removal of a scenic resource; (2) that the action is exempt under Article III, Section 1, Class 1, Category 3 (existing facilities – sidewalk repair or maintenance) of the City of Los Angeles Environmental Quality Act Guidelines (2002); and (3) that none of the exceptions to the use of a categorical exemption as set forth in Section 15300.2 of the State CEQA Guidelines apply.
2. Review and approve this tree removal permit request for eighteen various trees for sidewalk, curb and gutter reconstruction. Tree replacements are required.

**TRANSMITTALS:**

1. Application for a tree removal permit.
2. Class B Application / Permit BR003478
3. Copy of fax sheet sent to Council office.
4. Letter from Terry J. Hatter Jr.
5. Photographs of trees to be removed (18 pages).
6. Plot Plans
7. Grading plan with tree locations.
8. Service Request #14041964.
9. Urban Forestry Division tree inspection forms (3 pages).
10. Photograph of tree posting.

**CONDITION:**

The applicant shall plant six 36-inch box African Fern Pine (*Afrocarpus gracillior*) trees on the 1<sup>st</sup> street side, six 36-inch box London Plane (*Platanus acerifolia*) trees on the Broadway side and six 36-inch box London Plane trees on the South Hill Street side and water for a minimum three year period. The Applicant shall deliver, eighteen 24-inch box size Australian Willow (*Geijera parviflora*) trees to the Urban Forestry Nursery to fulfill the 2:1 street tree replacement requirement.

The applicant shall defend, indemnify and hold harmless the City, its agents, officers, or employees from any claim, action, or proceeding against the City or its agents, officers, or employees relating to or to attack, set aside, void or annul this approval.

**ALTERNATIVE METHODS AND OPTIONS EXPLORED:**

The size, species, and location of the trees negate the possibility of tree preservation or relocation.

**RECITAL:**

The United States is reconstructing the Federal Court House located at 350 West 1<sup>st</sup> Street. The Bureau of Engineering (BOE) requires the reconstruction of any damaged sidewalks, curbs, and gutters surrounding the project. The project site is bounded by 1<sup>st</sup> Street, Broadway, and South Hill Street. The developer's agent, David Curtis, contacted the Bureau of Street Services requesting an inspection to determine the impact the project may have on existing street trees at the location.

On September 3, 2014, a Bureau Arborist inspected the subject location to determine the project's impact to any existing street trees. The inspection revealed six Indian Laurel Fig (*Ficus nitida*) trees on the 1<sup>st</sup> Street side, seven London Plane trees on the Broadway side, and four African Fern Pine trees and one Bradford pear (*Pyrus calleryana*) tree on the Hill Street side. The fair to good condition trees measure twelve to thirty inches in diameter by thirty to forty feet in height and are planted in four feet by six feet tree wells in a twelve feet monolithic sidewalk.

The root crowns of the subject trees have outgrown the trees wells creating offgrade sidewalk conditions. Root pruning of the trees is not recommended due to creating an unsafe root condition or a significant decline in tree health. Therefore, sidewalk reconstruction requires the removal of the subject trees.

The BSS finds the tree removal (1) classifies as operation, repair, maintenance or minor alteration of existing street, sidewalk, and gutter, involving negligible or no expansion of use beyond that previously existing; and does not involve the removal of a scenic resource; (2) that the action is exempt under Article III,

Section 1, Class 1, Category 3 (existing facilities – sidewalk repair or maintenance) of the City of Los Angeles Environmental Quality Act Guidelines (2002); and (3) that none of the exceptions to the use of a categorical exemption as set forth in Section 15300.2 of the State CEQA Guidelines apply.

The CEQA Guidelines for Street Tree Removal and Replacement were used in making this finding and are on file with the Bureau and available to the public upon request.

Marisol Salguero, District Director, Thirteenth Council District Office, was informed of the tree removal request on June 13, 2015 24. The Council office will notify the Bureau if any tree removal objections are received prior to the Board hearing this matter.

**The trees were posted on September 03, 2014 and June 12, 2015**

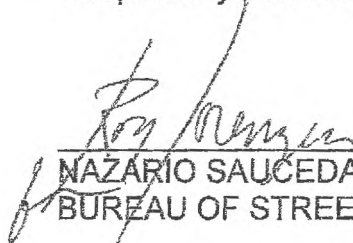
The applicant shall plant six 36-inch box African Fern Pine (*Afrocarpus gracillior*) trees on the 1<sup>st</sup> street side, six 36-inch box London Plane (*Platanus acerifolia*) trees on the Broadway side and six 36-inch box London Plane trees on the South Hill Street side and water for a minimum three year period. The Applicant shall deliver, eighteen 24-inch box size Australian Willow (*Geijera parviflora*) trees to the Urban Forestry Nursery to fulfill the 2:1 street tree replacement requirement.

The applicant shall defend, indemnify and hold harmless the City, its agents, officers, or employees from any claim, action, or proceeding against the City or its agents, officers, or employees relating to or to attack, set aside, void or annul this approval.

The applicant been advised of the recommendations contained in this report.

(NS----RL----TT)

Respectfully submitted,

  
\_\_\_\_\_  
NAZARIO SAUCEDA, DIRECTOR  
BUREAU OF STREET SERVICES

Prepared by:  
Urban Forestry Division  
Ext. 7-3077

RL:rl

S:\Board Reports\2015 Board reports\350 West 1st Street

REPORT FROM

## OFFICE OF THE CITY ADMINISTRATIVE OFFICER

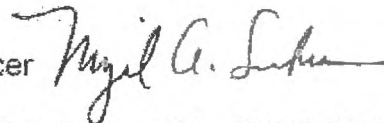
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Date: May 26, 2015

CAO File No. 0220-04907-0000  
Council File No. 14-0420  
Council District: ALL

To: Council  
Mayor

From: Miguel A. Santana, City Administrative Officer



Reference: Mark Willits, et al. v. City of Los Angeles U.S.D.C. Case No. CV 10-05782 CBM (RZx), Council Files 14-0420-S1, 14-0163-S4, and 14-0163-S3

Subject: **NEW POLICY FOR REPAIR AND MANAGEMENT OF SIDEWALKS ADJACENT TO PRIVATE PROPERTY**

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### SUMMARY

In August 2014, the City Council instructed this Office with assistance from various other City departments, to report back with recommendations for a comprehensive sidewalk repair strategy that addresses pending litigation through consideration of such items as, but not limited to, a cost sharing program for residential sidewalk repairs, point-of-sale, point-of-permit, assessment districts, and alternative sidewalk materials (Council Files 14-0420-S1, 14-0163-S4, and 14-0163-S3).

Since then, a Settlement Agreement has been negotiated relative to the class action lawsuit Willits versus the City of Los Angeles. The lawsuit alleges that the City of Los Angeles has violated the Americans with Disabilities Act and the Rehabilitation Act of 1973 by failing to maintain sidewalks in a condition that is usable by class members who rely on wheelchairs, scooters, and other assistive devices to get around. The settlement terms were approved by the City on April 3, 2015, are subject to final approval by the United States District Court and impact the specific goals and activities of the City as it relates to future sidewalk repair. The final Settlement Agreement will allow the City the discretion to determine how repairs will be accomplished.

This report recommends a sidewalk repair policy that is:

- Permanent and ongoing;
- Consistent with the Willits Settlement Agreement;
- Shares the responsibility for sidewalk maintenance and repair with the adjacent property owners; and,
- Ensures accessibility in the highest utilized areas.

This Office consulted with various City departments, including the Department of Public Works (Board, Bureaus of Street Services, Engineering and Contract Administration), Department of Transportation, Department of Aging, City Attorney, and the Department on Disability. Based on discussions with these departments and the framework of the draft Settlement Agreement, this Office recommends the following relative to a long-term comprehensive sidewalk repair program:

#### *Long-Term Sustainability*

The intent of this report is to provide response to the requests for information as they relate to sidewalk repair and to assist the Mayor and Council in shaping the restored City Sidewalk Repair Program for sidewalks adjacent to private property. Sidewalks play an integral role in providing access to transit, economic districts, residential housing and other activities. The approach presented in this report strives to be fiscally responsible, sustainable in the long-term, and achieve an overall improved pedestrian network for greater mobility and accessibility. This will be achieved by first reducing the current backlog of sidewalk reconstruction. Once that is achieved, the City will be able to transition to a program that is more focused on ongoing enforcement and maintenance. The overall goal is to ensure that the City institutionalizes a program to achieve and maintain accessibility now and into the future.

#### *Sidewalk Repair Trust Fund*

This Office supports the establishment of a fund for sidewalk repair and access ramp construction. Given the long-term ongoing nature of the Settlement Agreement and the dollar value of the required financial commitment from the City, this will help the City to maximize transparency and accountability for sidewalk repair and will keep unspent funds from reverting annually. The Council has ordered creation of the fund. It is expected that the fund will be created prior to June 30, 2015.

#### *Sidewalk Repair Program Implementation Options*

Numerous options for a sidewalk repair program exist. This Office has reviewed several funding and implementation mechanisms, including a Citywide Bond, Assessment Districts, Point of Sale, Point of Service, and Point of Permit. However, we do not recommend moving forward on any of these options at this time as the City desires to begin the repair of sidewalks immediately and the development of a Citywide Bond or Assessment Districts would require a significant outlay of staff time and funds to produce a proposal presentable to the City Council and to the voters, with varying thresholds for approval by the electorate. Programs like Point of Sale, Point of Service or Point of Permit are not recommended at this time, because these programs require a significant outlay of time to develop and would not result in contiguous blocks of sidewalk repair. These options should be considered in the context of the other recommendations contained in this report.

#### *Sidewalk Inspection and Repair Program*

It is recommended that a sidewalk inspection program be reinstated through the Department of Public Works, and that Notices to Repair again be issued in accordance with the State Streets and Highways Code (Section 5600-5630). Sidewalks that are free of damage, with an overall

acceptable condition, will be issued a certificate of compliance. This program should include both responsive and pro-active components.

The most effective and efficient program will require that concentrated inspections be conducted to identify sidewalks in need of repair in order to provide for complete unobstructed pathways and to "package" or "group work" work in relatively small areas that would be attractive to contractors to bid on and cost-effective for the City.

#### *Legislative Action and Shared Responsibility*

This Office recommends that the City repeal the Limited Exception to the 1911 Act returning the responsibility for sidewalk repair, even when the cause of the sidewalk damage is a street tree, back to the adjacent property owner. For over 40 years, the City has had the responsibility for repair of sidewalks damaged by street parkway tree root growth. However, during that time, this responsibility has not always been consistently funded due to funding constraints. The City recognizes that it is unfair to property owners to return responsibility for repair of broken sidewalks, and therefore a phased in approach to the transfer of responsibility is recommended by this Office.

If the goal of the City is to immediately and expediently effect repair of damaged sidewalks, the City could repeal the Limited Exception to the 1911 Act and begin enforcement Citywide immediately. Sidewalks would be inspected by the City and property owners with damaged sidewalks could receive a citation, directing that repairs be made in a prescribed period of time. Currently, Section 62.104 of the Los Angeles Municipal Code specifies that the time permitted for repairs is two weeks and in the event that repairs are not made within this period of time, the City could to perform the repairs and charge the property owners for said costs. Adoption of this option would result in the greatest amount of repairs made, as the City could focus its financial resources on the cost of inspection, versus inspection and sidewalk repair construction costs. The entire City would be covered in a time frame directly related to the resources allocated for the program.

#### *Residential Property*

Anecdotally, it is believed that most of the damage to sidewalks is caused by tree root growth and the majority of street trees are planted in residential areas of the City. Therefore, in instances where a residential sidewalk has been damaged by a street tree and has become the responsibility of the City to repair, we recommend that the City make sidewalk repairs prior to returning the responsibility for the sidewalk repair back to the adjacent property owner. If the sidewalk is not damaged at the time of inspection, a certificate of compliance will be issued, and the responsibility for future sidewalk repairs will be returned immediately to the adjacent property owner. This policy will be known as "Fix and Release."

#### *Commercial Property*

We do not recommend "Fix and Release" for commercial property. Instead, once the exception to the 1911 Act is approved, a one year moratorium is recommended for the issuance of Notices to Repair Sidewalks adjacent to commercial properties. This will allow the City sufficient time to thoughtfully restore this program and will provide commercial properties with extra time to make

repairs before an inspection program commences. Property owners will also have one year to make repairs after they have been cited. This will provide a total of two years for commercial properties to achieve compliance. We also recommend that the City create a pre-qualified list of contractors that constituents can use directly.

#### *No-Fee A-Permits for Sidewalk Repair*

Sidewalk repair typically requires an A-Permit. The purpose of the A-Permit is to allow minor street construction in the public right-of-way and is the City's process of ensuring that minor street construction meets the City's design and materials specifications and that construction work is properly inspected.

It should be noted that currently, an A-Permit for the repair of sidewalk damage due to tree roots does not require the applicant to pay a permit fee and is considered a "No-Fee" permit. A pilot program is in place which allows for the City to issue no-fee A-Permits to all residential home owners repairing sidewalks regardless of the reason. The City Council instructed the City Attorney to prepare and present an ordinance that will make this pilot program permanent and expand the program to all property owners, such as commercial and industrial. On November 4, 2014, the City Attorney transmitted a draft ordinance to the City Council for consideration.

#### *Constituent Request System for Sidewalks and Access Ramps*

We recommend that the Department of Public Works, with assistance from the Department on Disability, develop a comprehensive sidewalk repair program that includes a response driven element. Constituent calls help the City to identify problems that it might not have been aware of otherwise. The primary point of entry for these requests should be the City's 311 system. Each request shall be assigned a specific identification number and logged into a database that records the requestor's name, contact information, date of the request, description of damage, and the location. Constituents should also be provided with the ability to see the status of their request.

#### *Program Management and Oversight*

We recommend that the Board of Public Works oversee, manage, and coordinate implementation of the repair of sidewalks adjacent to both City and private property. This will establish clear oversight of the program. The City Engineer will act as the Citywide Program Manager in charge of the repair of sidewalks adjacent to both City and private property.

In addition, consistent with the Willits Settlement Agreement, we recommend an Americans with Disabilities Act (ADA) Coordinator for Pedestrian Rights-of-Way, who must be a licensed architect or engineer, with the requisite credentials to provide technical advice relative to sidewalk repairs and to ensure that ADA requirements are satisfied. This position will also be responsible for reporting publicly on the progress for the Sidewalk Inspection and Repair Program. The City Engineer will hire this person immediately in 2014-15 through contract. For 2015-16, this position is included in the Mayor's Proposed Budget. The CAO, City Engineer, and the Personnel Department will work together to create the long-term position.

*Program Development, Implementation, and Delivery*

This Office recommends a combination of City staff, contractors, and a pre-approved list of contractors that constituents can use directly. The Department of Public Works should be instructed to report back with a complete staffing plan and recommendations regarding how work can be grouped in the most effective way possible and divided between City staff and contractors. Additionally, the Department should be directed to begin the process to establish a prequalified list of contractors.

Sidewalk inspections and repairs will be prioritized as follows:

1. City of Los Angeles government offices and facilities;
2. Transportation Corridors;
3. Hospitals, medical facilities, assisted living facilities, and other similar facilities;
4. Places of public accommodation such as commercial and business zones;
5. Facilities containing employers; and,
6. Residential neighborhoods and other areas.

Highest priority will go to the sidewalk related access improvements needed to address the most severe access barriers and the most significant safety hazards. However, the goal is that the program will result in the inspection of every sidewalk over the course of the settlement agreement, and repair if necessary.

Given the demand for sidewalk repair throughout the City, it is anticipated that there will be sidewalk repair projects in every City Council District. It is recommended that the Department of Public Works work to prioritize sidewalk repair project locations with input and assistance from each of the City's 15 Council Districts.

Continual assessment of the overall program implementation and delivery will be necessary to ensure the City's policies and procedures properly address the changing needs of the City's pedestrians.

*Street Trees*

The City is proud of its urban forest and should make reasonable efforts to protect and replace lost trees. However, in compliance with the Willits Settlement Agreement, priority will be given to accessibility.

The City's Municipal Code provides for guidelines related to street trees. Additionally, the City also has long-standing practices related to tree removals and replacement. It is recommended that the Board of Public Works and the Bureau of Street Services report back with recommendations on how the City's current tree removal and replacement policies and practices can be streamlined and simplified to ensure that tree related issues do not hinder the speed at which sidewalk repairs are made and to ensure that tree replacement, consistent with City policies, occurs in a responsible and effective manner.

### *Sidewalk Inventory and Asset Management System*

It is recommended that the Department of Public Works establish a sidewalk inventory and asset management system. Sidewalks are an important component of the City's infrastructure. This information should be collected as City employees inspect sidewalks and verify their condition. Managing this particular Infrastructure asset is more important than ever as the City prepares to implement a comprehensive sidewalk management strategy that will extend far into the future.

The City currently does not maintain an inventory of all of the locations of its sidewalks or even know for sure exactly how many of miles of sidewalks exist in the City, or the condition of those sidewalks. There is also no central repository or database of all of the City's existing curb ramps and when they were constructed or last repaired. Without this information, it will be difficult to measure progress as the City implements its new sidewalk management strategy. Mapping and geographic information services (GIS) technology will be essential to the creation of a Sidewalk Asset Management System. There could be an opportunity to leverage existing resources, such as the Los Angeles Region Imagery Acquisition Consortium Data Refresh (LAR-IAC4) Project to capture a GIS dataset of with the location of every sidewalk and curb ramp in the City.

Additionally, a sidewalk inventory and asset management system could be used to:

- Plan and prioritize work;
- Prepare cost estimates;
- Implement and track progress and costs;
- Change plans; and,
- Show progress of sidewalk repair to the City's constituents.

The sidewalk inventory could also be a useful aid in identifying and evaluating projects and opportunities for the new Mobility Element, the People Street Initiative, and the Great Streets Initiative.

### **RECOMMENDATIONS**

That the Council, subject to the approval of the Mayor:

1. Request the Board of Public Works, to reinstate a sidewalk inspection program;
2. Request the City Attorney to prepare and present an ordinance that amends all relevant sections of the Municipal Code that require the City to bear the cost of repairing sidewalk damage caused by tree roots (e.g. Los Angeles Municipal Code Section 62.104);
3. Approve a phased in approach to the transfer of sidewalk repair responsibility back to property owners;
4. Approve a fix and release program for sidewalks adjacent to residential property;
5. Request the City Attorney to prepare and present an ordinance implementing a Fix and Release Sidewalk Policy for residential property owners;
6. Instruct the Department of Public Works to institute a one year moratorium for the issuance of Notices to Repair Sidewalks adjacent to commercial properties to allow property owners extra time to make repairs before an inspection program commences;

7. Instruct the Department of Public Works to develop a system to track constituent calls and requests for sidewalk repair;
8. Designate the City Engineer as the program manager for the City's Sidewalk Repair Program, including sidewalks adjacent to City and private property, under the oversight of the Board of Public Works;
9. Instruct the Bureau of Engineering to work with the Personnel Department and the City Administrative Officer to create the position of ADA Coordinator for the Pedestrian Rights-of-Way;
10. Instruct the Department of Public Works and the CAO to report back with the framework and resource needs to implement a Sidewalk Inspection and Repair Program and Sidewalk Asset Management System, including how the options for a capture of planimetric features and a sidewalk assessment offered through LAR-IAC4 could be beneficial to the City;
11. Instruct the Department of Public Work to prioritize sidewalk inspections and repairs, consistent with the Willits Settlement Agreement, as follows:
  - a. City of Los Angeles government offices and facilities;
  - b. Transportation Corridors;
  - c. Hospitals, medical facilities, assisted living facilities, and other similar facilities;
  - d. Places of public accommodation such as commercial and business zones;
  - e. Facilities containing employers; and,
  - f. Residential neighborhoods and other areas.
12. Instruct the Department of Public Works to work with each Council Office on an annual basis to allow for input relative to sidewalk repair project location selection.
13. Instruct the Department of Public Works to establish pre-qualified contractors for sidewalk repair for use by the City or the public and to work with the CAO to establish a complete staffing plan to implement the Sidewalk Repair Program and report back to Council by August 31, 2015;
14. Instruct the Board of Public Works and the Bureau of Street Services to report back with recommendations on:
  - a. Simplifying and streamlining the City tree removal and replacement policies and procedures so that they do not hinder the progress of sidewalk accessibility repairs;
  - b. Ensuring that any trees removed are replaced and that the health and size of the City urban forest is protected;
  - c. Ensuring that tree replacements are consistent with the City goals of protecting infrastructure (i.e. sidewalks, curbs, streets), minimizing operations and maintenance costs (i.e. location near street lights and traffic signs) and minimizing use of water for landscaping; and,
  - d. Policies and procedures addressing the potential use of alternatives to tree removals such as meandering sidewalks, grade separations and tree relocations.
15. Instruct the Department of Public Works to develop and implement a sidewalk inventory and asset management system.

#### **FISCAL IMPACT STATEMENT**

There is no impact to the General Fund at this time.

MAS:PJH:DHH:SMS:06150080c

## **BASIS FOR REPORT**

In August 2014, the City Council instructed this Office with assistance from various other City departments, to report back with recommendations for a comprehensive sidewalk repair strategy that addresses pending litigation through consideration of such items as, but not limited to, a cost sharing program for residential sidewalk repairs, point-of-sale, point-of-permit, assessment districts, and alternative sidewalk materials (Council Files 14-0420-S1, 14-0163-S4, and 14-0163-S3).

### **1. SIDEWALK PROBLEM AND REPAIR SCOPE**

It is estimated that there are between 10,000 and 11,000 miles of sidewalks in the City of Los Angeles. While it has been estimated that 40 percent or more of sidewalks are damaged, it is not known for sure. Cost estimates to repair the sidewalks have ranged between 1.2 and 1.5 billion dollars. Additionally, the City pays out between four and six million dollars in liability claims each year.

### **2. SIDEWALK MANAGEMENT AND REPAIR TRUST FUND**

In November 2014, the Mayor and City Council requested the City Attorney to work with the CAO to report back with an ordinance to create a Sidewalk Repair Fund to expediently and transparently fund program costs related to sidewalk repair and curb ramp inspection, repair, and management (C.F. 14-0163-S4).

This Office supports creation of a special fund specifically for sidewalk repair due to the special circumstances that exist because of the relationship between sidewalk repair and the Settlement Agreement that was recently negotiated and subject to approval by Council. This Office believes that the creation of a fund will allow for a greater level of transparency with regards to the City's sidewalk repair efforts. The amounts in the fund should be specifically designated for use to repair the City's sidewalks and administration of any programs that are necessary to achieve that goal. The ordinance to establish the fund will be developed once the Settlement Agreement is approved by Council, and as it should take into consideration the terms of the Agreement.

The Council has ordered creation of the fund. It is expected that the fund will be created prior to June 30, 2015.

### **3. LEGISLATIVE ACTION AND SHARED RESPONSIBILITY**

The responsibility for sidewalk maintenance varies between cities. A 2008 survey of 82 cities in 45 states found that 40 percent of cities require the property owners to pay the full cost of repairing sidewalks, 46 percent share the cost with property owners, and 14 percent pay the full cost of repairing sidewalks.

The State of California Improvement Act of 1911 provides cities the authority to require property owners to effect repairs to sidewalks abutting their property (California Streets and Highways

Code). Should the property owner fail to effect such repairs, city forces are authorized to make the repairs and the property owner is assessed for the cost. However, the Los Angeles Municipal Code (Section 62.104, Ordinance No. 146,040 effective July 3, 1974) exempts property owners from the responsibility for sidewalk repairs caused by street tree root growth and places the responsibility for these repairs with the City.

Prior to 1973, property owners in the City of Los Angeles were held responsible for repair of curbs, sidewalks, and driveways under the provisions of Chapter 22 of the Streets and Highways Code of the State of California. In January 1973, the City Council decided to provide no-cost sidewalk repairs to take advantage of Federal funding. However, by July 1978, with a reduction in federal programs and lower property tax revenue, the City Council ended the no cost sidewalk repair program. From 1978 to 2000 the City did not have a full scale permanent sidewalk repair program. For the first time in 25 years, the 2000-01 Adopted Budget provided approximately \$9 million to permanently repair 46 miles of the most damaged sidewalks. Funding varied from year to year, and for a time included a 50/50 Sidewalk Repair Program, until the recession when the program was eliminated.

The City has struggled to fund sidewalk repair through the years. Even in years when funding was prioritized, only a small percentage of the City's damaged sidewalks were being repaired in any given year. If the City were to repeal the Limited Exception to the 1911 Act returning the responsibility for sidewalk repair, even when the cause of the sidewalk damage is a street tree, back to the abutting property owner, the City would be able to focus its efforts on enforcement. This transfer of responsibility back to adjacent property owners will help realign the City's workload with available funding resources and allow the City to focus on timely inspection, enforcement of the State law, and managing the safety of the public right-of-way. Sharing the cost and responsibility for sidewalk repair with property owners would also increase the number of sidewalks repaired in a given year because the City would no longer be responsible for the full cost to repair the City's broken sidewalks. Under this approach, property owners through their stewardship will do their part to keep sidewalks, a critical aspect of the City's public right-of-way, maintained. This approach is fiscally responsible, sustainable in the long-term and will achieve an overall improved pedestrian network for greater mobility and accessibility.

Additionally, based on a report recently published by the League of California Cities, the majority of cities in California impose the responsibility for sidewalks on adjacent property owners. According to a survey of 82 cities in 45 states, only 14 percent of cities pay the full cost of repair. It should be noted that there is some diversity to the extent of the obligation and how it is imposed.

#### **4. SIDEWALK MAINTENANCE TRANSFER PLAN**

In order to sustain a safe and accessible sidewalk network, this Office is proposing to standardize maintenance responsibility such that, in general, fronting property owners will be responsible for the maintenance of sidewalks in the public right-of-way, even when the cause of the sidewalk damage is a street tree. The City's resources are limited and the City does not have the resources to continue to retain the responsibility for repairing sidewalks damaged by street trees.

Lack of sidewalk repair and maintenance impedes accessibility and mobility in the public right-of-way, and risks to public safety.

However, for over 40 years, the City has had the responsibility for repair of sidewalks damaged by street parkway tree root growth. During that time, this responsibility has not always been consistently funded due to City funding constraints. The City recognizes this, and therefore a phased in approach to the transfer of responsibility is recommended by this Office as follows:

*Fix and Release for Residential Property Owners* – All residential sidewalks will be inspected by the City. A sidewalk certificate will be issued if the condition of the sidewalk is found to be acceptable and any future damage to the sidewalk will be the responsibility of the property owner. If a sidewalk is damaged, it will be repaired by the City prior to issuance of a sidewalk certificate. Any subsequent repairs will be the responsibility of the property owner.

*Residential Property* – Defined as a single family dwelling serviced by the Bureau of Sanitation's Refuse Collection.

*Sidewalk Inspection and Certification Program for Commercial Properties* - Property owners will be given one year to make voluntary repairs before an inspection program is implemented by the City. Property owners will have one year to make repairs once a notice to repair has been issued. If repairs are not made within that year, the City will begin the repair process and charge those costs back to the property owner. Fines/penalties are proposed if a sidewalk is not repaired within the allotted period of time. Inspection costs will be waived for the first inspection. A fee for subsequent inspections will be charged if the sidewalk is non-compliant. A fix and release program is not recommended for commercial properties.

It is estimated that it will take approximately one full year to develop each of these programs and the infrastructure to administer the programs. The planning phase should be utilized to begin outreach to the public regarding the new sidewalk policy and the implementation period. As with any new program, it is critically important to ensure time to develop and nurture new processes, implement, and evaluate success.

## **5. SIDEWALKS ADJACENT TO CITY FACILITIES**

During the program planning and development phase of the Sidewalk Inspection and Certification Programs, it is recommended that the City continue to repair sidewalks adjacent to all City facilities. This priority was previously established in Fiscal Year 2013-14 because the City is clearly responsible for sidewalks adjacent to City facilities. It also appears that a significant amount of work remains to be completed, with over 235 locations identified with sidewalk damage. Staffing and funding resources for this purpose will be considered during the annual budget formulation process.

## **6. SIDEWALKS ADJACENT TO OTHER GOVERNMENTAL AGENCIES**

This Office recommends that the Fix and Release policy not be extended to other governmental agencies. Title II of the Americans with Disabilities Act (ADA) requires State and local governments to make their programs and services accessible to persons with disabilities. This requirement includes physical access at government facilities, programs, and events. Those entities with damaged sidewalks adjacent to their facilities will be responsible for the cost of those repairs. The City will provide notice to the respective agency if defects are discovered during the sidewalk inspection process.

## **7. CONSTITUENT REQUEST SYSTEM FOR SIDEWALKS AND ACCESS RAMPS**

A comprehensive sidewalk repair program should include a response driven element. Constituents play an important role in observing the City's condition on a daily basis. Constituent calls help the City to identify problems that it might not have been aware of otherwise. Requests for sidewalk repair and access ramps should be input into a single central repository. The City's 311 system should be the primary point of entry for these requests. This will trigger an inspection by City staff to assess the condition of the sidewalk or access ramp and determine the next steps. Consistent with the Willits Settlement Agreement, the City will use its best effort to investigate requests within 30 days and, if appropriate, schedule repairs as resources allow within 120 days. The Department of Public Works should be instructed to report back with staffing or a resource strategy to attain these goals. A separate form will be developed for requests that are made by or on behalf of persons with mobility disabilities.

## **8. DESIGN, CONSTRUCTION STANDARDS, AND ALTERNATIVE MATERIALS**

The Bureau of Engineering was instructed (Krekorian-Wesson-Buscaino Motion C.F. 14-0163-S3) to develop and maintain design and construction standards for sidewalks that serve the City's objectives of maximizing mobility, increasing groundwater recharge and stormwater infiltration, maintaining aesthetic compatibility with distinctive neighborhood styles and historic designs, and provide a process for innovation and pilot programs utilizing new materials and construction techniques as they are developed.

The Bureau of Engineering is currently responsible for maintaining all sidewalk design and construction standards. Standard Plans are a series of numbered drawings showing the details, dimensions, and specifications of standard items in the construction of the public works, such as sidewalks. Standard Specifications for concrete sidewalks can be found in the Bureau's Permit Manual. Additionally, all materials and products that are placed in the City's public right-of-way must be approved by the City's Engineer of Design. A database of approved products can be found in the Technical Document Center of the City's Bureau of Engineering website. Currently, it does not appear that any alternative materials to Portland Cement Concrete (PCC) have been approved.

In the past, the Bureau of Street Services has experimented with alternative sidewalk materials to Portland Cement Concrete (PCC), including rubber panels, recycled mixed plastic materials,

poured rubber materials, and pervious concrete. Early versions of rubber sidewalk weathered quickly and did not last very long. Surfaces of more recent recycled materials wear relatively quickly leaving smooth and possibly slippery sidewalk finishes when wet. Warping has also been observed with more current iterations of recycled materials. Pervious concrete requires frequent maintenance (vacuuming) to preserve its environmental qualities and its relatively rough texture may not be suitable in all urban conditions. The total cost of sidewalk reconstruction using alternative materials is normally higher than conventional PCC, but may offer other advantages that PCC does not offer.

Alternative materials to PCC do exist. In the past the City has mostly relied on vendors to bring new materials to the City for testing. However, a more proactive approach is recommended where the City proactively seeks out alternative materials that would meet the City's standards. One way of accomplishing this would be to hire a consultant to report back with recommendations regarding alternative materials that are currently available and also review the City's current standards and provide recommendations as to whether any of our current requirements should be revised. Testing and pilot projects may also be necessary to examine these new products before the City can accept them for use in the public right-of-way. The Bureaus of Engineering and Street Services, in collaboration with the General Services Department should be instructed to continue researching developments in alternative sidewalk materials and report on these findings every three years. A Request for Quotations (RFQs) from manufacturers could also be utilized to assess the materials market on a triennial basis. In the interim years between reviews, manufacturers, distributors, contractors or owners may still initiate the approval process of a product by contacting the City's Engineer of Design to begin the formal product assessment process.

#### **9. PROGRAM DEVELOPMENT, IMPLEMENTATION, AND DELIVERY**

The Sidewalk Inspection and Certification Program should be housed in the Department of Public Works, with oversight provided by the Board of Public Works. Unfortunately, none of the Public Works Bureaus have existing staff available to implement a Sidewalk Inspection and Repair Program. Additional City staff will need to be hired in multiple departments to oversee the administrative aspects of the program. Three options exist for performing the actual repairs: 1) Hire additional City staff, 2) Hire contractors, or 3) Create a pre-approved list of contractors that constituents can use directly.

This Office recommends a combination of all three options above. The Department of Public Works should be instructed to report back with a complete staffing plan.

#### **10. ADA COORDINATOR OF THE PEDESTRIAN RIGHTS-OF-WAY**

ADA standards have and will continue to evolve. For example, on September 15, 2010, the Department of Justice published revised enforceable accessibility standards called the 2010 ADA Standards for Accessibility Design (2010 Standards). The 2010 Standards set minimum requirements for newly designed and constructed or altered State and local government facilities, public accommodations, and commercial facilities to be readily accessible to, and usable by,

individuals with disabilities. Additionally, the United States Access Board is developing new guidelines for public rights-of-way that will address various issues, including constraints posed by space limitations, roadway design practices, slope, and terrain. The new guidelines will cover pedestrian access to sidewalks and streets, including crosswalks, curb ramps, street furnishings, pedestrian signals, parking, and other components of the public rights-of-way. These guidelines will ensure that access for persons with disabilities is provided wherever a pedestrian way is newly built or altered, and safety afforded to the public generally is available to pedestrians with disabilities. Once these guidelines are adopted by the Department of Justice, they will become enforceable standards under Title II of the ADA. A copy of the Proposed Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way (112 page document) can be found at <https://www.access-board.gov/attachments/article/743/nprm.pdf>.

With all of the above in mind, it is critical that the City keep abreast of changes to the evolving accessibility standards, guidelines and best practices. Therefore, in the Willits Settlement Agreement the City agreed to hire an ADA Coordinator designated specifically for the Pedestrian Rights-of-Way to ensure that the City's standards for constructing sidewalks meets or exceeds the requirements of the law. Consistent with the Settlement Agreement, the ADA Coordinator will be responsible for reporting publicly every six months on the status of the City's compliance for the first five years. After that time, such reports shall be provided on an annual basis. Reporting should include the following:

- Compliance efforts that have been made since the last report;
- Access work performed;
- Status of scheduled work;
- Reason why any previously scheduled work has not been completed;
- Access requests received by the City and actions taken;
- Grievances or complaints received by the City, including copies of same, and the City's response thereto;
- Monies spent since last report; and,
- Summary of new construction and alterations performed by the City that result in improvements to the pedestrian rights-of-way.

Consistent with the Settlement Agreement, the minimum requirements for this position include the following: licensed architect or engineer, with the requisite credentials, such as Certified Access Specialist (CASP) certification, and no less than five years of experience. This position should be created and filled as soon as possible to assist with the development of the sidewalk repair program and all related materials, especially as they pertain to design standards.

## 11. PRIORITIZATION

Consistent with the Settlement Agreement, sidewalk inspections and repairs will be prioritized as follows:

1. City of Los Angeles government offices and facilities;
2. Transportation Corridors;
3. Hospitals, medical facilities, assisted living facilities, and other similar facilities;
4. Places of public accommodation such as commercial and business zones;
5. Facilities containing employers; and,
6. Residential neighborhoods and other areas.

Consistent with the Settlement Agreement, highest priority will go to the sidewalk related access improvements needed to address the most severe access barriers and the most significant safety hazards for Willits class members, such as but not limited to, the following:

- a. Missing curb ramps;
- b. Tree root upheavals and displacements in level of one inch or more;
- c. Curb ramps with a running slope greater than 9.3%;
- d. Curb ramps and landing and transitions to crosswalks that do not comply with the 2010 ADA Standards;
- e. Sidewalks and crosswalks with surfaces that have an abrupt change in level of more than ½ inch;
- f. Grates with openings that are more than ½ inch wide;
- g. Curb ramps with cross slopes greater than 2.5%; and,
- h. Cross slopes on sidewalks, crosswalks, and other paths of travel other than curb ramps, cross slopes in excess of 2.5% shall be re-graded to 2%. However, cross slopes between 2.5% and 3% shall not be required to be re-graded unless such a cross slope extends for a distance of more than six feet within the path of travel in the direction of travel.

## 12. COST SHARING, FINANCIAL ASSISTANCE, AND INCENTIVE PROGRAMS

### *No Fee A-Permits*

Sidewalk repair typically requires an A-Permit. The purpose of the A-Permit is to allow minor street construction in the public right-of-way and is the City's process of ensuring that minor street construction meets the City's design and materials specifications and that construction work is properly inspected.

Currently, an A-Permit for the repair of sidewalk damage due to tree roots does not require the applicant to pay a permit fee and is considered a "No-Fee" permit. A pilot program is in place which allows for the City to issue no-fee A-Permits to all residential home owners repairing sidewalks regardless of the reason. The City Council instructed the City Attorney to prepare and present an ordinance that will make this pilot program permanent. On November 4, 2014, the City Attorney transmitted a draft ordinance to the City Council for consideration.

Additional cost sharing programs or loan programs are not recommended at this time, because the City will pay for sidewalk repairs adjacent to residential properties during the first years of the program. However, below is a list of options that the Council could consider implementing now or in the future to encourage sidewalk repair:

1. No cost tree trimming/root pruning of parkway trees when permanent repairs (sidewalk, curb, driveway, gutter) are made by the adjacent property owner.
2. City pays for 50 percent (or some other amount) of permanent repairs.
3. City pays for permanent sidewalk repairs if the property owner pays for curb and gutter repairs and tree related mitigation.

### **13. OTHER FUNDING STRATEGIES AND PROGRAM OPTIONS**

Five other funding strategies and program options exist and have been considered over the years. They include the following:

1. Citywide Bond
2. Assessment Districts
3. Point of Sale
4. Point of Service
5. Point of Permit

In the case of options 1 and 2, each requires a significant outlay of staff and funds to produce a proposal presentable to the City Council and to the voters. Furthermore, depending on how they were formulated, the strategies will have varying thresholds for approval by the electorate and, no matter which strategy, guidelines must be established to define hardship exemptions, situations where sidewalks are impractical, and addressing property owners with verified inability to pay. The following descriptions are only intended to describe key characteristics of each strategy. Prior to engaging staff and resources to develop any of the strategies, the City Attorney's Office should be consulted to ensure all mandated steps and procedures are identified and adhered to.

#### **1. General Obligation Bond**

General obligation (GO) bonds have historically provided local agencies with the lowest borrowing costs among the types of long-term bonds they may issue because of their broad security pledge, which yield the highest possible bond rating and widest investor acceptance. In California, GO bonds are backed either by a pledge of full faith and credit of the issuer or by a promise to levy *ad valorem* property taxes in an unlimited amount as necessary to pay debt service. Local governments use the latter approach because they generally are not authorized to issue full faith and credit bonds. Because of this pledge of revenues, the State Constitution requires that local government seek voter approval prior to issuing GO bonds.

GO bonds that are issued by local agencies require two-thirds voter approval. Article XVI, Section 18 of the State Constitution, states that local agencies, (i.e., county, city, town, or school district) may not incur indebtedness without two-thirds voter approval.

To pursue this option, staff from the CAO, CLA, and other City departments would work together to determine a viable size, scope and structure of a bond proposal, repayment terms, and costs. This would also require development of the bond proposal itself, and could take up to one year to develop before a proposal is ready for placement on the ballot.

**2. Assessment District(s)**

An assessment district is an alternative method for financing public improvements. Property owners within the City can form assessment districts to repair their sidewalks using the procedures in the State Streets and Highways Code. These districts do not require contiguous properties and the districts can be of any size. However, should property owners vote and fail to approve the assessment; the City is at risk for the considerable time, effort and expenses expended to propose the district. Besides the assessment district formation costs, the ongoing administrative costs are approximately 20 percent of the assessment amount. Property owners are also generally offered the ability to pay in installments with interest.

After the repair scope is established, the Bureau of Engineering has resources to process only a few small districts each year so the formation of a large assessment district or a large number of smaller assessment districts would require significant additional resources to develop and bring forward for a public vote and, if approved require more resources to administer the program over an extended period. Since sidewalk repair assessments have minimal precedents, it is expected to require additional staff time to establish methods and standards for calculating the proportional benefit of the sidewalks.

**3. Point of Sale**

A Point of Sale program would require the seller or buyer of a property to ensure an accessible sidewalk. This would require approval of an ordinance requiring that all damaged curb, gutter, sidewalk, and driveways be repaired prior to the sale of property. The program could be supported by fees charged to property owners.

**4. Point of Service**

Point of Service would require that sidewalk repairs be made each time new utility services are requested. The program could be supported by fees charged to property owners.

**5. Point of Permit**

Point of Permit would require that sidewalk repairs be completed by the property owner each time a permit is obtained. This option would be paired with a minimum permit valuation. The cooperation of the Department of Building and Safety would be required to implement this option. The program could be supported by fees charged to property owners.

#### **14. STREET TREES AND SIDEWALKS**

The City is proud of its urban forest and should make reasonable efforts to protect the trees. However, tree roots are the predominate cause of damage to sidewalks. Anecdotally, 80 percent or more of sidewalk damage is believed to be caused by street trees. Therefore, priority needs to be given to accessibility. Per the Los Angeles Municipal Code, the planting, maintenance, and care of plants in City streets falls under the jurisdiction and control of the Board of Public Works. Currently, a permit is required for tree planting, pruning, removal, and tree root pruning. Tree removal permits are typically issued for the following reasons: damage to sidewalk/curb/driveway that cannot be repaired without tree removal, installation of driveway that cannot be relocated, and development public improvement conditions requiring street tree removal. It may be necessary to revise the City's policies as they pertain to trees in the near future to streamline the current practices of the City.

A clear streamlined process is needed for street tree removal and replacement. Revisions to the City's current policies and practices will likely be an ongoing process, as the City has time to see the full impact of the new Sidewalk Repair Program on the number of permit applications for tree removals received.

#### **15. SIDEWALK INVENTORY AND ASSET MANAGEMENT SYSTEM**

Sidewalks are an important component of the City's infrastructure. Managing this particular infrastructure asset is more important than ever as the City prepares to implement a comprehensive sidewalk management strategy that will extend far into the future.

The City currently does not have an inventory of all of the locations of its sidewalks or even know for sure exactly how many of miles of sidewalks exist in the City or their condition. There is also no central repository or database of all of the City's existing curb ramps and when they were constructed or last repaired. Without this information, it will be difficult to measure progress as the City implements its new sidewalk management strategy. Additionally, a sidewalk inventory and asset management system could be used to:

- Plan and prioritize work;
- Prepare cost estimates;
- Implement and track progress and costs;
- Change plans; and,
- Show progress of sidewalk repair to the City's constituents.

Infrastructure asset management is the integrated, multidisciplinary set of strategies in sustaining assets. It is the ongoing process of maintaining, upgrading, and operating physical assets cost-effectively, based on a continuous physical inventory and condition assessment.

The following steps could be taken to create an asset management plan and system for sidewalks:

- Inventory;
- Assess condition;
- Determine needs (cost estimates);
- Assess available funding; and,
- Develop multi-year plan (budget).

One of the first steps in developing such a system could be creating an inventory of the locations of all the existing sidewalks and curb ramps in the City. However, this is not a prerequisite to beginning repair. Mapping and geographic information services (GIS) technology can be used to accomplish this. The City is currently in the process of executing an agreement with Los Angeles County (County) for products from the Los Angeles Region Imagery Acquisition Consortium Data Refresh (LAR-IAC4) Project. LAR-IAC is a consortium of many cities within the County, including the City of Los Angeles, which pools participant resources to obtain aerial photographic imagery, elevation contour lines, building footprints, and other data to benefit both the individual cities and the entire County. Several departments within the City currently use the digital terrain and aerial data. As part of this project last year, Sanborn, a photogrammetric mapping and geographic information system (GIS) company, gave a presentation to various City departments that covered optional services that could be added through LAR-IAC4. The following two items were offered related to sidewalks and curb ramps:

- 1) Capture of planimetric features in GIS format for curb ramps and sidewalks - Creation of an inventory that would create a citywide GIS dataset with the location of every sidewalk in the City, including sidewalk width.
- 2) Sidewalk Assessment – A team would walk the streets of the City with equipment to capture the condition of the sidewalk. The geographic location and the condition of the sidewalk would be captured, put in a table and related back to the GIS inventory of sidewalks that is described in Item Number One above.

The sidewalk and curb ramp inventory captured by Item Number One above could be used as the foundation for the development of a single sidewalk asset management system, that could also be used for complaint driven mapping. Additionally, the sidewalk inventory could also be a useful aid in identifying and evaluating projects and opportunities for the new Mobility Element, the People Street initiative, and the Great Streets initiative. The sidewalk assessment described in Item Number Two above could be used to prioritize repair, and group damaged sidewalks into projects, or schedule locations for further evaluation. Additionally, the data capture and subsequent data analysis over time could lead to a better understanding of deterioration rates of sidewalks, especially when paired with information on street trees.

The system that is developed should also take into consideration any reporting requirements that are required as part of the Settlement Agreement. To the extent possible the new system should

facilitate the reporting process, and use automation to minimize the amount of work required to gather the necessary data.

City of Los Angeles  
BOARD OF PUBLIC WORKS

**Wednesday, June 17, 2015**

10:00 a.m. - Edward R. Roybal BPW Session Room  
Room 350 City Hall  
200 North Spring Street  
Los Angeles, California 90012

Members: Kevin James, President  
Monica Rodriguez, Vice President  
Matt Szabo, President Pro-Tempore  
Michael Davis  
Heather Marie Repenning  
(Fernando Campos, Executive Officer 213-978-0261)

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<http://lacity.org/city-government/elected-official-offices/city-council/council-and-committee-meetings?laCategory=1817>

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and activities. Assistive listening devices are available at the meeting; upon advance

notice, other accommodations, such as sign language interpretation, and translation

services can be provided. Contact the Executive Officer's office at 213-978-0262.

TDD available at 213-978-2310.

Written material supporting agenda items can be reviewed prior to each Board meeting at the public counter, 200 North Spring Street Room 355, between the hours of 8:00 a.m. and 4:00 p.m.

#### PUBLIC INPUT AT BOARD MEETINGS:

An opportunity for the public to address the Board on public interest items will be provided for up to two (2) minutes per person for a cumulative total of twenty (20) minutes. Testimony shall be limited in content to matters which are within the subject matter jurisdiction of the Board. The Board may not take any action on matters discussed during the public comment period.

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Members of the public who wish to speak under public comments or on any item are requested to complete a speaker card for each item they wish to address, and present the completed card(s) to the Executive Officer. Speaker cards are available at the back of the Board Hearing Room.

**VOTING AND DISPOSITION OF ITEMS** – Items require a majority vote of the entire membership of the Board (3 votes) for approval.

Any member of the Board may move to “reconsider” any vote on any item on the agenda, except to adjourn, suspend the Rules, or where an intervening event has deprived the Board of jurisdiction, providing that said member originally voted on the prevailing side of the item. The motion to “reconsider” shall only be in order

once during the meeting, and once during the next regular meeting. The member requesting reconsideration shall identify for all members present the Agenda number, meeting date and subject matter previously voted upon. A motion to reconsider is not debatable and shall require an affirmative vote of three members of the Board.

The Board rules provide that all items adopted by the Board will not be distributed or presented to the Mayor, or other designated office, until the adjournment of the regular Board meeting following the date of the Board action. A motion to send an item "forthwith", if adopted by three (3) votes, suspends these rules and requires the Board Secretariat to forward the matter to the Mayor, or other office, without delay.

BPW06-17-2015

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**PUBLIC COMMENTS:** Board will hear public testimony on non-agenda items under the Board's jurisdiction.

**DISPOSITION:** NONE

**MINUTES:** Monday, June 1, 2015 APPROVED

**COMMENDATORY RESOLUTIONS, INTRODUCTIONS AND PRESENTATIONS**

**AGENDA ITEMS**

(1)

**BIDS 10:00 A.M.** Bids will be received at 10:00 a.m. for the following Public Works projects:



Playa Del Rey, CA 90293 (Assessor Parcel No. 4116-035-900),

as required for the completion of the Venice Dual Force Main project; and authorize Director of Office of Accounting to

draw a demand in the amount of \$85,280 payable to Los Angeles

County Flood Control District to cover the acquisition of the SSE and

TCE needed for this project (Right-of-Way No. 33691, W.O.

SZC11631)  
CD 11

DISPOSITION: REPORT ADOPTED, FORTHWITH

BPW06-17-2015

-4-

(4)

#1 BSS POLICY

Recommending Board adopt the Street Tree Removal and Tree Replacement Condition Policies as follows to codify existing practices:

- 1) Designate the Bureau of Street Services (BSS) Chief Forester as the authorized officer and employee to issue street tree removal permits;

- 2) Require the public be notified of the proposed removal of three or more street trees by: placing a public notice for a 30 calendar days minimum period on each proposed tree removal providing the reason for tree removal and BSS contact information, placement of the address/project on the BSS Street Tree Removal Notification System, informing the Community Forest District Advisory Committee, and emailing the respective Council Office(s) in which the street tree removals shall occur;
- 3) Require a Board of Public Works public hearing for consideration of the removal of three or more street trees at specific address or a single project containing multiple addresses;
- 4) Require as a condition of a tree removal permit that each applicant approved street tree removal be replaced by the permit watered on a 2:1 basis with 24-inch box size tree stock and be for a minimum three-year period

CD Citywide

DISPOSITION: REPORT ADOPTED, FORTHWITH

(5)

#1 OCB Recommending Board authorize Office of Community  
Beautification to grant Sunland-Tujunga Chamber of Commerce revocable  
permission to encroach within the public right-of-way to  
restore  
 a community entrance sign on Foothill Boulevard at  
 Wentworth Avenue in Sunland in Council District 7

CD 7

DISPOSITION: REPORT ADOPTED, FORTHWITH

(6)

COMMUNI-  
transmitting  
CATIONS  
the

BCN Group, LLC / Perse Construction Company,

Stop Notice in the amount of \$137,407.99 in connection with

Avenue 26 Bridge over Arroyo Seco Channel Bridge Seismic  
Retrofit project - contractor: Future DB International, Inc.

DISPOSITION: RECEIVED, FORTHWITH

(7)

COMMUNI-  
Release  
CATIONS  
the

Gordon Grbavac Equipment Rental Co., transmitting

of Stop Notice in the amount of \$1,428.55 in connection with

Emergency Sewer Repair at 5700 block of Hesperia Avenue  
project (W.O. SWC02210) - contractor: Prkacin Company

DISPOSITION: RECEIVED, FORTHWITH

(8)

COMMUNI-  
Release  
CATIONS  
the

Gordon Grbavac Equipment Rental Co., transmitting

of Stop Notice in the amount of \$250.40 in connection with

Emergency Sewer Repair at 400 block of 1<sup>st</sup> Street project  
(W.O. SWC02224) - contractor: Prkacin Company

DISPOSITION: RECEIVED, FORTHWITH

BPW06-17-2015

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\*\*\*END\*\*\*

SPECIAL MEETING

City of Los Angeles

BOARD OF PUBLIC WORKS

Wednesday, June 17, 2015

10:00 a.m. - Edward R. Roybal BPW Session Room  
Room 350, City Hall  
200 North Spring Street  
Los Angeles, California 90012

AGENDA ITEMS

(1)

<u>MOTION</u>	<u>Office of Accounting and Bureau of Sanitation, requesting</u>
<u>OOA</u>	<u>Board approval and execution of Authority for Expenditure in</u>
<u>the</u>	
<u>BOS #1</u>	<u>amount of \$50,000 to pay Mountains Recreation &amp;</u>
<u>Conservation</u>	
	<u>Authority for participation in the 2015 Los Angeles River</u>
<u>Kayaking</u>	
	<u>Activities (AE15760247M) (CONTINUED FROM 06-15-</u>
<u>2015)</u>	

DISPOSITION: ADOPTED, FORTHWITH

(2)

<u>MOTION</u>	<u>Office of Accounting and Bureau of Sanitation, requesting</u>
<u>OOA</u>	<u>Board approval and execution of Authority for Expenditure in</u>
<u>the</u>	

BOS #2 amount of \$50,000 to pay Los Angeles Conservation Corps  
for  
Program participation in the 2015 Paddle the Los Angeles River  
 (AE15760248M) (CONTINUED FROM 06-15-2015)

DISPOSITION: ADOPTED, FORTHWITH

BPW06-17-2015sp

-1-

(3)

PUBLIC Re: Annual Assessment for Street Lighting Maintenance and  
HEARING Operation for 2015/16 – Los Angeles City Lighting District  
 (assessments and district frozen since 1996)  
 - City Council Ordinance of Intention Hearing: June 24,  
 2015  
 (ref: Council File No. 15-0608, #1 BSL 05-15-2015)

CD all

DISPOSITION: NO PROTESTS, RECOMMEND COUNCIL  
CONFIRM PROPOSED

ASSESSMENTS,

FORTHWITH

(4)

PUBLIC Re: Annual Assessment for Street Lighting Maintenance and  
HEARING Operation for 2015/16 – 1996/97 Z Series Street Lighting  
 Maintenance Assessment District (assessment districts of  
 1996/97 only, assessments and district frozen since 1996)  
 - City Council Ordinance of Intention Hearing: June 24,  
 2015  
 (ref: Council File No. 15-1610, #2 BSL 05-15-2015)

CD all

DISPOSITION: NO PROTESTS, RECOMMEND COUNCIL  
CONFIRM PROPOSED

ASSESSMENTS,

FORTHWITH

(5)

PUBLIC Re: Annual Assessment for Street Lighting Maintenance and

HEARING      Operation for 2015/16 – Proposition 218 Confirmed Street  
Lighting Maintenance Assessment District (assessment  
districts

confirmed after Proposition 218)

- City Council Ordinance of Intention Hearing: June 24,  
2015

(ref: Council File No. 15-0609, #3 BSL 05-15-2015)

CD all

DISPOSITION: NO PROTESTS, RECOMMEND COUNCIL  
CONFIRM PROPOSED

ASSESSMENTS,

FORTHWITH

BPW06-17-2015sp  
\*\*\*\*END\*\*\*

-2-

DEPARTMENT OF PUBLIC WORKS  
BUREAU OF STREET SERVICES  
REPORT NO.1

Date: June 17, 2015

CITYWIDE

Honorable Board of Public Works  
of the City of Los Angeles

Commissioners:

**REQUEST BOARD APPROVAL AND ADOPTION OF THESE STREET TREE  
REMOVAL PERMIT AND TREE REPLACEMENT CONDITION POLICIES**

---

**RECOMMENDATIONS**

That your Board review, approve, and adopt these street tree removal and tree replacement condition policies as follows to codify existing practices:

- 1) Designate the Bureau of Street Services (BSS), Chief Forester, as the authorized officer and employee to issue street tree removal permits.
- 2) Require the public be notified of the proposed removal of three or more street trees by: placing a public notice for a 30 calendar days minimum period on each proposed tree removal providing the reason for tree removal and BSS contact information, placement of the address/project on the BSS Street Tree Removal Notification System, informing the Community Forest Advisory Committee (CFAC), and emailing the respective Council District Office(s) in which the street tree removals shall occur.
- 3) Require a Board of Public Works (BPW) public hearing for the consideration of the removal of three or more street trees at a specific address or a single project containing multiple addresses.
- 4) Require as a condition of a tree removal permit that each approved street tree removal be replaced by the permit applicant on a 2:1 basis with 24" box size tree stock and be watered for a minimum three-year period.

**HISTORY**

The BPW is empowered to govern the tree and plant infrastructure in the City of Los Angeles (COLA) public rights-of-way (ROW) by the Los Angeles Municipal Code (LAMC) Sec. 62.161-176. This includes the power to permit street tree removal and planting (LAMC Sec 62.162(a)). The current street tree removal permit and tree replacement condition practices are largely a compendium of ad hoc decisions made over the past fifty years or more. This report makes recommendations that will codify the requirements for obtaining a street tree removal permit and tree replacement conditions associated with the issuance of such permits. Codification of these current practices does not preclude additions and alterations to the requirements going forward

as conditions warrant.

Current BPW practice for considering the removal of two or fewer street trees requires a review by the designated BSS employee/officer and/or a single commissioner after which the request is approved or denied. In cases where the removal of three or more street trees is requested, the subject trees are posted for a minimum of thirty calendar days after which a BPW public hearing is held and an approval/denial of the street tree removal permit is made.

Current street tree removal permit conditions require a 2:1 tree replacement with 24" box size tree stock for each approved street tree removal. Every effort is made to have the replacement trees planted at the tree removal location but in the event room for replanting is not available, the replacement trees are delivered to BSS for planting in other areas of the City. The applicant is required to water any trees planted at the tree removal location for a minimum three-year period.

### RECITAL

The Board of Public Works and its officers and employees have control and authority over the street tree population per the COLA LAMC Sec. 62.161-62.176. The BPW or its designated officers/employees manage the tree and plant infrastructure contained within the public ROW as well as private property trees/plants that may impact the public ROW. As part of this authority, the BPW, or its designated officer/employee, is empowered to issue street tree removal permits when upon inspection and review it is determined tree removal is required.

The BPW has been exercising their power to approve or deny street tree removal for many years. Historic and current BPW practices are directed to the preservation of healthy and vital street trees. However, there are reasons that street tree removal permits may be considered that include damage to City infrastructure or private structures/buildings, construction of a vital City facility, installation of vital new streets and other public ROW improvements, capital improvement projects, and the structural integrity/condition of a tree that may warrant removal.

The LAMC Sections referenced above empower the BPW to make street tree removal permit decisions while not codifying the actual application of this power. The BPW application of their power has been manifested by practices and ad hoc policies developed over the last 50 years or more. For the most part, no formal tree removal permit or tree removal permit conditions or replacement policies have been adopted. The existing requirements are actually a function of long-standing past practices.

The LAMC contains no language, implicit or explicit, requiring public notification of any quantity of potential street tree removal(s) nor the necessity for a BPW public hearing to consider the proposed tree removal(s). The necessity for these to occur has become BPW practices over time. Codification of the practices and their application would allow for easier understanding of the process, provide a more timely process reducing the strain on COLA resources as well as the permit applicants, and be more closely aligned with the intent of the LAMC.

Currently, the BPW and/or its officers/employees utilize the following street tree removal permit procedures:

#### Removal of Two or Fewer Street Trees

- Notifications
  - Respective Council office in which the permit request resides
- Application and tree and site inspection with photographs are reviewed by BSS officer
- Application and tree and site inspection are reviewed with a BPW commissioner at which time an approval or denial of the tree removal permit is determined
- If approved, tree removal permit with tree replacement conditions is issued

#### Removal of Three or More Street Trees at One Address or a Single Project with Multiple Addresses

- Notifications
  - Respective Council office in which the permit request resides
  - Posting on the Street Tree Removal Notification system
  - Physical notice placed on each proposed tree removal for a 30 calendar-day minimum period
- Application and tree and site inspection with photographs are reviewed by BSS officer and a recommendation for approval/denial is determined and a BPW Board Report regarding the tree removal project is created
- BPW public hearing to consider the street tree removal permit application

As previously mentioned, most of these processes are due to past practices and ad hoc decisions for individual tree removal permit locations/projects. The exception to the ad hoc decisions was a 1991 formally adopted tree removal policy relative to Bureau of Engineering (BOE) projects. The adopted policy required BOE projects of three or more trees be physically posted on each proposed tree removal and a subsequent public hearing regarding the project be held to determine the approval/denial of the street tree removals. The adoption of these processes for BOE projects soon became "policy" for all projects requiring three or more street tree removals regardless of the project source.

The LAMC Sec. 62.170 states, "The Board may require, as a condition to any permit to remove or destroy a tree, that the permittee plant another tree of the type and size specified in the permit, within forty (40) days from the date of the issuance of the permit, in place of the tree to be destroyed or removed pursuant to the permit." For at least the past 25 years, the BPW has required that all street tree removals shall be replaced on a 2:1 basis. Although the tree stock size required to be planted varied during that time, for approximately the last ten years the tree stock replacement size practice has been 24" box size stock.

The intention of the tree replacement condition has been and continues to be ensuring street tree canopy succession. There has always been some dispute among tree professionals as to the best tree stock replacement size and species and the viability of ensuring tree canopy succession using a 2:1 tree replacement ratio. However, BSS professionals have found that tree replacement with 24" box size tree stock provides the best chance of tree survivability in the fairly hostile public ROW environment while also offering the best chance at acclimatization to its new growing environment. Further, a 2:1 tree replacement ratio will provide canopy succession within seven to ten years for the average street tree size tree removal.

Given past practice and the desire to provide clear guidance to the general public and applicants for tree removal/replacement, the BSS recommends the BPW formally adopt the following street tree removal permit and tree removal replacement conditions to codify past practices:

- Designate the Bureau of Street Services (BSS), Chief Forester, as the authorized officer and employee to issue street tree removal permits.
- Require the public be notified of the proposed removal of three or more street trees by: placing a public notice for a 30 calendar-day minimum period on each proposed tree removal providing the reason for tree removal and BSS contact information, placement of the address/project on the BSS Street Tree Removal Notification System, informing the Community Forest Advisory Committee (CFAC), and emailing the respective Council District Office(s) in which the street tree removals shall occur.
- Require a Board of Public Works public hearing for the consideration of the removal of three or more street trees at a specific address or a single project containing multiple addresses.
- Require as a condition of a tree removal permit that each approved street tree removal be replaced by the permit applicant on a 2:1 basis with 24" box size tree stock and be watered for a minimum three-year period.

Bureau of Street Services  
Report No. 1  
June 17, 2015  
Page 5

The formal adoption of these street tree removal permit and tree replacement condition policies will allow for uniform application of the policies now and provide a baseline for any future policy modifications that may be necessary. The intention is to provide a firm groundwork for current and future City personnel to make sound street tree removal decisions and enable a more understandable process for the applicants and the general public.

The BSS is aware that the COLA faces unique and immediate challenges in the areas of sustainability, the historic drought, and infrastructure replacement, all towards the goal of making the COLA the most livable of American cities. These challenges may necessitate the creation of additional policies in the future.

(RL)

Report Prepared by:

Ronald Lorenzen, Assistant Director  
Bureau of Street Services  
Phone No (213) 847-3333

Respectfully submitted,

NAZARIO SAUCEDA, DIRECTOR  
BUREAU OF STREET SERVICES

Journal

City of Los Angeles

BOARD OF PUBLIC WORKS

**Friday, June 5, 2015**

10:00 a.m. - Edward R. Roybal BPW Session Room  
Room 350 City Hall  
200 North Spring Street  
Los Angeles, California 90012

Members: Kevin James, President  
Monica Rodriguez, Vice President  
Matt Szabo, President Pro-Tempore  
Michael Davis  
Heather Marie Repenning  
(Fernando Campos, Executive Officer 213-978-0261)

Agenda, related board reports and attachments are available on BPW website at:

<http://bpw.lacity.org/>

BPW meetings can be listened to by dialing:

213-621-CITY (Metro), 818-904-9450 (Valley), 310-471-CITY (Westside),  
310-547-CITY (San Pedro Area); or live audio on-line at:

<http://lacity.org/city-government/elected-official-offices/city-council/council-and-committee-meetings?laCategory=1817>

As a covered entity under Title II of the Americans with Disabilities Act, the City of

Los Angeles does not discriminate on the basis of disability and, upon request, will

provide reasonable accommodation to ensure equal access to its programs, services

and activities. Assistive listening devices are available at the meeting; upon advance

notice, other accommodations, such as sign language interpretation, and translation

services can be provided. Contact the Executive Officer's office at 213-978-0262.

TDD available at 213-978-2310.

Written material supporting agenda items can be reviewed prior to each Board meeting at the public counter, 200 North Spring Street Room 355, between the hours of 8:00 a.m. and 4:00 p.m.

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**VOTING AND DISPOSITION OF ITEMS** – Items require a majority vote of the entire membership of the Board (3 votes) for approval.

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once during the meeting, and once during the next regular meeting. The member requesting reconsideration shall identify for all members present the Agenda number, meeting date and subject matter previously voted upon. A motion to reconsider is not debatable and shall require an affirmative vote of three members of the Board.

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BPW06-05-2015

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PUBLIC COMMENTS: Board will hear public testimony on non-agenda items under the Board's jurisdiction.

DISPOSITION: NO PUBLIC COMMENTARY

MINUTES: Monday, May 18, 2015 APPROVED

COMMENDATORY RESOLUTIONS, INTRODUCTIONS AND PRESENTATIONS

AGENDA ITEMS

(1)

#1 BSS Recommending Board find that the tree removals (1) classifies as

street,  
use  
removal  
Article III,  
repair  
Quality  
the  
15300.2 of  
no-fee  
of an  
2010-1767  
side  
CD 13

operation, repair, maintenance or minor alteration of existing  
sidewalk, and gutter, involving negligible or no expansion of  
beyond that previously existing; and does not involve the  
of a scenic resource; (2) that the action is exempt under  
Section 1, Class 1, Category 3 (existing facilities – sidewalk  
or maintenance) of the City of Los Angeles Environmental  
Act Guidelines (2002); and (3) that none of the exceptions to  
use of a categorical exemption as set forth in Section  
the State CEQA Guidelines apply; and  
recommending Board review and approve the request for a  
permit to remove four Bottlebrush trees for the reconstruction  
off-grade sidewalk required for City Planning Case CPC-  
at 5800 West Sunset Boulevard on the Van Ness Avenue  
– tree replacements are required

DISPOSITION: REPORT ADOPTED, FORTHWITH

BPW06-05-2015

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(2)

#2 BSS  
classifies as  
street,

Recommending Board find that the tree removals (1)  
operation, repair, maintenance or minor alteration of existing



Quality  
the  
15300.2 of  
no-fee  
reconstruction

or maintenance) of the City of Los Angeles Environmental  
Act Guidelines (2002); and (3) that none of the exceptions to  
use of a categorical exemption as set forth in Section  
the State CEQA Guidelines apply; and  
recommending Board review and approve the request for a  
permit to remove four Indian Laurel Fig trees for the  
of an offgrade sidewalk located at 420 East Third Street  
– tree replacements are required

CD 14  
BPW06-05-2015

DISPOSITION: REPORT ADOPTED, FORTHWITH

-4-

(4)

#1 BOE  
compensate  
landscaping

Recommending Board authorize the City Engineer to  
University of Southern California (USC) for loss of  
that was installed on property that will be affected by the  
construction of the Soto Street Bridge Widening over Valley  
Boulevard and Union Pacific Railroad Tracks project; and  
authorize the Director of Office of Accounting to draw a

demand

in the amount of \$39,940 payable to USC  
(Right-of-Way No. 33746, W.O. E700070D)

CD 14

DISPOSITION: REPORT ADOPTED, FORTHWITH

(5)

#1 OCB

Recommending Board authorize the Office of Community  
Beautification to execute proposed amendments to contracts  
with the following ten contractors to provide funding to  
supplement and support graffiti removal and community  
beautification services Citywide:  
(C-122615) - Pacific Graffiti Solutions in the amount of

\$25,000

\$53,645 (C-122614) - Gang Alternatives Project in the amount of

(C-122516) - Central City Action Committee in the amount of \$10,000

\$10,000 (C-122620) - New Directions For Youth in the amount of

(C-122618) - Koreatown Youth and Community Center in the amount of \$25,000

\$20,000 (C-122617) - Northeast Graffiti Busters in the amount of

(C-122588) - Sun Valley Area Chamber of Commerce in the amount of \$18,000

(C-122619) - Hollywood Beautification Team in the amount of \$25,000

\$100,000 (C-122764) - Graffiti Control Systems in the amount of

\$10,000 (C-122517) - Sylmar Graffiti Busters in the amount of

CD all

DISPOSITION: REPORT ADOPTED, FORTHWITH

BPW06-05-2015

-5-

(6)

#2 OCB Recommending Board authorize the Office of Community Beautification to execute proposed amendment to contract with Hollywood Beautification Team in the amount of

\$50,705

to provide supplemental community beautification services in Council Districts 7 and 13

(C-122619, ref: Council File 15-0011-S10)

CD 7,13

DISPOSITION: REPORT ADOPTED, FORTHWITH

(7)

MOTION Bureau of Engineering, requesting Board approve the use  
BOE #1 of a new funding source to pay for services rendered by  
IPI Construction, Inc. in connection with the East Valley Solid  
Resources Management Complex Tenant Improvements in

CD 2

the Existing Container Repair Building project  
(C-123511, W.O. E1907528)

DISPOSITION: ADOPTED, FORTHWITH

(8)

MOTION Office of Accounting and Bureau of Street Services,  
requesting

OOA #1 Board approval and execution of Authority for Expenditure  
in the amount of \$1,000,000 \*\$2,000,000 (adjusted total:  
\$9,000,000 \$10,000,000) for additional funds in connection  
with the As-Needed Trucking program through June 2015  
(AE15000001M)

DISPOSITION: ADOPTED AS AMENDED\*, FORTHWITH

NOTE: MANAGEMENT MEETING CANCELLED

BPW06-05-2015

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Journal

SPECIAL MEETING

City of Los Angeles

BOARD OF PUBLIC WORKS

**Friday, June 5, 2015**

10:00 a.m. - Edward R. Roybal BPW Session Room  
Room 350 City Hall  
200 North Spring Street  
Los Angeles, California 90012

Members: Kevin James, President  
Monica Rodriguez, Vice President  
Matt Szabo, President Pro Tempore  
Michael Davis

Heather Marie Repenning  
(Fernando Campos, Executive Officer 213-978-0261)

AGENDA ITEMS

(1)

JT#1                    Recommending Board review and ~~decide whether to~~ \*approve  
BOE BSS              the request to temporarily close Crenshaw Boulevard between  
West Vernon Avenue and 43<sup>rd</sup> Street for 14 days from 9:00

p.m.  
2015

on Sunday, June 7, 2015 to 6:00 a.m. on Saturday, June 20,

to facilitate the installation of the temporary concrete deck in connection with the Metro Crenshaw/LAX Transit Corridor

Project

(W.O. E190735);

and authorize the Bureau of Street Services to extend the

closure

for a period of no more than two days, if unforeseen conditions are encountered which delay the completion of this

construction  
CD 8,10

DISPOSITION: REPORT ADOPTED AS AMENDED\*,

FORTHWITH

BPW06-05-2015sp

-1-

\*\*\*\*END\*\*\*\*

DEPARTMENT OF PUBLIC WORKS  
BUREAU OF STREET SERVICES  
REPORT NO. 1

Date: June 5, 2015  
CD # 13

Honorable Board of Public Works  
of the City of Los Angeles

Commissioners:

**5800 WEST SUNSET BOULEVARD ON THE VAN NESS AVENUE SIDE – REQUEST BOARD AUTHORIZE A NO FEE PERMIT TO REMOVE FOUR BOTTLEBRUSH (CALLISTEMON CITRINUS) TREES FOR THE RECONSTRUCTION OF THE OFF-GRADE PUBLIC SIDEWALK REQUIRED FOR CITY PLANNING CASE CPC-2010-1767. TREE REPLACEMENTS ARE REQUIRED.**

---

**RECOMMENDATIONS:**

That your Board:

1. FIND that the tree removals (1) classifies as operation, repair, maintenance or minor alteration of existing street, sidewalk, and gutter, involving negligible or no expansion of use beyond that previously existing; and does not involve the removal of a scenic resource; (2) that the action is exempt under Article III, Section 1, Class 1, Category 3 (existing facilities – sidewalk repair or maintenance) of the City of Los Angeles Environmental Quality Act Guidelines (2002); and (3) that none of the exceptions to the use of a categorical exemption as set forth in Section 15300.2 of the State CEQA Guidelines apply.
2. Review and approve this request for a no fee tree removal permit for four Bottlebrush trees for the reconstruction of an off-grade sidewalk. Tree replacements are required.

**TRANSMITTALS:**

1. Copy of fax sheet sent to Council office.
2. Application for a tree removal permit.
3. Service Request 15008360
4. Class B Permit. BR003516
5. Determination letter dated August 26, 2013
6. Plot plans.

7. Urban Forestry division Inspection form (dated February 9, 2015)
8. Photographs of the trees to be removed.
9. Photographs of trees.
10. Email correspondence from Gary Benjamin, Planning & Transportation Deputy, Thirteenth Council District.

**CONDITIONS:**

The applicant shall plant a minimum of eight, 24-inch box size Pink Trumpet (*Handroanthus avellanedae*) trees at the site.

The applicant shall defend, indemnify and hold harmless the City, its agents, officers, or employees from any claim, action, or proceeding against the City or its agents, officers, or employees relating to or to attack, set aside, void or annul this approval.

**ALTERNATIVE METHODS AND OPTIONS EXPLORED:**

The size, species, and location of the trees negate the possibility of tree preservation or relocation.

**RECITAL:**

The property owner of 5800 West Sunset Boulevard has a permit to construct 100,000 square feet of warehouse space and develop 50,000 square feet of non-residential floor area. The project is located on the entire block of West Sunset Boulevard, and is bounded by Van Ness Street, Fernwood Avenue and Bronson Avenue. The Bureau of Engineering (BOE) imposed conditions for the project that include sidewalk, curb and gutter reconstruction.

The Property owner's agent, Elnor Andal, contacted the Bureau of Street Services (Bureau) and proposed to reconstruct the off-grade sidewalk, curb and gutter that exist on the Van Ness Avenue side of the property. Elnor Andal requested the Bureau to inspect the locations to determine the street tree impacts.

A Bureau Arborist inspected the subject location on February 9, 2015. The inspection revealed four Bottlebrush trees measuring an average thirteen inches in diameter by twenty-five feet in height and are in poor health. The trees are growing in, and have out-grown, their four-foot by four-foot tree wells.

The sidewalks are in a varied state of uplift and disruption. The required sidewalk, curb and gutter reconstruction would require excessive root pruning to allow the trees to remain and would significantly and adversely affect the trees' health and roots' structural integrity leaving them potentially unstable. Hence, sidewalk reconstruction will require tree removal.

The Bureau of Street Services finds that the tree removals are (1) classified as operation, repair, maintenance or minor alteration of existing street, sidewalk, and gutter, involving negligible or no expansion of use beyond that previously existing and does not involve the removal of a scenic resource; (2) exempt under Article III, Section 1, Class 1, Category 3 (existing facilities – sidewalk repair or maintenance) of the City of Los Angeles Environmental Quality Act Guidelines (2002); and (3) that none of the exceptions to the use of a categorical exemption as set forth in Section 15300.2 of the State CEQA Guidelines apply.

The CEQA Guidelines for Street Tree Removal and Replacement were used in making this finding, and are on file with the Bureau.

**The trees were posted on February 9, 2015.**

Marisol Salguero, District Director to the Councilmember, Thirteenth Council District Office, was informed of the tree removal request on February 10, 2015 and will notify the Bureau of any objections received by their office. Gary Benjamin, Planning & Transportation Deputy, Thirteenth Council District has e-mailed a letter of support for the tree removals for this project.

As a condition of the tree removal permit, the applicant shall plant a minimum of eight, 24-inch box size Pink trumpet (*Handroanthus avellanadae*) trees at the site.

Furthermore, the applicant shall defend, indemnify and hold harmless the City, its agents, officers, or employees from any claim, action, or proceeding against the City or its agents, officers, or employees relating to or to attack, set aside, void or annul this approval.

(GM----JC)

Respectfully submitted,

  
\_\_\_\_\_  
NAZARIO SAUCEDA, DIRECTOR  
BUREAU OF STREET SERVICES

Prepared by:  
Urban Forestry Division  
Ext. 7-3077

GM/HB:sd

S:\Board Reports\2015 Board Reports\5800 West Sunset Boulevard

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**From:** Kevin James <kevin.james@lacity.org>  
**Sent:** Sunday, March 29, 2015 4:01 PM  
**To:** Gideon Kracov  
**Cc:** Ted Jordan; Greg Good  
**Subject:** Fwd: more CEQA issues  
**Attachments:** Draft CEQA Procedure for Street Tree Removals from EMG revised.docx

Gideon,

I hope you are having a nice weekend. Here is a draft of the proposed CEQA Procedure for Street Tree Removals for your review. Please let me know your thoughts. Also, please note that this draft does not include the procedure when protected trees are involved. We are still working on that language.

Best,  
Kevin

--  
Kevin James, President  
Board of Public Works  
[Kevin.James@lacity.org](mailto:Kevin.James@lacity.org)

**(DRAFT) CEQA PROCEDURE FOR STREET TREE REMOVALS**

**Step 1. Does the street tree removal project involve:**

- a. A larger project with its own negative declaration/mitigated negative declaration or environmental impact report?
  - Consult Navigate LA/Parcel Profile Report from the Department of City Planning (DCP) and look under “Case Numbers” listing on left-hand side with the “ENV-“ prefix and a recent year case number.
  - If the suffix is “-ND”, “-MND”, or “-EIR”, then there may be an applicable negative declaration/mitigated negative declaration or environmental impact report. **If so, this procedure is not applicable and a case-specific CEQA evaluation is required.**
- b. Removal of dead, damaged or diseased street trees? **If yes, go to Step 2.**
- c. A sidewalk repair or sidewalk repair in conjunction with a driveway installation? **If yes, go to Step 3.**
- d. Something else? **If yes, this procedure is not applicable and a case-specific CEQA evaluation is required.**

**Step 2. Dead, damaged or diseased trees:**

***Step 2A. Is the tree dead or damaged (CEQA Guidelines 15269(c))?***

- a. Is the tree dead or damaged such that removal is necessary to prevent or mitigate an emergency? An emergency is defined as “a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property.” **If yes, CEQA is not applicable.**

***Step 2B. Is the tree diseased? Do any of the categorical exemption exceptions applicable to Class 4 apply (CEQA Guidelines 15300.2)?***

- a. Is the project located in an officially adopted sensitive environment (CEQA Guidelines 15300.2(a))? Consult NavigateLA and NavigateLA/Parcel Profile Report (DCP) and review the “Additional Information” in the Parcel Profile Report.
  - i. Is it in a mapped farmland (“Farmland”)?
  - ii. Is it in a flood zone (“Flood Zone”)?
  - iii. Is it in (or adjacent to) a watercourse (“Watercourse”)? (Within or next to a river, creek, or other body of water?)
  - iv. Is it in a hazardous waste area (“Hazardous Waste”)?

- v. Does NavigateLA indicate this is in a sensitive ecological area (SEA)?
- vi. Is there any other information that may indicate that this is an officially adopted sensitive environment?

**If yes to any of i.-vi., this procedure is not applicable and a case-specific CEQA evaluation is required. If no to all of the above, then draft a brief narrative and include photo documentation regarding the dead, damaged, or diseased status of the tree in the project file and continue to Step 2.b.**

b. Are there cumulative impacts of successive projects of the same type in the same place (CEQA Guidelines 15300.2(b))? Check to see whether there are other tree removal applications in the same area (within a 1 block radius?) and within the past 6 months (?). Next, in the project file, document the tree replacement conditions for the removal, including number, size, and specimen.

c. Are there unusual circumstances and a fair argument that the activity will have a significant effect (CEQA Guidelines 15300.2(c))? For dead, damaged or diseased street trees, this exception typically does not apply.

(d. and e. of CEQA guidelines 15300.2 are not applicable here)

f. Is the tree considered a significant historic resource and the removal may cause a substantial adverse change (CEQA Guidelines 15300.2(f))? Consult NavigateLA/Parcel Profile Report from the DCP and look for designations like: "Historic Preservation Review", "Historic Preservation Overlay Zone", "Other Historic Designations", and "Other Historic Survey Information".

**If yes to 2.b, 2.c, or 2.f, this procedure is not applicable and a case-specific CEQA evaluation is required.**

**If no to all of the above, then the following finding should be used in the Board report:**

**FIND that the street tree removal (1) classifies as removal of a dead, damaged, or diseased tree; (2) that the action is exempt under Article III, Section 1, Class 4, Category 3 (minor alterations to land – landscaping involving dead, damaged or diseased trees or limbs) of the City of Los Angeles Environmental Quality Act Guidelines (2002); and (3) that none of the exceptions to the use of a categorical exemption as set forth in Section 15300.2 of the State CEQA Guidelines apply.**

**Step 3. Sidewalk/driveway repair: Does the activity involve removal of a scenic resource?**

a. Is the tree proposed for removal located within a stand of trees? A stand of trees is one either: (i) designated by the City based upon findings that it is unique and of importance to the public due to its unusual appearance, location, historical significance or other factor; or (ii) determined by the City that each tree is dependent upon the others for survival.

b. Does it involve a rock outcropping (the part of a rock formation that appears above the surface of the surrounding land)?

c. Does it involve a historic building? Consult Navigate LA/Parcel Profile Report (from the DCP) and look for designations like: “Historic Preservation Review”, “Historic Preservation Overlay Zone”, “Other Historic Designations”, and “Other Historic Survey Information”.

d. Is there any evidence that the tree could be considered a scenic resource (is there any existing natural or urban aesthetic feature(s) that contributes to the valued aesthetic character of the area)?

**If yes to any of the above, this procedure is not applicable and a case-specific CEQA evaluation is required. If there is uncertainty regarding any of these exceptions, please consult with EMG.**

**If no, go to Step #4.**

**Step 4. Sidewalk/driveway repair: Do any of the categorical exemption exceptions applicable to Class 1 apply (CEQA Guidelines 15300.2)?**

(a. of section 15300.2 is not applicable here)

b. Are there cumulative impacts of successive projects of the same type in the same place (CEQA Guidelines 15300.2(b))? Check to see whether there are other tree removal applications within the past six months (?) within a block of the project area (?).

c. Are there unusual circumstances and a fair argument that the activity will have a significant effect on the environment (CEQA Guidelines 15300.2(c))?

i. To determine “unusual circumstances” ask whether the tree is unique or an exceptional specimen due to size or age? **If yes, move on to step ii.**

ii. To determine fair argument of significant effect, is there any evidence (especially expert evidence) that may indicate there may be a significant effect? **If yes, then this procedure is not applicable and a case-specific CEQA evaluation is required.**

(d. is not applicable here)

e. Is the project located on the hazardous waste Cortese list (CEQA Guidelines 15300.2(e))? Consult Navigate LA/Parcel Profile Report (DCP) (“Hazardous Waste”).

f. Is the tree considered a significant historic resource and the removal will cause a substantial adverse change? Consult Navigate LA/Parcel Profile Report (DCP) and look for these designations: “Historic Preservation Review”, “Historic Preservation Overlay Zone”, “Other Historic Designations”, and “Other Historic Survey Information”.

**If yes to any of the above, this procedure is not applicable and a case-specific CEQA evaluation is required.**

**If no to all of the above, then the following finding should be used in the Board report:**

**FIND that the tree removal (1) classifies as operation, repair, maintenance or minor alteration of existing street, sidewalk, and gutter, involving negligible or no expansion of use beyond that previously existing; and does not involve the removal of a scenic resource; (2) that the action is exempt under Article III, Section 1, Class 1, Category 3 (existing facilities – sidewalk repair or maintenance) of the City of Los Angeles Environmental Quality Act Guidelines (2002); and (3) that none of the exceptions to the use of a categorical exemption as set forth in Section 15300.2 of the State CEQA Guidelines apply.**

**5. This analysis should be included in the file with the permit application. Include documentation in the project file presenting the analysis supporting these findings should be included in the project file, along with any supporting evidence, such as photo documentation, Navigate LA Parcel Profile Reports, etc.**

## APPENDIX A

### **Excerpt from: Title 14. California Code of Regulations, Chapter 3. Guidelines for Implementation of the California Environmental Quality Act**

#### **Article 18. Statutory Exemptions**

This article describes the exemptions from CEQA granted by the Legislature. The exemptions take several forms. Some exemptions are complete exemptions from CEQA. Other exemptions apply to only part of the requirements of CEQA, and still other exemptions apply only to the timing of CEQA compliance.

##### **15269. Emergency Projects**

The following emergency projects are exempt from the requirements of CEQA.

(c) Specific actions necessary to prevent or mitigate an emergency. This does not include long-term projects undertaken for the purpose of preventing or mitigating a situation that has a low probability of occurrence in the short-term.

#### **Article 19. Categorical Exemptions**

##### **15300. Categorical Exemptions**

Section 21084 of the Public Resources Code requires these Guidelines to include a list of classes of projects which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA.

In response to that mandate, the Secretary for Resources has found that the following classes of projects listed in this article do not have a significant effect on the environment, and they are declared to be categorically exempt from the requirement for the preparation of environmental documents.

**Note:** Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

##### **15300.2. Exceptions**

(a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -- a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

(b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

(c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

(d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.

(e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

(f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

**APPENDIX B:****Excerpts from: CITY OF LOS ANGELES  
ENVIRONMENTAL QUALITY ACT GUIDELINES**

Adopted : July 31, 2002 - CF# : 02-1507

**ARTICLE III: CATEGORICAL EXEMPTIONS****1. Classes of Categorical Exemptions.**

The Secretary for Resources has provided a list of classes of projects which he has determined do not have a significant effect on the environment and which are therefore exempt from the provisions of CEQA. The following specific categorical exemptions within such classes are set forth for use by Lead City Agencies, provided such categorical exemptions are not used for projects where it can be readily perceived that such projects may have a significant effect on the environment.

**a. Class 1. Existing Facilities.**

Class 1 consists of the operation, repair, maintenance or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that previously existing.

1) Interior or exterior alterations involving remodeling or minor construction where there be negligible or no expansion of use.

2) Operation, repair, maintenance or minor alteration of existing facilities of both investor and publicly owned utilities, electrical power, natural gas, sewage, water, and telephone, and mechanical systems serving existing facilities, including alterations to accommodate a specific use.

3) Operation, repair, maintenance or minor alteration of existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, storage areas, parking lots, aircraft parking areas, wharves, railroads, runways, taxiways, navigable waterways, bridle trails, service roads, fire lanes and golf-cart paths, except where the activity will involve removal of a scenic resource including but not limited to a stand of trees, a rock outcropping or an historic building.

...

**d. Class 4. Minor Alterations to Land.**

Class 4 consists of minor public or private alterations to the condition of land, water and/or vegetation which do not involve removal of mature, scenic trees except for forestry and agricultural purposes:

1) Grading on land with a slope of less than ten percent (10%), except where it is to be located in a waterway, in any wetland, in an officially designated (by federal, State, or local governmental action) scenic area or in an officially mapped areas of severe geologic hazard.

2) Grading on land with a slope of fifteen percent (15%) or more, and/or involving grading in excess of 20,000 cubic yards. This exemption will not apply to grading located in a waterway, in any wetland, in an officially designated (by federal, State, or local action) scenic area, or in officially mapped areas of severe geologic hazard, or contains scenic trees.

3) New gardening, tree planting, or landscaping, but not including tree removal except dead, damaged or diseased trees or limbs.

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**From:** Gideon Kracov <gk@gideonlaw.net>  
**Sent:** Tuesday, February 17, 2015 10:27 PM  
**To:** Kevin James; Ted Jordan; ron.lorenzen@lacity.org  
**Cc:** tim.mcwilliams@lacity.org; Gk  
**Subject:** BPW Feb 18 Agenda Item 5  
**Attachments:** 20150218\_ag\_ba\_bss\_1.pdf; ATT00016.txt

Kevin/Ted/Ron/Tim:

This BPW item to remove 5 trees again raises very questionable CEQA compliance. Here, it is for purported "maintenance of landscaping" under the City CEQA Guidelines Class 1 section 8 exemption relied on in the Board report. But this is NOT a Class 1 section 8 exemption landscaping or brush clearance project-it is a sidewalk repair project. The claimed exemption therefore is not proper-the complete removal of mature trees is not "maintenance of landscaping."

This project is plainly a CEQA Guideline Class 1 section 3 project to replace a "sidewalk" but that exemption EXPRESSLY precludes removal of "a stand of trees."

Moreover, the City CEQA Guideline Class 4 also deals with "alterations to land" like this, but again EXPRESSLY states that removal of mature trees, as here, is not CEQA exempt.

See pages 7 and 14 of [http://cityplanning.lacity.org/eir/CEQA\\_Guidelines/City\\_CEQA\\_Guidelines.pdf](http://cityplanning.lacity.org/eir/CEQA_Guidelines/City_CEQA_Guidelines.pdf).

This is another example of how the BPW must soon improve its tree removal protocols, including CEQA review, as we discussed at length ten days ago.

Trees matter, and my clients are increasingly concerned about this chronic issue and will monitor very closely all such agenda items, on each future agenda.

Please put this in the record for this item. And thank you so much for your consideration and attention to the matter.

Respectfully submitted,

DEPARTMENT OF PUBLIC WORKS  
BUREAU OF STREET SERVICES  
REPORT NO. 1

Date: February 2, 2015  
CD # 10

Honorable Board of Public Work  
of the City of Los Angeles

Commissioners:

**5899 WEST VENICE BOULEVARD – REQUEST BOARD AUTHORIZE A NO FEE PERMIT TO REMOVE FIVE INDIAN LAUREL FIG (FICUS MICROCARPA NITIDA) TREES FOR THE RECONSTRUCTION OF THE OFF-GRADE PUBLIC SIDEWALK. TREE REPLACEMENTS ARE REQUIRED.**

---

**RECOMMENDATION:**

That your Board review and approve this request for a no fee tree removal permit for five Indian Laurel Fig trees for the reconstruction of an off-grade sidewalk. Tree replacements are required.

**TRANSMITTALS:**

1. Copy of fax sheet sent to Council office.
2. Service Request 14048269-1.
3. Class A Permit 2014-001568.
4. Eight pages of photographs of the trees to be removed.

**CONDITION:**

The applicant shall plant seven, 24-inch box size African Fern Pine (*Afrocarpus gracilior*) trees at the site and deliver three, 15-gallon container size Evergreen Pear (*Pyrus kawakamii*) trees to the Bureau's nursery as replacements for the trees removed. There is no additional room at the site to plant due to spacing requirements.

**ALTERNATIVE METHODS AND OPTIONS EXPLORED:**

The size, species, and location of the trees negate the possibility of tree preservation or relocation.

**RECITAL:**

Che Lewis, property owner's representative, applied to the Bureau of Engineering (BOE) for a Class A Permit to reconstruct the offgrade sidewalk condition in front of 5899 West Venice Boulevard. The applicant proposes to reconstruct the off-grade sidewalk conditions

DEPARTMENT OF PUBLIC WORKS  
BUREAU OF STREET SERVICES  
REPORT NO. 1

Page 2 of 3

Date: February 2, 2015

that exist in front of the property. These improvements will impact street trees; therefore, Che Lewis contacted and requested the Bureau inspect the location to determine what street tree impacts will occur.

A Bureau Arborist inspected the subject location on October 14, 2014. The inspection revealed five Indian Laurel Fig trees measuring on average sixteen inches in diameter by twenty feet in height. The trees are in fair health and growing in a twenty-foot parkway and approximately three feet from the edge of sidewalk. The roots and root crowns of the five street trees have significantly contributed to the defective condition of the public sidewalk. Surface roots are prevalent throughout the parkway area and growing several inches above the soil surface grade. Due to the trees' location and sidewalk size, the required root pruning to allow the trees to remain will significantly and adversely affect the trees' health and root structural integrity leaving them potentially unstable. Hence, sidewalk reconstruction will require tree removal of five trees.

This project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to City CEQA Guidelines exemption Class 1, Category 8 for "maintenance of existing landscaping with no expansion of use." Therefore, to allow for reconstruction of the sidewalk and enhance public safety, it is recommended that your Board approve the request for a no-fee tree removal permit for the eight trees.

Sylvia Lacey, District Director to the Council-member, Tenth Council District Office, was informed of the tree removal request on December 10, 2014 and will notify the Bureau of any objections received by their office.

**The trees were posted on October 15, 2014.**

The applicant shall plant seven, 24-inch box size African Fern Pine (*Afrocarpus gracilior*) trees at the site and deliver three, 15-gallon container size Evergreen Pear (*Pyrus kawakamii*) trees to the Bureau's nursery as replacements for the trees removed. There is no additional room at the site to plant due to spacing requirements.

(GG----JC)

Respectfully submitted,

  
\_\_\_\_\_  
for NAZARIO SAUCEDA, DIRECTOR  
BUREAU OF STREET SERVICES

DEPARTMENT OF PUBLIC WORKS  
BUREAU OF STREET SERVICES  
REPORT NO.1  
Page 3 of 3  
Date: February 2, 2015

Prepared by:  
Urban Forestry Division  
Ext. 7-3077

hb

S:\Board Reports\2014 Board Reports\6000 through 5899 W Venice Bl

Journal

City of Los Angeles

BOARD OF PUBLIC WORKS

**Wednesday, February 18, 2015**

10:00 a.m. - Edward R. Roybal BPW Session Room  
Room 350 City Hall  
200 North Spring Street  
Los Angeles, California 90012

Members: Kevin James, President  
Monica Rodriguez, Vice President  
Matt Szabo, President Pro-Tempore  
Michael Davis  
Barbara Romero

(James A. Gibson, Executive Officer 213-978-0261)

Agenda, related board reports and attachments are available on BPW website at:

<http://bpw.lacity.org/>

BPW meetings can be listened to by dialing:

213-621-CITY (Metro), 818-904-9450 (Valley), 310-471-CITY (Westside),  
310-547-CITY (San Pedro Area); or live audio on-line at:

<http://lacity.org/government/ElectedOfficialOffices/CityCouncil/CouncilandCommitteeMeetings/index.htm?laCategory=1817>

As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability and, upon request, will provide reasonable accommodation to ensure equal access to its programs, services

and activities. Assistive listening devices are available at the meeting; upon advance

notice, other accommodations, such as sign language interpretation, and translation

services can be provided. Contact the Executive Officer's office at 213-978-0262. TDD available at 213-978-2310.

Written material supporting agenda items can be reviewed prior to each Board meeting at the public counter, 200 North Spring Street Room 355, between the hours of 8:00 a.m. and 4:00 p.m.

**PUBLIC INPUT AT BOARD MEETINGS:**

An opportunity for the public to address the Board on public interest items will be provided for up to two (2) minutes per person for a cumulative total of twenty (20) minutes. Testimony shall be limited in content to matters which are within the subject matter jurisdiction of the Board. The Board may not take any action on matters discussed during the public comment period.

The Board will also provide an opportunity for the public to address the Board on agenda items before or during consideration of the item for up to two (2) minutes per person for a cumulative total of up to ten (10) minutes.

Members of the public who wish to speak under public comments or on any item are requested to complete a speaker card for each item they wish to address, and present the completed card(s) to the Executive Officer. Speaker cards are available at the back of the Board Hearing Room.

**VOTING AND DISPOSITION OF ITEMS** – Items require a majority vote of the entire membership of the Board (3 votes) for approval.

Any member of the Board may move to “reconsider” any vote on any item on the agenda, except to adjourn, suspend the Rules, or where an intervening event has deprived the Board of jurisdiction, providing that said member originally voted on the prevailing side of the item. The motion to “reconsider” shall only be in order once during the meeting, and once during the next regular meeting. The member requesting reconsideration shall identify for all members present the Agenda number, meeting date and subject matter previously voted upon. A motion to reconsider is not debatable and shall require an affirmative vote of three members of the Board.

The Board rules provide that all items adopted by the Board will not be distributed or presented to the Mayor, or other designated office, until the adjournment of the regular Board meeting following the date of the Board action. A motion to send an item “forthwith”, if adopted by three (3) votes, suspends these rules and requires the Board Secretariat to forward the matter to the Mayor, or other office, without delay.

BPW02-18-2015

-2-

PUBLIC Board will hear public testimony on non-agenda items under

COMMENTS: the Board's jurisdiction.

DISPOSITION: NO PUBLIC COMMENTARY

MINUTES: Friday, January 30, 2015 APPROVED

COMMENDATORY RESOLUTIONS, INTRODUCTIONS AND PRESENTATIONS

AGENDA ITEMS

(1)

BIDS  
10:00 A.M.

Bids will be received at 10:00 a.m. for the following  
Public Works projects:

- 1) FOR HYPERION TREATMENT PLANT (HTP)  
TRUCK LOADING FACILITY ODOR CONTROL  
MODERNIZATION (CIP-2402) (W.O. SZH11611)  
Estimate: \$5,811,000

DISPOSITION: BIDS RECEIVED, OPENED & DECLARED

(2)

PUBLIC  
HEARING

Re: 2015 Weed Abatement Ordinance of Intention  
- City Council Hearing: Final Ordinance – March 18, 2015  
(ref: #1 BSS 12-12-2014)

CD all

DISPOSITION: NO PROTESTS, RECOMMEND COUNCIL  
CONFIRM FINAL ORDINANCE, FORTHWITH

BPW02-18-2015

-3-

(3)

#1 BOE

Re: Proposition O Broadway Neighborhood Stormwater  
Greenway Project (W.O. EW40055F)

Recommending Board authorize City Engineer to sole source

the selection of eight MaxWell Plus Units for an amount not-to-exceed \$336,000; authorize City Engineer to negotiate a price agreement with Torrent Resources, Inc. for the drainage units, which will be procured and installed by the general contractor awarded the project

CD 9

DISPOSITION: REPORT ADOPTED, FORTHWITH

(4)

#2 BOE Re: Proposition O Broadway Neighborhood Stormwater Greenway Project (W.O. EW40055F)  
Recommending Board find the project to be matter of urgent necessity and authorize a construction budget of \$2,440,000; authorize City Engineer to advertise and award this project to the contractors on the On-Call Emergency Sewer and Storm Drain Repair List in compliance with established procedures

CD 9

DISPOSITION: REPORT ADOPTED, FORTHWITH

(5)

ADVISEMENT Recommending Board approve the request for a no-fee permit  
#1 BSS to remove five Indian Laurel Fig trees for the reconstruction of  
02-02-2015 an off-grade sidewalk at 5899 West Venice Boulevard

CD 10

DISPOSITION: REPORT ADOPTED, FORTHWITH

BPW02-18-2015

-4-

(6)

MOTION #1 Office of Accounting and Bureau of Sanitation, requesting Board approval and execution of Authority for Expenditure in the amount  
of \$39,709 (adjusted total: \$59,584) and Letter of Agreement with Christopher W. Lancaster DBA Civic Publications for production and distribution of "Sustainable Living" and "Earth Day" special sections through the Los Angeles Times (AE1546D065M)

DISPOSITION: ADOPTED

(7)

COMMUNI-  
CATIONS

Heritage Window Coverings, Inc., transmitting Release of Stop Notice in the amount of \$950 in connection with the Hollywood Fire Station No. 82 and Annex project – contractor: Morillo Construction, Inc.

DISPOSITION: RECEIVED, FORTHWITH

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**FILED**  
LOS ANGELES SUPERIOR COURT

AUG 31 2006

JOHN A. CLARKE, EXECUTIVE OFFICER  
*R. Aquino*  
BY ROSEMARIE AQUINO, DEPUTY

**RECEIVED**  
AUG 23 2006  
E. Torres

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

EAST YARD COMMUNITIES FOR  
ENVIRONMENTAL JUSTICE,

Petitioner,

vs.

CITY OF COMMERCE, CITY COUNCIL OF  
CITY OF COMMERCE,

Respondents.

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WEST COAST ARBORISTS, INC.,

Real Party in Interest.

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CASE NO. BS100444

Hon. James C. Chalfant

**~~PROPOSED~~ JUDGMENT ORDERING  
PEREMPTORY WRIT OF MANDATE  
AND PERMANENT INJUNCTION**

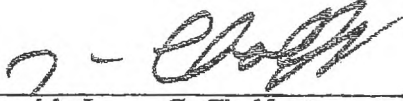
1 This matter came regularly for hearing on August 14, 2006 by Department 13 of the Los  
2 Angeles Superior Court located as 111 N. Hill St., Los Angeles, CA 90012, the Honorable James  
3 C. Chalfant presiding. The Court having reviewed the record of Respondents City of Commerce  
4 and its City Council's ("Respondents") proceedings with regard to the contract of September 20,  
5 2005 to remove and replace 990 ficus trees ("Project"), the briefs submitted by counsel and the  
6 arguments of counsel, and the Court having ordered the issuance of a judgment, a peremptory writ  
7 of mandate and a permanent injunction.

8 IT IS ORDERED that:

- 9 1. Judgment is entered in favor of Petitioner East Yard Communities for Environmental  
10 Justice ("Petitioner"). Petitioner is deemed a "prevailing party" in the matter pursuant to  
11 Code of Civil Procedure § 1021.5 and shall file and serve a Motion for Fees and  
12 Memorandum of Costs.
- 13 2. A Peremptory Writ of Mandate directed to Respondents is issued under the seal of the  
14 Court ordering that Respondents comply with the California Environmental Quality Act,  
15 Public Resources Code § 21000 *et seq.* ("CEQA"), prior to approval of the Project or a  
16 substantially similar project to remove ficus trees.
- 17 3. A Permanent Injunction is entered ordering that Respondents comply with CEQA prior to  
18 approval of the Project, ~~or a substantially similar project to remove ficus trees.~~
- 19 4. The Court shall retain jurisdiction to enforce this Judgment pursuant to Pub. Resources  
20 Code § 21168.9.

21 IT IS SO ORDERED.

22  
23 Date: 8/25/06

24   
25 Honorable James C. Chalfant  
26 Judge, Superior Court  
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PROOF OF SERVICE

(CCP SECTIONS 1013(a)(3) and 1011) (Rev. 1/1/88) (East Yard Communities for Environmental Justice v. City of Commerce)

I, Gideon Kracov, being duly sworn, deposes and says:

I am a citizen of the United States and work in Los Angeles County, California. I am over the age of eighteen years and am not a party to the within entitled action. My business address is: 801 S. Grand Ave., 11<sup>th</sup> Fl., LA, CA 90017

On August 23, 2006, I served the: [PROPOSED] WRIT AND JUDGMENT on:

Eduardo Olivo, Commerce City Attorney  
320 W Whittier Blvd #224  
La Habra, CA 90631  
Fax

West Coast Arborists, Inc.  
2200 E. Via Burton St.  
Anaheim, CA 92806


XX by placing a true copy thereof enclosed in a sealed envelope, with postage thereon fully prepaid, in the United States Post Office mail box at 801 S. Grand Ave., Los Angeles, California, addressed as set forth above. I am readily familiar with my firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on the same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date of postage meter date is more than 1 day after date of deposit for mailing in affidavit.

\_\_\_\_\_ by personally delivering a true copy thereof to the person and at the address set forth below.

XX by sending a true and correct copy thereof via facsimile to Mr. Olivo (562) 697-2443

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

Executed this 23rd day of August, 2006 at Los Angeles, California.

  
Gideon Kracov

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

DATE: 03/02/06

DEPT. 13

HONORABLE James C. Chalfant

JUDGE M. Ferrara

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

H. Garcia (CA)

Deputy Sheriff

B. Kamara CSR#3535

Reporter

8:30 am BS100444

Plaintiff Gideon Kracov (x)  
Counsel

EAST YARD COMMUNITIES FOR  
ENVIRONMENTAL  
VS  
CITY OF COMMERCE

Defendant  
Counsel Anita Aviles (x)

'CEQA'

**NATURE OF PROCEEDINGS:**

MOTION OF PETITIONER EAST YARD COMMUNITIES FOR ENVIRONMENTAL JUSTICE FOR STAY, TRO AND/OR PRELIMINARY INJUNCTION;

Matter continued and advanced from 2/7/06 to this date by stipulation and order signed 2/1/06, is now called for hearing.

The court's tentative ruling, filed this date, is adopted as the final ruling of the court and incorporated herein by reference to the case file.

Motion is granted. Court orders Bond of \$100. Order as modified is signed and filed this date.

Hearing on Writ of Mandate (Trial) is set 7/11/06 at 10:00 a.m.

Notice waived.

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East Yard Communities for Environmental  
Justice v. City of Commerce  
BS 100444

FINAL  
~~Tentative~~ decision on motion for preliminary  
injunction: granted

Petitioner East Yard Communities for Environmental Justice seeks a stay, temporary restraining order or preliminary injunction to prevent Respondent City of Commerce (the "City") from going forward with a plan to remove and replace Ficus trees. The court has read and considered the moving, opposition and reply papers, and renders the following ~~tentative~~ decision.

**A. Statement of the Case**

Petitioner commenced this action for writ of mandamus on November 29, 2005. The petition challenges the City's alleged failure to follow the requirements of the California Environmental Quality Act ("CEQA"), Pub. Res. Code §21000 et seq., prior to its decision on September 20, 2005 to approve an agreement with West Coast Arborists, Inc., to remove and replace approximately 900 Ficus trees.

**B. Applicable Law**

An injunction is a writ or order requiring a person to refrain from a particular act. CCP §525.<sup>1</sup> Thus, preventive relief is granted by injunction, provisional or final. Civ. Code §3420. An injunction is an equitable remedy available generally in the protection, or to prevent the invasion, of a legal right. Meridian, Ltd. v. City And County of San Francisco, et al., (1939) 13 Cal.2d 424.

CCP section 526 ("section 526") provides for an injunction in the following cases: (1) When it appears by the complaint that the plaintiff is entitled to the relief demanded, and such relief, or any part thereof, consists in restraining the commission or continuance of the act complained of, either for a limited period or perpetually; (2) When it appears by the complaint or affidavits that the commission or continuance of some act during the litigation would produce waste, or great or irreparable injury, to a party to the action; (3) When it appears, during the litigation, that a party to the action is doing, or threatens, or is about to do, or is procuring or suffering to be done, some act in violation of the rights of another party to the action respecting the subject of the action, and tending to render the judgment ineffectual; (4) When pecuniary compensation would not afford adequate relief; (5) Where it would be extremely difficult to ascertain the amount of compensation which would afford adequate relief; (6) Where the restraint is necessary to prevent a multiplicity of judicial proceedings; and (7) Where the obligation arises from a trust. CCP §526(a).

A party seeking injunctive relief must show the absence of an adequate remedy at law. Department of Fish & Game v. Anderson-Cottonwood Irrigation Dist., (1992) 8 Cal.App.4th

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<sup>1</sup>While CCP section 525 seems to limit the definition to prohibitory injunctions, an injunction may also be mandatory, i.e., may compel the performance of an affirmative act. Smith v. Smith, (1941) 18 Cal.2d 462, 465; Luitwieler v. Superior Court, (1921) 54 Cal.App. 528, 530. In short, an injunction may be more completely defined as a writ or order commanding a person either to perform or to refrain from performing a particular act. E.g., Comfort v. Comfort (1941) 17 Cal.2d 736, 741. McDowell v. Watson, (1997) 59 Cal.App.4th 1155, 1160.

1554, 1565. The idea "inadequacy of the legal remedy" or "inadequacy of damages" dates from the time of the early courts of chancery, the idea being that an injunction is an unusual or extraordinary equitable remedy which will not be granted if the remedy at law (usually damages) will adequately compensate the injured plaintiff. Department of Fish & Game v. Anderson-Cottonwood Irrigation Dist, (1992) 8 Cal.App.4th 1554, 1565. California statutes cover this inadequacy in terms of "when pecuniary compensation would not afford adequate relief" (CCP §526(a)(4); Civ. Code §3422(1)), and "where it would be extremely difficult to ascertain the amount of compensation which would afford adequate relief." CCP §526(a)(5); Civ. Code §3422(2); Department of Fish & Game v. Anderson-Cottonwood Irrigation Dist, (1992) 8 Cal.App.4th 1554, 1565.

The decision to grant a preliminary injunction generally lies within the sound discretion of the trial court and will not be disturbed on appeal absent an abuse of discretion. Thornton v. Carlson (1992) 4 Cal.App.4th 1249, 1255. In determining whether to issue a preliminary injunction, the trial court considers two factors: (1) the likelihood that the plaintiff will prevail on the merits of its case at trial, and (2) the interim harm that the plaintiff is likely to sustain if the injunction is denied as compared to the harm that the defendant is likely to suffer if the court grants a preliminary injunction. 14859 Moorpark Homeowner's Assn. v. VRT Corp, (1998) 63 Cal.App.4th 1396, 1402; Pillsbury, Madison & Sutro v. Schectman, (1997) 55 Cal.App.4th 1279, 1283; Davenport v. Blue Cross of California, (1997) 52 Cal.App.4th 435, 446; Abrams v. St. Johns Hospital, (1994) 25 Cal.App.4th 628, 636. Thus, a preliminary injunction may not issue without some showing of potential entitlement to such relief. Doe v. Wilson, (1997) 57 Cal.App.4th 296, 304. Also, the purpose of a preliminary injunction is to preserve the status quo pending final resolution upon a trial. *See* Scaringe v. J.C.C. Enterprises, Inc., (1988) 205 Cal.App.3d 1536. Grothe v. Cortlandt Corp., (1992) 11 Cal.App.4th 1313, 1316; Major v. Miraverde Homeowners Assn, (1992) 7 Cal.App.4th 618, 623. The status quo has been defined to mean the last actual peaceable, uncontested status which preceded the pending controversy. Voorhies v. Greene, (1983) 139 Cal.App.3d 989, 995 (quoting United Railroads v. Superior Court (1916) 172 Cal. 80, 87). 14859 Moorpark Homeowner's Assn. v. VRT Corp, *supra*, 63 Cal.App.4th at 1402.

An injunction cannot be issued after a defendant has answered without a notice motion, but the defendant may be restrained until the court's decision granting or refusing the injunction. CCP §528. Furthermore, a preliminary injunction ordinarily cannot take effect unless and until the party applying for it provides an undertaking to the effect that the applicant will pay to the party enjoined such damages as the party may sustain by reason of the injunction, if the court finally decides that the applicant was not entitled to the injunction. CCP §529(a); City of South San Francisco v. Cypress Lawn Cemetery Assn. (1992) 11 Cal.App.4th 916, 920.

### **C. Analysis**

#### **1. Probability of Success**

##### **a. Standard of Review**

A party may seek to set aside an agency decision for failure to comply with CEQA by petitioning for either a writ of administrative mandamus (CCP §1094.5) or traditional mandamus. CCP §1085. A petition for administrative mandamus is appropriate when the party

seeks review of a “determination, finding, or decision of a public agency, made as a result of a proceeding in which by law a hearing is required to be given, evidence is required to be taken and discretion in the determination of facts is vested in a public agency, on the grounds of noncompliance with [CEQA].” Pub. Resources Code §21168. This is generally referred to as an “adjudicatory” or “quasi-judicial” decision. Western States Petroleum Association v. Superior Court, (“Western States”) (1995) 9 Cal.4th 559, 566-67. A petition for traditional mandamus is appropriate in all other actions “to attack, review, set aside, void or annul a determination, finding, or decision of a public agency on the grounds of noncompliance with [CEQA].” Where an agency is exercising a quasi-legislative function, such as by adopting a rule or entering into a contract, it is properly viewed as a petition for traditional mandamus. Id. at 567; Pub. Resources Code §21168.5.

In determining whether to grant a petition for traditional mandamus in a CEQA case, the court may consider only whether there was a prejudicial abuse of discretion. Abuse of discretion is established if the agency has not proceeded in a manner required by law or if the determination or decision is not supported by substantial evidence. Western States, 9 Cal.4th at 568; Pub. Resources Code §21168.5.<sup>2</sup> In deciding a petition for administrative mandamus, the court “shall not exercise its independent judgment on the evidence but shall only determine whether the act or decision is supported by substantial evidence in light of the whole record.” Pub. Resources Code §21168. The distinction between administrative mandamus (§1094.5) and traditional mandamus (§1085) is rarely significant. In both cases the issue is essentially the same — whether the agency prejudicially abused its discretion. Laurel Heights Improvement Assn. v. Regents of University of California, (1988) 47 Cal.3d 376, 392, n.5.

If the action is quasi-judicial, then the scope of review is confined to the administrative record that was before the agency at the time it made the challenged decision. Evidence outside the administrative record may be introduced only if the evidence (1) could not with reasonable diligence have been presented at the administrative hearing, or (2) was improperly excluded at the hearing. Trasncentury Properties, Inc. v. State of California, (1074) 41 Cal.App.3d 835, 842. Extrinsic evidence also is generally not admissible for a traditional mandamus challenging a quasi-legislative agency action. Western States, 9 Cal.4th at 573. An exception exists for a traditional mandamus petition challenging “ministerial” or “informal” actions if there is a factual dispute.<sup>3</sup> Extrinsic evidence may also be admissible in a petition challenging a quasi-legislative administrative actions, but this exception is narrowly construed. Such evidence is admissible only in those rare instances in which (1) the evidence in question existed before the agency made the decision, and (2) the evidence could not have been presented to the agency in the first

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<sup>2</sup>The standard of review for traditional mandamus in a non-CEQA case differs slightly in that the latter are governed by an “arbitrary and capricious” standard, not a “prejudicial abuse of discretion” standard. The CEQA standard is a more stringent inquiry. Western States, 9 Cal.4th at 574.

<sup>3</sup>CEQA does not apply to ministerial actions. Where the approval process does not allow agency to shape the process in a way that responds to environmental concerns, the action is ministerial. Pub. Resources Code §21080(b)(7).

instance in the exercise of reasonable diligence. *Id.* at 578.

In this case, Petitioner is challenging the City's decision to approve a services contract for the removal and replacement of approximately 990 ficus trees. While there was a hearing, this hearing was not held to take evidence or make quasi-judicial determination. The hearing was held solely to approve the services contract in public. Consequently, this petition is properly considered as one for traditional mandate, and is governed by a prejudicial abuse of discretion standard, which is established if the City has not proceeded in a manner required by law or if the determination or decision is not supported by substantial evidence. Western States, 9 Cal.4th at 568; Pub. Resources Code §21168.5.

The scope of this review does not include extrinsic evidence unless this is a "ministerial" or "informal" administrative action, and there is a factual dispute, or it is a quasi-legislative action and a proper showing has been made. The City's action approving the contract to remove 990 trees does not appear to be ministerial. Moreover, neither party has presented evidence of a factual dispute, or makes the showing necessary for the admission of evidence.

Therefore, with respect to probability of success on the merits of the mandamus action, the court will only consider on the evidence presented to the City.<sup>4</sup>

#### **b. Statement of Facts**

That evidence is undisputed. On September 20, 2005, the City decided to remove 990 mature ficus trees that are planted in parkways throughout the City. The trees, which are at least 25 years old, were planted in parkways too small to accommodate such a large-growing tree. The City Administrator concluded that the ficus trees were a poor choice for a street tree due to the sidewalk, curb and gutters being lifted by the trees' roots. The Administrator recommended that the City contract with West Coast Arborists, Inc. ("West Coast") to "systematically remove the ficus trees over a five year cycle, and replace them with a variety of tree species which are slower growing and less "evasive" in root growth. The City authorized the Administrator to execute an agreement with West Coast for this purpose in the amount no greater than \$405,000.

#### **c. Mandamus Merits**

The Legislature has declared that the maintenance of a quality environment for the people of the state now and in the future is a matter of statewide concern. Pub. Res. Code §21000(a). The Legislature chose to accomplish environmental protection through public environmental review processes designed to assist agencies in identifying and disclosing both environmental effects and feasible alternatives and mitigations. Pub. Res. Code §21001. Since 1973, the environmental impact report has been repeatedly referred to as "the heart of CEQA," providing agencies with in-depth review of projects with potentially significant environmental effects. County of Inyo v. Yorty, (1973) 32 Cal.App.3d 795.

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<sup>4</sup>This evidence is contained in Petitioner's request for judicial notice. The request is granted without objection. *See* Ev. Code §452(b). Respondent's request the court to judicially notice a document "from" the California Forest Products Commission ("FPC"). The court has no information that the FPC is a public agency, or that the document at issue is an official act of that agency. More important, it is outside the evidence presented to the City. The request is denied.

CEQA does not require any particular procedure for agency approval of a project that it finds to be exempt from CEQA review. *See Apartment Assn. Of Greater Los Angeles v. City of Los Angeles*, (2001) 90 Cal.App.4th 1162. However, the Guidelines issued by the State Resources Agency, 14 Cal.Code Regs. §15000 et seq. (the "Guidelines") have established a three-tiered process to ensure that public agencies such as the City inform their decisions with environmental considerations. *Davidson Homes v. City of San Jose*, (1997) 54 Cal.App.4th 106, 112. The first tier, which is jurisdictional, requires that an agency conduct a preliminary review in order to determine whether CEQA applies to a proposed activity. Guidelines, §§15060, 15061. Activities which do not qualify as "projects" as defined by section 15378 are not subject to CEQA review. Guidelines §15061(b)(1). The Legislature has determined that certain other actions, such as ministerial projects, emergency projects, projects outside of California, and others are exempt from CEQA even though adverse environmental effects might result. *Davidson Homes, supra*, 54 Cal.App.4th at 112. In addition, the Guidelines list 33 classes of projects that generally do not have a significant effect on the environment and that may appropriately be exempted from CEQA for that reason. Pub. Resources Code §21084; *Asuza Land Recl. Co. v. Main San Gabriel Basin Watermaster*, (1997) 52 Cal.App.4th 1165.<sup>5</sup> Even if a defined category applies, an agency may not find the activity categorically exempt if there is a reasonable possibility a project will have a significant effect on the environment due to "unusual circumstances." Guideline §15300.2(c).

If the agency finds the project is exempt from CEQA under any of the stated exemptions, no further environmental review is necessary. The agency "may" prepare and file a notice of exemption, citing the relevant section of the Guidelines and including a brief statement of reasons to support the finding. *Davidson Homes*, 54 Cal.App.4th at 113; Guidelines, §15061(d), 15062 (a)(3). If, however, the project does not fall within any exemption, the agency must proceed with the second tier and conduct an initial study. Guidelines §15063. If the initial study reveals that the project will not have a significant environmental effect, the agency must prepare a negative declaration, briefly describing the reasons supporting that determination. Guidelines §§15063(b)(2), 15070. Otherwise, the third step in the process is to prepare a full environmental impact report (EIR) on the proposed project. Guidelines §§15063(b)(1), 15080; Pub. Res. Code §§21100, 21151; *Davidson Homes* at 113.

According to the City, this project is exempt because it involves the repair and maintenance of sidewalks and gutters that have been ravaged by the roots of the ficus trees. Therefore, it meets the Guideline Class 1 exemption for the repair, maintenance of existing public structures or topographical features, and the Class 2 exemption for replacement or reconstruction of existing structures and facilities. Opp. at 6. After the trees are removed, the sidewalks, curbs and gutters will be removed and replaced, and maintained in a condition that will prevent personal injury and property damage to the general public. Every tree removed will be replaced. Thus, there will be no adverse change under 14 Cal. Code Regs. §15300.2(c).

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<sup>5</sup>A project not exempt by statute or under the 33 categories in the Guidelines may be found to be exempt under the "common sense" exemption that a project is not subject to CEQA where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. §15601(b)(3).

Although the City now contends that the project is exempt, there is no evidence that the City conducted the required preliminary review to determine whether CEQA applies to this project. Nor is there evidence that the City prepared and filed a notice of exemption, citing the relevant section of the Guidelines and including a brief statement of reasons to support the finding. While the latter may not be required as a matter of law, the City must at least conduct the preliminary review and its reliance on a categorical exemption must be supported by evidence in the record demonstrating that the agency considered possible environmental impacts in reaching its decision. Davidon Homes, 54 Cal.App.4th at 117. The City may not do so *post-hoc* in its opposition. Laurel Heights Improvement Association v. Regents of the University of California, (1988) 47 Cal.3d 376, 394. Thus, the City failed to meet its procedural obligations.

In addition, the City has not shown that the West Coast contract is exempt from CEQA. As stated, CEQA applies only to projects. A "project" is defined as a discretionary activity carried out by, approved by, or funded by a public agency, that may physically affect the environment. Pub. Resources Code §21065. In this case, the City exercised its discretion to approve a contract with West Coast to remove and replace 990 trees over a five year period. Such action "may physically affect the environment" and qualifies as a CEQA project. The City does not dispute the fact that the West Coast contract is a project within CEQA.

The City may be correct that the removal of trees as part of a larger plan to repair sidewalks is generally exempt. Sidewalk repair would fall into Class 1 of the exemptions. But this exemption does not apply for two reasons.

First, the West Coast contract does not have anything to do with sidewalk repair; it deals only with removal and replacement of trees. Of course, the project for CEQA is "the whole of an action" that has a potential for resulting in a physical change in the environment. Guideline §15378. Consequently, the City may be able to include in the administrative record evidence that the tree removal is part of a larger plan of sidewalk repair, thereby bringing the project within a Class 1 exemption.

But if it does so, the City cannot overcome the second reason. There is an exception to the exemption which provides that an agency may not find the activity categorically exempt if there is a reasonable possibility a project will have a significant effect on the environment due to "unusual circumstances." Guideline §15300.2(c). There is a two step test to determine whether "unusual circumstances" exist; that is, the circumstances (1) differ from the general circumstances of the projects covered by a particular categorical exemption, and (2) those circumstances create an environmental risk that does not exist for the general class of exempt projects. Azusa Land Reclamation Co., Inc. v. Main San Gabriel Basin Watermaster, (1997) 52 Cal.App.4th 1165, 1207. Moreover, categorical exemptions do not apply when the cumulative impact of successive projects of the same type in the same place over time may be significant. Guideline §15300.2(b).

Here, the City can rely on the categorical exemption for its general maintenance of sidewalks and occasional removal of trees where appropriate. But the size and cumulative impact of the project suggests that there is a reasonable possibility of a significant effect on the environment. The size of the project makes it differ from the general circumstance of tree removal during sidewalk repair, and it creates an environmental risk that does not exist for normal repair. "Significant effects" are substantial, or potentially substantial adverse changes in

physical conditions, including aesthetics. Quail Botanical Gardens v. City of Encinitas, 29 Cal.App.4th 1597, 1604. There is a real possibility of significant effects on the environment from the removal and replacement of 900 trees. It would be an abuse of discretion for the City to conclude otherwise. Consequently, the City was required to move to the second tier of CEQA review and conduct an initial study.

In sum, Petitioner has shown a likelihood of success. The City never considered whether its action was subject to CEQA, and could not rely on a categorical exemption anyway.

## **2. Irreparable Harm**

Petitioner has also established that it will suffer irreparable harm if the City continues to remove the trees.<sup>6</sup> Large, shade-providing ficus trees are being removed from an otherwise industrial area. The trees are over 20 years old, for the most part. Although they will be replaced, there is no indication what kind of trees are being substituted, how large they are, or how long it will take them to reach the size and scale of the trees that are being removed. This kind of environmental harm is irreparable.

## **D. Conclusion**

There is no doubt that ficus trees are a menace to sidewalks and curbs. A plan to remove and replace them with less destructive trees may be good policy. That fact does not relieve the City of its obligation to adhere to the requirements of CEQA, since the removal of almost 1,000 trees unmistakably will cause a direct, physical change to the environment.

The motion for preliminary injunctive relief is granted. With respect to a bond, CCP section 995.240 permits a court to waive a bond only in a circumstance of indigence. The court has no evidence of Plaintiff's indigence. Nonetheless, given the nature of the action as one which is made in the public interest, a nominal bond of \$100 will be imposed. There is no need to require a bond in the amount which would indemnify the City for slip and fall liability. The injunction will not foreclose the City from repairing sidewalks and curbs, including tree removal on an as needed basis if necessary to protect life and safety.

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<sup>6</sup>The irreparable harm issue differs from, and is outside of, probability of success on the mandamus petition. Therefore, evidence is admissible on this issue. The court has ruled on the parties' written objections to this evidence by placing "S" for "sustained" and "O" for "overruled" next to the original objection, sometimes with a comment, and interlineating evidence to which an objection was sustained. The exception is the objections to the Declaration of Gideon Kracov, because the court had no such declaration before it. The Declaration of Hector Orozco has not been considered except as it relates to irreparable harm. Western States, 9 Cal.4th at 573.