

1 **INTRODUCTION**

2 1. In this action, Petitioner Whittier Conservancy challenges the City of Whittier’s
3 (“City’s”) failure to comply with the California Environmental Quality Act (“CEQA”), State
4 Planning and Zoning Law, and the Whittier Municipal Code in approving revisions to a
5 project originally intended to simply refresh the streetscape along Greenleaf Avenue, but that
6 has morphed into a major infrastructure project that adversely transforms this historic
7 corridor.

8 2. Since the City adopted the Uptown Whittier Specific Plan in 2008, it has
9 acknowledged the significant historic character of this area of the City. The City also
10 identified the importance of the iconic tree canopy lining Greenleaf Avenue, and recognized
11 that while some tree replacement was necessary, it needed to be done in a thoughtful and
12 measured manner, accompanied with intensive tree planting in the surrounding area.

13 3. To implement the requirements of the Uptown Whittier Specific Plan’s
14 requirements for a tree succession plan and streetscape improvements on Greenleaf Avenue,
15 the City adopted the Uptown Whittier Streetscape Beautification Plan in 2019. This
16 Streetscape Beautification Plan provided for a gradual tree replacement program and
17 enhancements to the one block of streetscape with additional landscaping, street furniture and
18 pedestrian crossings.

19 4. With no notice to the City Council or the public that highly values the mature
20 trees and historic resources lining Greenleaf Avenue, the City drastically changed directions
21 prior to a meeting in December of 2023. At that meeting, the City presented an amendment
22 to the Streetscape Beautification Plan, dubbed the Greenleaf Promenade Amendment, that
23 removes all trees lining Greenleaf Avenue at the same time, as well as the historic street
24 lights along this corridor. It also expanded the scope of the project from one block to three
25 blocks. The City approved this plan change based upon an addendum to the negative
26 declaration adopted for the Streetscape Beautification Plan, claiming there were no additional
27 impacts to address.

28 5. Subsequent to the City Council approval of this plan to clearcut the urban tree

1 canopy on Greenleaf Avenue, members of the public vehemently protested the Council's
2 decision. Recognizing the potential error and haste of this decision, the Council directed a
3 series of "study sessions" be held during early 2024 to evaluate changes to the Greenleaf
4 Promenade Amendment in an attempt to reduce the impacts that implementation of this plan
5 would have.

6 6. During these study sessions, and after the public was finally provided an
7 opportunity to comment on the many impacts complete simultaneous tree removal would
8 have, the City acknowledged removing all trees could have adverse impacts, including heat
9 island and loss of carbon sequestration.

10 7. In an attempt to mitigate these impacts, the City approved yet another revision
11 to the plans for the Greenleaf Avenue streetscape in June 2024. This 2024 Revised Greenleaf
12 Promenade Amendment Project introduced the inclusion of large and mainly undefined shade
13 cloth structures in an attempt to provide additional shade. It also included an increase in the
14 size of some of the replacement trees from 24-inch box trees to 72-inch box trees. This 2024
15 project approval also stated that project implementation would be phased, without any further
16 detail on a plan for such phasing.

17 8. The 2024 Revised Greenleaf Promenade Amendment Project was approved
18 without any environmental review in violation of CEQA. This implementation plan revision
19 has potentially significant adverse historic resources impacts and impacts to the aesthetics of
20 the historic Greenleaf Avenue corridor due to the newly included shade cloth structures. The
21 2024 Revised Greenleaf Promenade Amendment Project would also have impacts due to loss
22 of carbon sequestration and increased urban heat island effect that require analysis in
23 environmental review. Moreover, the specifics of the plan revisions that were actually
24 approved remain unclear, requiring additional information to be provided in the supplemental
25 environmental review required for this project.

26 9. Further, the City has disclosed that the replacement of the water main on
27 Greenleaf Avenue and the realignment and upgrading of storm drains on this street and its
28 cross streets are a driving force behind the tree removals along Greenleaf Avenue, and would

1 need to be completed as part of any streetscape updates. Despite this, the City improperly
2 segmented approval of those components from the remainder of the 2024 Revised Greenleaf
3 Promenade Amendment Project and has yet to conduct environmental review of those
4 actions.

5 10. The 2024 Revised Greenleaf Promenade Amendment Project is also
6 inconsistent with the requirements of the Uptown Whittier Specific Plan with regards to tree
7 protection and succession planning, as well as protection of historic resources.
8 Implementation of this project would violate the City’s Municipal Code required processes
9 for approvals that impact historic resources or include street tree removals.

10 11. For all of these reasons, the City’s approval of the 2024 Revised Greenleaf
11 Promenade Amendment Project should be rescinded and a Petition for Writ of Mandate
12 should issue to prevent implementation of any components of this plan until the City has
13 complied with CEQA, State Planning and Zoning Law and its own Municipal Code.

14
15 **JURISDICTION**

16 12. This Court has jurisdiction over the writ action under sections 1094.5 and 1085
17 of the Code of Civil Procedure.

18 13. This Court also has jurisdiction over the writ action under section 1085 of the
19 Code of Civil Procedure, and sections 21168 and 21168.5 of the Public Resources Code.

20
21 **PARTIES**

22 14. Petitioner Whittier Conservancy is a non-profit organization with more than 700
23 members committed to preserving and enhancing Whittier’s unique character and quality of
24 life, including significant residential structures, landmark commercial buildings, and notable
25 landscapes, including its valuable cultivated trees, public parks, and the natural beauty of the
26 Whittier Hills. The Whittier Conservancy promotes awareness and appreciation of Whittier's
27 historic, aesthetic, and natural resources.

28 15. Respondent City of Whittier (“City”) is a political subdivision of the State of

1 California and the lead agency for purposes of environmental review of the Project under
2 CEQA.

3 16. Real Parties in Interest named as Does 1 to 10 are given fictitious names
4 because their names and capacities are presently unknown to Petitioner.

5
6 **STATEMENT OF FACTS**

7 **Uptown Whittier Specific Plan Background**

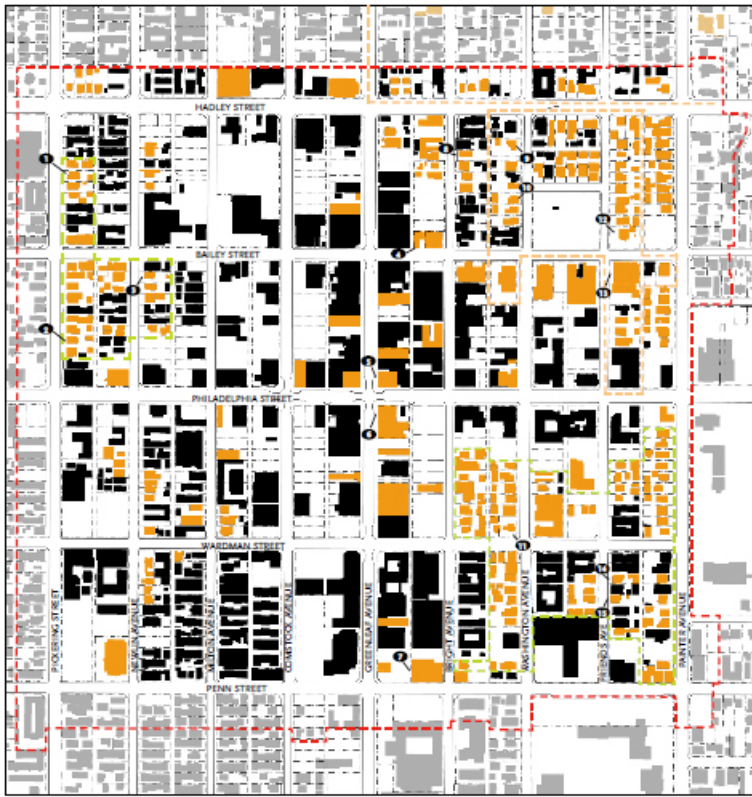
8 17. The Uptown Whittier Specific Plan was adopted by the City on November 18,
9 2008. Uptown contains the historic retail core of the City of Whittier.

10 18. The Uptown Whittier Specific Plan area covers approximately 185 acres and 35
11 city blocks. This Specific Plan was adopted to update the development standards, design
12 guidelines and other requirements and specifications contained for the Uptown Whittier
13 Specific Plan area.

14 19. The Specific Plan encompasses the footprint of the original town platted as a
15 Quaker colony in 1887 and contains the oldest and most intact concentration of historic
16 homes and commercial buildings in the city. The boundaries of the Uptown area are the
17 blocks along Hadley Street to the north, Pickering Street to the west, Penn Street to the south
18 and Painter Avenue to the east.

19 20. The Specific Plan states: "Uptown has a wealth of historic properties, which are
20 the community's major character defining features. These historic assets serve as the starting
21 point for the design of the specific Plan." Below is a Specific Plan map of the historic
22 resources contained in the Uptown Whittier Specific Plan area, with historic buildings
23 identified in orange, many located along Greenleaf Avenue.

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21. The City engaged renowned architect and urban planner Stephanos Polyzoides of Moules and Polyzoides to develop the Uptown Whittier Specific Plan to ensure the Plan preserved the historic character of Uptown. The historic character was determined to include not only the buildings designated as historic resources, but also the landscape and mature trees lining the streets in Uptown.

22. The Specific Plan sought to ensure the compatibility of new development so that it would not adversely impact the historic setting of existing resources.

23. Greenleaf Avenue, as its name implies, is lined with mature street trees that form a large canopy providing beauty and much needed shade. The Uptown Whittier Specific Plan provided specific policies regarding street trees: “The role of the street tree plan is to establish a visual and environmental order within the framework of Uptown. Future tree planting and streetscape work will be guided by the objectives and standards in this section, ensuring that individual projects will contribute to the overall public realm in a coherent manner.” (Uptown Whittier Specific Plan (“UWSP”) §2.2.2.)

1 24. The Specific Plan identified the many benefits associated with street trees:
2 “Street trees provide numerous environmental and cultural benefits for citizens and visitors.
3 The greatest of these is spatial definition of the street, which is created by the continuous and
4 regular spacing of trees close to the curb. This results in an alteration of the scale of the street
5 and a perceived reduction of street width. Visual cues and context of the street is improved.
6 Street trees create a humanizing experience, informing us that a place is walkable and
7 pedestrian friendly.” (UWSP §2.2.2.)

8 25. The Specific Plan also identified environmental benefits of street trees: “(a)
9 deciduous trees provide shade in summer and sun in winter, reducing heat islands and cooling
10 the ambient temperature; (b) trees reduce sun glare from paving; and (c) precipitation falling
11 on leaves, branches and bark is intercepted by trees and temporarily stored in the leaves,
12 branches and bark, effectively reducing stormwater runoff; ... produce oxygen and improve
13 local air quality; and (d) tree canopies have a calming effect, reducing the perception of
14 traffic noise.” (UWSP §2.2.2.)

15 26. In addition to recognizing the significant value of the existing trees, the Specific
16 Plan also recognized the need to replace some of the mature trees lining the historic
17 streetscapes in Uptown, including some of the large Ficus trees lining Greenleaf Avenue.
18 The Specific Plan includes a proactive tree succession plan for Greenleaf Avenue and
19 Philadelphia Street and mandates that “[p]rior to commencing the tree succession plan, the
20 City will commence the planting of street trees around the periphery of Uptown.” (UWSP
21 §3.1.3.B.)

22 27. Chapter 3 of the Specific Plan, the implementation plan, provides that: “To
23 achieve the Specific Plan objectives, the public realm needs to be addressed as a unique
24 resource.” To do so, the Specific Plan requires the City to “Implement the street plan,
25 including the tree succession plan on Greenleaf and Philadelphia, and intense tree-planting on
26 all other streets.” (UWSP §3.1.1.E.)

27 28. The Specific Plan specifies the phasing for this implementation, providing the
28 following mandate for Phase 1: “Commence intensive planting of trees around the periphery

1 of Uptown prior to commencing the tree succession plan on Philadelphia and Greenleaf.”
2 (UWSP §3.1.2, *emph. added.*) The Specific Plan also requires that street tree planting begin
3 prior to commencing tree succession plan on Greenleaf and Philadelphia. (*Ibid.*)

4 29. The Specific Plan also identifies the tree succession plan as follows: “Step 1:
5 Replace every other Ficus tree with [a] new tree planted at end of [the] diagonal parking
6 spaces. Step 2: Remove remaining trees, plant new trees, and complete sidewalk and curb
7 work.” (UWSP §3.1.4.)

8 30. The Specific Plan proposes a two-fold approach to address these challenges
9 presented by the age and condition of some Ficus trees: “a tree-succession plan over time, and
10 a structural soil system for the future planting of trees.” (UWSP §A.1.1.)

11 31. The Specific Plan Reforestation Guidelines and Sustainability section further
12 requires a tree evaluation by a certified arborist or plant pathologist for removal of any tree
13 that is unhealthy or that poses a hazard of injury. (UWSP §A.1.2.)

14 32. Community engagement was also a crucial element of the Specific Plan
15 development. Two and a half years of community involvement culminated in a blueprint for
16 infill development and preservation and restoration of the historic area over time.

17 33. An environmental impact report (“EIR”) was prepared to analyze the impacts
18 associated with the Uptown Specific Plan and was certified by the City when the Specific
19 Plan was adopted in 2008.

20 **Previous Amendment to the Uptown Whittier Specific Plan**

21 34. The Uptown Whittier Specific Plan was amended in 2014. (Specific Plan
22 Amendment 14-001.)

23 35. This amendment focused on one site only and was adopted after two
24 moratoriums and more than a year of public discussion.

25 36. This amendment was limited to allowing an existing legal non-conforming
26 church use to continue as long as there was a café and some retail component on the street-
27 facing ground floor.

28 37. This amendment was approved based upon a Class 5 categorical exemption to

1 CEQA for projects that include only minor land use changes.

2
3 **Uptown Whittier Streetscape Beautification Plan**

4 38. The Uptown Whittier Specific Plan directed the City to take implementing
5 actions, based on the specific criteria and mandates provided in the Plan, including the
6 preparation of a streetscape beautification plan, the identification of appropriate tree
7 replacement species, tree planting design, hardscape treatments and more.

8 39. The Uptown Whittier Streetscape Beautification Plan was initiated to
9 implement the Uptown Whittier Specific Plan. The Streetscape Beautification Plan involved
10 implementation of streetscape improvements and a tree succession plan identified and
11 evaluated in the Uptown Whittier Specific Plan together with a development impact fee
12 funding mechanism. It was prepared to provide design solutions for enhancing the
13 streetscapes to address intersections, roadways, pedestrian connections, lighting and
14 landscaping.

15 40. The City Council hired SWA Group, a landscape architecture, planning, and
16 urban design firm, in February 2016 to assist with preparation of the Uptown Whittier
17 Streetscape Beautification Plan. SWA conducted staff meetings, field investigations, and
18 Streetscape Workshops for the public in 2016 and 2017. The Planning Commission, Parking
19 and Transportation Commission, and Design Review Board met jointly on January 23 and
20 February 21, 2017, and their input on the Streetscape Beautification Plan was provided to
21 City Council.

22 41. On March 14, 2017, September 11, 2018, October 9, 2018, and February 26,
23 2019, the City Council considered reports and presentations on the Streetscape Beautification
24 Plan and provided input and direction on the Plan.

25 42. The Streetscape Beautification Plan was the culmination of ideas generated by
26 the community, commissions, and City Council that the consultant had synthesized. The Plan
27 itself separates Uptown streets into a hierarchy that provides a spectrum of improvements
28 focusing on Greenleaf Avenue and Philadelphia Street.

1 43. As part of the Streetscape Beautification Plan administrative process, the City
2 Council evaluated several methods of tree succession and hardscape design, finally settling
3 on a “Gardens of Uptown” hybrid hardscape design with groupings of tree replacement. The
4 Streetscape Beautification Plan provides that existing Ficus trees will be retained at the
5 angled parking but removed at the intersections where the curb face is relocated toward the
6 center of the street.

7 44. The City Council found the Uptown Whittier Streetscape Beautification Plan to
8 substantially conform to what was envisioned in the 2008 Specific Plan and accompanying
9 2008 EIR that addressed the modification to the roadways, street trees, pedestrian paths and
10 landscaping, and the 2014 amendments to the Specific Plan. The Specific Plan identified a
11 series of streetscape improvements to define public spaces and streets. The Streetscape
12 Beautification Plan would implement those improvements on two half-block sections of
13 Greenleaf Avenue at Philadelphia Street.

14 45. The City Council also found the mitigation measures from the Uptown Whittier
15 Specific Plan EIR would apply to this implementing project. The City found that the
16 Streetscape Beautification project would not result in any new negative impacts or require
17 new mitigation measures. As such, the City adopted a negative declaration as the
18 environmental review document for the Streetscape Beautification Plan.

19 46. The Uptown Whittier Streetscape Beautification Plan was adopted by the City
20 on May 28, 2019 by resolution 2019-32.

21
22 **2023 Greenleaf Promenade Amendment to Street Beautification Plan**

23 47. In June 2020, due to the COVID-19 public health crisis, the City Council
24 approved a temporary closure of Greenleaf Avenue in the Uptown area to facilitate the
25 Greenleaf Promenade Outdoor Dine & Shop program. The closure, commonly referred to as
26 the Greenleaf Promenade, allowed retailers and restaurants to operate their businesses in the
27 City-owned public right-of-way through approval of a temporary encroachment permit while
28 adhering to indoor occupancy restrictions.

1 48. The closure of several blocks of Greenleaf Avenue was popular within the
2 community and with businesses. As such, SWA was retained again to incorporate a new
3 conceptual design for a permanent street closure of Greenleaf Avenue into the Streetscape
4 Beautification Plan.

5 49. On March 23, 2021, the City Council received a presentation featuring a draft
6 concept of a permanent closure of a three-block section of Greenleaf Avenue designed by
7 SWA. The Council directed City staff to prepare a comprehensive report regarding design of
8 a permanent closure of Greenleaf Avenue, including traffic control alternatives, and to engage
9 stakeholders in the discussion.

10 50. On August 10, 2021, City Council received the results of the Greenleaf
11 Promenade community survey. A significant majority of the community supported
12 permanent street closure.

13 51. Subsequently, on October 26, 2021, a hybrid closure was proposed that would
14 provide build outs along the closed areas of Greenleaf Avenue from Hadley Street to
15 Wardman Street. The street would be closed allowing for pedestrians to utilize the middle of
16 the street, which could be converted to open space, to walk from business to business. The
17 street closure would be achieved with bollards that could be removed for emergency access
18 and for certain special events, such as parades. At that City Council meeting, the Council
19 moved to bring back a professional services agreement for design, an engineer's estimate, and
20 construction phasing of a hybrid closure of Greenleaf Avenue for three blocks from Hadley
21 Street to Wardman Street, allowing for special events and emergency access.

22 52. On March 8, 2022, the City Council approved the SWA contract for design of
23 the hybrid closure option. This scope of work included conceptual grading, drainage, cost
24 estimate, hardscape, and planting plans, along with all preliminary geotechnical and survey
25 work necessary to move forward with full construction drawings.

26 53. At the June 14, 2022 City Council meeting, which was the first in-person
27 Council meeting in two years, the City Manager and the Director of Public Works presented
28 an Open Street Promenade option for the Greenleaf Promenade. This option would allow for

1 permanent outdoor dining areas, while preserving limited on-street parking and creating drop
2 off/loading areas for ridesharing. The concept is substantively similar to the 2021 concept,
3 with the exception of vehicular traffic being allowed on a regular basis. Removable bollards
4 could be installed to allow for temporary street closures, potentially on the weekends or
5 during special events. The discussion at the City Council meeting focused on parking issues,
6 and the Council was split 2-to-2 on whether to direct staff to proceed with conceptual designs
7 for the closed-street or open-street concepts.

8 54. On June 14, 2022, the City Council directed staff to request an additional
9 design option from SWA that details a “paseo to paseo” full closure from mid-block north of
10 Philadelphia Street to mid-block south of Philadelphia Street along Greenleaf Avenue, with
11 the remaining portions open to vehicular traffic, instead of closure of the whole three blocks
12 originally proposed. At this meeting, the amount of tree retention in the concept was not
13 discussed. The Director of Public Works raised the issue of potential storm drain realignment
14 and upgrades in the Greenleaf Avenue cross-streets area during the meeting.

15 55. On June 28, 2022, the City Council voted three to one to direct staff to proceed
16 with the conceptual plans for the Open Street promenade design, with the understanding that
17 traffic access could be temporarily closed at a minimum from Thursday through Saturday.
18 The Council did not approve any development or the conceptual plan at this meeting. The
19 City Manager stated that staff would come back to Council with detailed plans for
20 consideration later. The Director of Public Works also identified that replacement of the
21 water main in Greenleaf Avenue would need to occur first before other streetscape updates.

22 56. On September 27, 2022 and November 8, 2022, the City Council was presented
23 with design progress reports showing further progress on the conceptual plans. Additionally,
24 in discussing the plans, the Director of Public Works mentioned a building-to-building street
25 reconstruction along Greenleaf Avenue. Council members repeatedly asked City staff when
26 they would be provided photo renderings of the plan that would allow them to understand
27 what was actually being proposed, as the conceptual plans did not accomplish that. Council
28 did not receive a clear response to that request.

1 57. At a study session held on February 14, 2023, City staff provided a presentation
2 on design options related to sidewalks, paving materials, gateway monumentation, modular
3 elements for outdoor spaces, plant palettes, and street furnishings.

4 58. On March 21, 2023, the City Council directed City staff to work with SWA to
5 design a blend of sign options and then obtain input from the Uptown Association and the
6 Business Improvement Area; to move forward with an open space design; and to explore
7 design options for light fixtures similar to those in East Whittier.

8 59. As of May 1, 2023, all businesses removed their outdoor enclosures and
9 Greenleaf Avenue was reopened to traffic.

10 60. On May 9, 2023, City staff provided an updated presentation on plan progress
11 and on design options related to street lighting, the pocket park, and tenant spaces.

12 61. On August 22, 2023, the City Council authorized an amendment to the contract
13 with SWA for the Greenleaf Promenade Project to expand the work limits to include
14 designing and rehabilitating street, sidewalk, and alley approaches. This increased the scope
15 of the area of SWA’s work by more than 50 percent, from 4.48 acres to 6.75 acres, to allow
16 for design and rehabilitation on the perpendicular side streets Wardman Street, Philadelphia
17 Street, Bailey Street and Hadley Street.

18 62. On December 12, 2023, the City Council was presented with a significantly
19 changed plan. While this plan was presented as formalizing a plan that had been discussed in
20 previous study sessions, it was not. Up to this point only conceptual drawings had been
21 presented, which Council had identified it did not fully understand.

22 63. At the December 12, 2023 meeting, it was claimed by City staff for the first
23 time that the outdoor parklets and spaces contemplated in the Greenleaf Promenade
24 Amendment could not be built around the existing Ficus trees. Staff stated: “Grading and
25 drainage has been significantly altered with this plan, which makes preservation of the Ficus
26 trees impossible.” It was unclear the extent of what was meant by “this plan.”

27 64. At this meeting, City staff presented to the City Council for the first time the
28 new Greenleaf Promenade Amendment to the 2019 Streetscape Beautification Plan that now

1 provided for the wholesale removal of all trees at the same time with no succession plan
2 (“2023 Greenleaf Promenade Amendment”). Staff also provided the City Council for the first
3 time an addendum to the negative declaration that was adopted for the 2019 Streetscape
4 Beautification Plan.

5 65. While all other plans for the area were first presented to the Council in concept
6 to receive approval or direction before preparation, the final plan presented on December 12,
7 2023 was never directed by Council. A review of the City’s staff reports and minutes for
8 meetings that discussed the Greenleaf Promenade fail to show the City Council’s
9 authorization of the preparation of this revised plan that removes all of the trees, or an
10 addendum under CEQA.

11 66. Despite the lack of engagement for this new concept, and with only three
12 Council members present, the City Council approved the final design documents for the 2023
13 Greenleaf Promenade Amendment and adopted Resolution No. 2023-87 approving an
14 addendum to the approved 2019 negative declaration under CEQA for the Uptown Whittier
15 Streetscape Beautification Plan along with an amendment to the Uptown Whittier Streetscape
16 Beautification Plan.

17 **2024 Revised Greenleaf Promenade Amendment**

18 67. Once it was discovered that the 2023 Greenleaf Promenade Amendment project
19 provided for the clear cutting of all the existing mature Ficus and other trees and removal of
20 Greenleaf Avenue’s iconic tree canopy instead of a succession and phased replacement plan,
21 community members were outraged. Recognizing the substantial community opposition to
22 their hasty decision, the City Council began holding a series of study sessions in 2024 to
23 address the public’s concerns and refine the plan in an attempt to mitigate impacts.

24 68. On January 23, 2024, the City Council directed City staff to agendize a Special
25 Study Session to discuss the proposed removal of trees on Greenleaf Avenue as part of the
26 Uptown Whittier Beautification project.

27 69. That study session was held on February 20, 2024. At the February 20, 2024
28 study session, City staff presented a discussion regarding the feasibility of a phased-in

1 approach; a one-way street as a mitigation option; curbing around trees; future and current
2 elevations; impacts of grading; permeable concrete; street flooding; curb and gutters;
3 infiltration rate of soil; increases to the cost of the project; inclusion of upgrades to
4 infrastructure in the 2019 Gardens of Uptown Plan; acreage increase and CEQA
5 requirements; irrigation and maintenance of trees; the removal of parking spots; maximum
6 use of Bright Avenue parking structure; purchase of the Bright Avenue hotel; liability
7 exposure; Penn Park settlement; open trip/fall claims involving trees; surrounding tree cities;
8 and lateral connections for the water main replacement.

9 70. After that presentation, City Council deliberated and directed staff to continue
10 conversations with business owners, residents, and consultants regarding mitigation options
11 and the interim irrigation and maintenance of trees.

12 71. After the first study session held on February 20, 2024, staff received numerous
13 questions regarding tree removal, phasing, tree retention, carbon sequestration, rain events,
14 streetlights, liability, project size, environmental documentation, and project design.

15 72. On April 28, 2024, renowned California arborist Dr. Donald Hodel provided
16 comments to the City identifying the ability to successfully trim the roots of the Ficus trees so
17 that some of the mature trees can be maintained.

18 73. On April 30, 2024 another study session special meeting was held. Staff
19 provided a presentation attempting to answer the serious questions raised by the public. At
20 this meeting, the City provided data regarding the carbon sequestration impacts of the
21 Greenleaf Promenade Amendment project for the first time. This data disclosed that the
22 wholesale removal of mature trees would have an adverse impact on carbon sequestration for
23 24 years. Whittier Conservancy identified that no analysis of the data on carbon
24 sequestration had been conducted.

25 74. Community members, including the Whittier Conservancy, raised additional
26 concerns including: the need to conduct intensive periphery tree planting and planting of
27 street trees prior to tree removal on Greenleaf, as required by the Uptown Specific Plan; the
28 need for the Historic Resources Commission to review the removal of historic streetlights and

1 for a certificate of appropriateness under the City’s historic preservation ordinance; the need
2 for tree reports and mitigation as required by the City’s tree ordinance; urban heat island
3 impacts; lack of documentation regarding tree health; and more. Community members
4 presented the Council with data showing the significant reduction in temperature provided by
5 the existing mature tree canopy along Greenleaf Avenue.

6 75. Recognizing the carbon sequestration, heat island and other impacts of the clear
7 cutting of mature trees on Greenleaf Avenue, the City Council directed Staff to agendize
8 another future meeting to discuss additional information pertaining to the Greenleaf
9 Promenade project, including options for 72-inch box trees, a phased approach to the project,
10 and shade options.

11 76. Community members also provided comments on the significantly higher
12 failure rate of 72-inch box trees, as compared to 24-inch box trees.

13 77. At the June 18, 2024 City Council meeting, several significant changes to the
14 Greenleaf Promenade Amendment, and thus to the Streetscape Beautification Plan, were
15 proposed.

16 78. To the shock of many community members, City staff proposed the use of
17 shade cloth structures along the historic Greenleaf corridor for the first time at the June 18,
18 2024 meeting as a means of mitigating the heat impacts that would result from the removal of
19 all trees at once, and the loss of the tree canopy that would eliminate shade and result in
20 aesthetic impacts.

21 79. During these proceedings, the City also indicated for the first time that it would
22 not be sending the issue of the replacement of historic streetlights to the City’s Historic
23 Resources Commission for consideration or require a condition of approval. This is
24 inconsistent with the statement included in the Addendum for the Greenleaf Promenade
25 Amendment that the project would be compliant with Chapter 18.84 (Historic Resources) of
26 the Municipal Code.

27 80. On June 18, 2024, the City Council voted 3-1 to revise the Greenleaf
28 Promenade Amendment project, approving additional amendments including: 72-inch box

1 replacement trees, shade structures within the three-block stretch of Greenleaf Avenue, and
2 the inclusion of a block-by-block phasing option in the bid specifications for the project
3 (“2024 Revised Greenleaf Promenade Amendment Project”).

4 81. As of the filing of this action, the City has not posted a Notice of Determination
5 for the June 18, 2024 approval of the Revised Greenleaf Promenade Amendment Project.

6 **Water Main and Storm Drain Components of Greenleaf Project**

7 82. According to a June 14, 2022 staff report regarding the Greenleaf Promenade
8 Amendment, the City’s in-house design of the water main component of the Greenleaf
9 Promenade was underway.

10 83. During the administrative process for the 2023 Greenleaf Promenade
11 Amendment, it was disclosed by staff and in geotechnical reports that the storm drain system
12 along Greenleaf Avenue and its cross-streets would need to be realigned and upgraded as part
13 of the streetscape updates.

14 84. However, when the City Council approved the Greenleaf Promenade
15 Amendment in December 2023, the water main replacement and storm drain realignment and
16 upgrade components were not included in the approval.

17 85. In February 2024, the City Council authorized staff to apply for federal funding
18 in furtherance of implementing the yet-to-be-approved water main component.

19 86. During the administrative process for the 2024 Revised Greenleaf Promenade
20 Amendment, City staff claimed for the first time that a main reason all trees on Greenleaf
21 Avenue must be removed at the same time is due to the need to replace the water main
22 located in Greenleaf Avenue as part of the 2023 Greenleaf Promenade Amendment project.

23 87. In response to questions submitted by the Whittier Conservancy to the City via
24 email, the City’s Director of Public Works stated: “to proceed with the water main project,
25 trees will need to be removed to facilitate the replacement of the nearly 100-year-old water
26 main.”

27 88. On August 20, 2024, the City Council Agenda included Item 11.A: “Greenleaf
28 Promenade Recommendation: Receive and file the report and provide direction as necessary,”

1 which was yet another study session regarding the 2024 Revised Greenleaf Promenade
2 Amendment Project.

3 89. At the August 20, 2024 post-approval City Council study session, the Director
4 of Public Works provided the City with an approximately 15-minute-long presentation
5 regarding the replacement of the water main on Greenleaf Avenue from Mar Vista to Hadley
6 Street.

7 90. The consultants for the Greenleaf Promenade project also presented at this
8 Council meeting, stating that “no construction can happen within the 'Tree Protection
9 Zones.” City staff used this statement to claim that no trees can be saved because all of the
10 trees on Greenleaf Avenue are in the way of the water main laterals and the sidewalk
11 renovations that each require deep, deep digging and massive grading.

12 91. At the August 20, 2024 the Whittier Conservancy presented information
13 identifying inaccuracies in the City’s documentation regarding the replacement tree count,
14 and their revision to the size of the planting area. The Conservancy provided city maps
15 showing increases in the size of the Greenleaf Promenade scope by over 50 percent (from
16 4.48 acres to 6.75 acres) to include the cross-streets Wardman, Philadelphia, Bailey and
17 Hadley due to the water main replacement and storm drain realignment components, as well
18 as additional information on the ability to save more mature trees.

19 92. After hearing a presentation from the Director of Public Works and a consultant
20 from SWA at the August 20, 2024 study session, Whittier Conservancy questioned the
21 intertwined nature of the Greenleaf Promenade and water main replacement.

22 93. Council had numerous questions for staff regarding the water main replacement
23 on Greenleaf Avenue.

24 94. In response to Council questions regarding phasing of tree removal for the 2024
25 Revised Greenleaf Promenade Amendment Project and proposing clarifying direction that
26 only one block of tree removal take place at a time, Public Works Director stressed that the
27 water main replacement would be hard to do in three sections and would most likely drive the
28 time-line of “the project.” Thus, it is clear that both the water main replacement and storm

1 drain realignment and upgrade have been and continue to be components of the 2024 Revised
2 Greenleaf Promenade Amendment Project that are driving the Project’s tree removals, yet
3 neither of these components were included in environmental review for the Project.

4 95. That the water main replacement and storm drain realignment and upgrade are
5 part of the whole of this Project is also shown by the significant increase in cost first
6 disclosed in a December 12, 2023 staff report. Prior to this staff report, a cost for the
7 streetscape updates along Greenleaf Avenue had been estimated at approximately \$3.5
8 million. In this staff report, the funding requirement suddenly jumped to a minimum of \$20
9 million, the only explanation for which is that the funding for the water main replacement and
10 storm drain realignments was combined with the streetscape updates. Neither component had
11 been approved as of the approval of the 2024 Revised Greenleaf Amendment Project. Despite
12 questions from Council regarding a breakdown of the funds needed, this information was not
13 provided.

14 96. At the August 20, 2024 meeting, Council members proposed a motion that
15 reiterates approval for the Greenleaf Promenade Project, but asks for “future consideration for
16 construction phasing” to include the potential to save clusters of trees without consideration
17 of cost as a factor at this time. Before a second was received on the motion, the City Manager
18 informed the Council that there was no need for a further vote—their concerns could be
19 addressed through the project specs and contract approvals, both of which will be coming to
20 them in the coming months.

21
22 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**
23 **AND INADEQUATE REMEDIES AT LAW**

24 97. Petitioner objected to the Project in the administrative process, and fully
25 exhausted its administrative remedies. Petitioner, and members of Petitioner, submitted
26 letters during the comment period raising the issues set forth herein and provided testimony
27 at the public meetings held regarding the Project.

28 98. Petitioner has no plain, speedy or adequate remedy in the course of ordinary

1 law unless this Court grants the requested writs of mandate and injunctive relief. In the
2 absence of such remedies, Respondent’s approval of the project would form the basis for a
3 project that would proceed in violation of state law.

4 99. Petitioner has complied with Public Resources Code section 21167.7 by filing
5 a copy of this petition with the California Attorney General. A copy of that notice is
6 attached as Exhibit A.

7 100. Petitioner has complied with Public Resources Code section 21167.5 by
8 providing the City of Whittier with notice of its intention to commence the action. A copy of
9 that notice is attached as Exhibit B.

10 101. Petitioner elects to prepare the administrative record. A copy of that election is
11 attached as Exhibit C.

12
13 **FIRST CAUSE OF ACTION**

14 **(VIOLATION OF CEQA)**

15 102. Petitioner incorporates all previous paragraphs as if fully set forth.

16 103. CEQA prohibits a lead agency from approving revisions to a project without
17 subsequent environmental review when: the revised project may involve new significant
18 environmental effects or a substantial increase in the severity of previously identified
19 significant effects; if substantial changes occur with respect to the circumstances of the
20 project resulting in additional impacts; or if new information of substantial importance shows
21 the project could have significant effects not discussed in the previous environmental review
22 or substantially more severe impacts, or if mitigation measures or alternatives would
23 substantially reduce one or more significant effects of the project, but are not included in the
24 approved revised project. (CEQA Guidelines §§ 15162, 15164(a).)

25 104. When the previous environmental review for a project was a negative
26 declaration, the fair argument standard of review applies when determining whether
27 subsequent environmental review is required to an approval for changes to the project.

28 *(Friends of the College of San Mateo Gardens v. San Mateo County Community College*

1 *District* (2016) 1 Cal.5th 937; *Friends of the College of San Mateo Gardens v. San Mateo*
2 *County Community College District* (2017) 11 Cal.App.5th 596.)

3 105. Under this standard, if there is any substantial evidence to support a fair
4 argument that the revised project may have significant adverse impacts, supplemental
5 environmental review is required.

6 106. Here, the City failed to prepare any environmental review for the 2024 Revised
7 Greenleaf Promenade Amendment Project prior to project approval on June 18, 2024.

8 107. Petitioner and community members provided the City with substantial evidence
9 to support a fair argument that the 2024 Revised Greenleaf Promenade Amendment Project
10 may have significant historic, aesthetic, land use, and greenhouse gas impacts. Reports
11 prepared by the City and City consultants also serve as substantial evidence supporting a fair
12 argument of these impacts.

13 108. Moreover, the City’s approval of the 2024 Revised Greenleaf Promenade
14 Amendment Project lacks the necessary clarity regarding the description of the project that
15 was actually approved, in violation of CEQA.

16 109. Further, the water main replacement and storm drain realignment components,
17 and analysis of the impacts of these components, has been improperly segmented from the
18 Revised Project.

19 **The Revised Greenleaf Amendment Project Lacks an Accurate, Stable and Finite**
20 **Project Description**

21 110. The City has violated CEQA by failing to prepare any environmental review for
22 the 2024 Revised Greenleaf Promenade Amendment Project. Additionally, had the City done
23 so, the information provided regarding the 2024 Revised Greenleaf Promenade Amendment
24 Project is inadequate for purposes of CEQA.

25 111. “[A]n accurate, stable and finite project description is the *sine qua non* of an
26 informative and legally sufficient” environmental review under CEQA. (*County of Inyo v.*
27 *City of Los Angeles* (1977) 71 Cal.App.3d 185, 199.) “[O]nly through an accurate view of the
28 project may the public and interested parties and public agencies balance the proposed

1 project's benefits against its environmental cost, consider appropriate mitigation measures,
2 assess the advantages of terminating the proposal and properly weigh other alternatives.”

3 (*City of Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438, 1454.)

4 112. Contrary to these requirements, the project description provided for the 2024
5 Revised Greenleaf Promenade Amendment Project is uncertain and unstable. The June 18,
6 2024 approval of the 2024 Revised Greenleaf Promenade Amendment Project does not
7 definitively identify the replacement trees that will be provided, nor an accurate accounting of
8 the quantity of replacement trees. While approving some type of shade structure to mitigate
9 impacts associated with the wholesale removal of trees, the specifics of the type, location, and
10 maintenance of this structure have not been provided.

11 113. Further, while the approval states a block-by-block phasing option should be
12 included in the bids for the 2024 Revised Greenleaf Promenade Amendment Project, it is
13 unclear whether the Greenleaf Promenade project will continue to clearcut the trees on
14 Greenleaf Avenue all at once, or take a phased approach. The City Council also proposed to
15 consider saving clusters of mature trees, but any decision regarding this proposal was
16 deferred to a later date. Moreover, the City has at times claimed the improperly segmented
17 water main component of the Revised Project requires the City to take out all blocks of trees
18 at one time.

19 114. These deficiencies serve as an “an obstacle to informed public participation”
20 because the public and the decisionmakers cannot evaluate a project that lacks a concrete
21 project proposal. (*Stopthemillenniumhollywood.com v. City of Los Angeles* (2019) 39
22 Cal.App.5th 1, 20.) There needs to be clarity regarding this and other aspects of the Revised
23 Project as part of the necessary environmental review.

24 **The Revised Project May Have Historic Resource Impacts**

25 115. As identified by the Uptown Whittier Specific Plan, the blocks lining Greenleaf
26 Avenue contain numerous historic resources. The Specific Plan also recognizes these historic
27 resources are Uptown’s major character defining features.

28 116. The 2024 Revised Greenleaf Promenade Amendment Project includes poorly

1 defined shade cloth structures lining the corridor of these historic resources on Greenleaf
2 Avenue. There is a fair argument these structures would adversely impact the setting of the
3 City’s major character defining features. While little is known about the specifics of these
4 structures, the preliminary renderings of the potential structures showed impacts to these
5 historic resources that experts identified as significantly adverse.

6 117. The lack of detail regarding the structures also fails to identify whether the
7 structures would be physically connected to the historic buildings, further adversely
8 impacting these structures.

9 118. The lack of adequate detail regarding the shade cloth structures also prevents an
10 assessment of impacts to the historic streetlights on Greenleaf Avenue.

11 **The Revised Project May Have Aesthetic Impacts**

12 119. “[A]ny substantial, negative effect of a project on view and other features of
13 beauty could constitute a “significant” environmental impact under CEQA.” (*Quail*
14 *Botanical Gardens Foundation, Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1604.)
15 This includes visual impacts to historic resources due to incompatibility of new development.
16 (*Protect Niles v. City of Fremont* (2018) 25 Cal.App.5th 1129; *Georgetown Preservation*
17 *Society v. County of El Dorado* (2018) 30 Cal.App.5th 358.)

18 120. The inclusion of shade structures may result in adverse visual impacts to the
19 historic resources along Greenleaf Avenue because the shade structures would be
20 incompatible with the existing resources, necessitating environmental review of this impact
21 under CEQA.

22 121. The shade cloth could also obscure views of the Puente Hills, which the
23 Specific Plan EIR identified as important scenic vistas.

24 **The Revised Project May Have Land Use Impacts**

25 122. Under CEQA, a project that is inconsistent with any land use plan provisions
26 that were adopted for the purpose of avoiding or mitigating environmental impacts would
27 cause a significant environmental impact. (CEQA Guidelines App. G, subd. XI.b; *Pocket*
28 *Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 930.)

1 123. The Uptown Whittier Specific Plan includes a number of provisions intended to
2 avoid and mitigate environmental impacts by protecting historic resources and mature street
3 trees.

4 124. The Revised Project would be inconsistent with these provisions, providing a
5 fair argument that this project may have significant land use impacts.

6 **The Revised Project May Have Greenhouse Gas Impacts from Loss of Carbon**
7 **Sequestration**

8 125. No previous environmental review document had identified impacts associated
9 with loss of carbon sequestration from tree removal. Specifically, the addendum prepared for
10 the Greenleaf Amendment stated only that “[c]onstruction-related GHG emissions would be
11 minimal and temporary” and “the project would result in reduced long-term operational GHG
12 emissions from mobile sources (e.g., vehicles).” There was no discussion of carbon
13 sequestration impacts in the addendum or in the 2019 negative declaration prepared for the
14 Streetscape Beautification Plan.

15 126. The City disclosed for the first time in April 2024 that the wholesale removal of
16 mature trees along Greenleaf Avenue would result in a significant loss of carbon
17 sequestration. This adverse impact would not be eliminated for approximately 24 years,
18 years critical to preventing catastrophic climate change.

19 127. Thus, this new information shows that the 2024 Revised Greenleaf Promenade
20 Amendment Project could have adverse greenhouse gas impacts, necessitating subsequent
21 environmental review.

22 128. Instead of preparing environmental review for these impacts, the City attempted
23 to mitigate these impacts by swapping out some 24-inch box replacement trees with 72-inch
24 box replacement trees. The efficacy of this mitigation measure needs to be evaluated.

25 129. Additionally, CEQA requires analysis of the potential impacts associated with
26 any mitigation measure. (CEQA Guidelines §15126.4, subd. (a)(1)(D).) Expert evidence was
27 submitted into the record that 72-inch box replacement trees have a significantly higher
28 mortality rate during transplantation than 24-inch box replacement trees do. The aesthetic,

1 biological, and safety impacts associated with higher levels of tree mortality need to be
2 analyzed in environmental review under CEQA.

3 **The Revised Project May Have Adverse Urban Heat Island Impacts**

4 130. Whittier Conservancy provided the City with sidewalk temperature readings for
5 areas with and without mature tree canopies. The area along Greenleaf Avenue with the
6 existing mature tree canopy was significantly cooler than those areas without tree coverage.

7 131. In the 2024 administrative process, the City acknowledged the wholesale
8 removal of mature Ficus and other trees on Greenleaf Avenue would result in significant
9 urban heat island impacts.

10 132. To mitigate that impact, the City Council included the shade cloth structures
11 and 72-inch box replacement trees in the 2024 Revised Greenleaf Promenade Amendment
12 Project.

13 133. This newly disclosed heat island impact should have been, but was not,
14 analyzed in environmental review documents.

15 134. Additionally, the City's attempts to mitigate this impact, and the efficacy of the
16 mitigation measures requires analysis under CEQA.

17 135. Further, CEQA requires analysis of the potential impacts associated with any
18 mitigation measure. (CEQA Guidelines §15126.4, subd. (a)(1)(D).)

19 136. Expert evidence was submitted into the record that 72-inch box replacement
20 trees have a significantly higher mortality rate during transplantation than 24-inch box
21 replacement trees do. The aesthetic, biological, and safety impacts associated with higher
22 levels of tree mortality need to be analyzed in environmental review under CEQA.

23 137. As set forth above, the attempt to mitigate through shade cloth structures may
24 also result in new aesthetic and historic resource impacts, necessitating environmental review.

25 **The Water Main Replacement Component is Improperly Segmented from the Revised**
26 **Project**

27 138. CEQA prohibits a public agency from "subdivide[ing] a single project into
28 smaller individual subprojects in order to avoid the responsibility of considering the

1 environmental impact of the project as a whole.” (*Orinda Assn v Board of Supervisors*
2 (1986) 182 Cal.App.3d 1145, 1171.)

3 139. Environmental review must provide an adequate description of the “whole of an
4 action” that is being contemplated. (CEQA Guidelines, § 15378, subd. (a).) “The entirety of
5 the project must be described, and not some smaller portion of it.” (*San Joaquin Raptor*
6 *Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 654.)

7 140. Here, the City has improperly segmented the water main replacement
8 component from the remainder of the 2024 Revised Greenleaf Promenade Amendment
9 Project. The City has yet to conduct environmental review for the water main replacement or
10 storm drain realignment and upgrades, but should have analyzed the impacts of these
11 components and the impacts of the rest of the 2024 Revised Greenleaf Promenade
12 Amendment Project in a subsequent environmental review document.

13 141. The City identified that water main replacement would drive the time-line of
14 “the project” and disclosed that this component is likely the impetus for the clear cutting of
15 all trees, including mature Ficus trees, instead of a tree succession replacement plan as
16 required by the Uptown Whittier Specific Plan.

17 142. The water main replacement and storm drain realignment have been and
18 continue to be components of the 2024 Revised Greenleaf Promenade Amendment Project,
19 components that are driving the project’s tree removals.

20 143. The scope of the consultant’s work in this area was also increased by more than
21 50 percent to include cross-streets due to the water main replacement and storm drain
22 realignment components, which may require additional tree removals.

23
24 **SECOND CAUSE OF ACTION**

25 **(VIOLATIONS OF PLANNING AND ZONING LAW)**

26 144. Petitioner incorporates all previous paragraphs as if fully set forth.

27 145. Planning and Zoning Law requires project approvals to be consistent with a
28 city’s General Plan and any applicable specific plans and for specific plans to be internally

1 consistent.

2 146. The 2024 Revised Greenleaf Promenade Amendment Project amends the
3 2023 Greenleaf Promenade Amendment, which is an amendment to the 2019 Streetscape
4 Beautification Plan, which is an implementation plan for the 2008 Uptown Whittier Specific
5 Plan.

6 147. The 2024 Revised Greenleaf Promenade Amendment Project conflicts with
7 provisions of the Uptown Whittier Specific Plan that are fundamental, mandatory, and clear.
8 (*Spring Valley Lake Association v. City of Victorville* (2016) 248 Cal.App.4th 91, 99.)

9 148. In the City of Whittier in areas within the boundaries of a specific plan, the
10 City's General Plan is implemented through the specific plan's regulations. For areas of the
11 City regulated by a specific plan, the General Plan land use designation for that area is
12 "Specific Plan." (General Plan Land Use and Community Character Element Figure LUCC-
13 4.)

14 149. Thus, within the Uptown area of the City, the Uptown Whittier Specific Plan
15 contains the implementation measures and land use designations for the City's General Plan.
16 As set forth below, the approval of the 2024 Revised Greenleaf Promenade Amendment
17 Project is not consistent with the Uptown Whittier Specific Plan, making it inconsistent with
18 the City's General Plan as well.

19 150. Uptown Whittier Specific Plan mandates the City must "[c]ommence intensive
20 planting of trees around the periphery of Uptown prior to commencing the tree succession
21 plan on Philadelphia and Greenleaf." (UWSP §3.1.2.) The 2024 Revised Greenleaf
22 Promenade Amendment Project fails to comply with this mandatory Specific Plan provision.

23 151. "To achieve the Specific Plan objectives, the public realm needs to be
24 addressed as a unique resource." To do so, the Specific Plan requires the City to "Implement
25 the street plan, including the tree succession plan on Greenleaf and Philadelphia, and intense
26 tree-planting on all other streets. (UWSP §3.1.1.E.) The 2024 Revised Greenleaf Promenade
27 Amendment Project is also inconsistent with this Specific Plan provision.

28 152. Planning and Zoning Law also requires the Specific Plan to be internally

1 consistent. (Gov. Code, § 65300.5; *Garat v. City of Riverside* (1991) 2 Cal.App.4th 259
2 [internal consistency requirement applies to charter cities].) The 2024 Revised Greenleaf
3 Promenade Amendment Project’s amendment of the Specific Plan implementation plan
4 causes the Specific Plan to be internally inconsistent.

5 **THIRD CAUSE OF ACTION**
6 **(VIOLATION OF WHITTIER MUNICIPAL CODE)**

7 153. Petitioner incorporates all previous paragraphs as if fully set forth.

8 154. The Whittier Municipal Code requires the issuance of a certificate of
9 appropriateness for any “[a]lteration, addition, restoration, rehabilitation, remodeling,
10 demolition or relocation of a historic resource.” (Whittier Municipal Code §18.84.150.A.)
11 Approval of such work shall be required even if the city requires no other permits.

12 155. A certificate of appropriateness is a certification by the City’s Historic
13 Resources Commission, or City Council on appeal, that the necessary findings to approve
14 plans to alter, restore, rehabilitate, remove, relocate, add on to, or demolish, in whole or in
15 part, a historic resource have been made. (Whittier Municipal Code §18.84.040.C.) Thus, the
16 City’s Historic Resources Commission is required to review and advise on projects that
17 could impact the City’s historic resources and determine that the action would not adversely
18 impact the historic character of the resource. (Whittier Municipal Code §18.84.200.)

19 156. The 2024 Revised Greenleaf Promenade Amendment Project would remove,
20 replace, and/or relocate historic street lamps on Greenleaf Avenue. The inclusion of shade
21 cloth structures in the 2024 Revised Greenleaf Promenade Amendment Project could also
22 result in physical alterations to historic buildings and street lamps lining Greenleaf Avenue.
23 Despite this, shortly before approving the 2024 Revised Greenleaf Promenade Amendment
24 Project, the City announced that it does not intend to provide Historic Resources
25 Commission review or require a certificate of appropriateness for the 2024 Revised
26 Greenleaf Promenade Amendment Project components that would impact historic resources.
27 These actions would violate the City’s Municipal Code.

28 157. The Whittier Municipal Code also requires issuance of a permit for the

1 removal of any street trees in the City. Such permits are required to be issued in compliance
2 with the requirements of the City’s Parkway Tree Manual. (Whittier Municipal Code
3 §12.40.050.) The City’s Tree Manual requires the preparation of individual tree reports and
4 compliance with a specific process prior to the removal of street trees within the City,
5 including a determination regarding whether the tree removal is necessary or can be
6 mitigated.

7 158. The 2024 Revised Greenleaf Promenade Amendment Project does not provide
8 for the preparation of the required tree reports and other tree removal prerequisites. The City
9 stated that tree reports will eventually be prepared, but it has approved the Project without
10 them. As such, implementation of the 2024 Revised Greenleaf Promenade Amendment
11 Project would violate the City’s Tree Ordinance.

12 **FOURTH CAUSE OF ACTION**

13 **(DECLARATORY RELIEF)**

14 159. Petitioner incorporates all previous paragraphs as if fully set forth.

15 160. An actual controversy exists between Petitioner and the City because the City
16 has violated CEQA and/or has committed itself to violate State Planning and Zoning Law and
17 the City’s Municipal Code.

18 161. Petitioner is beneficially interested in having the City comply with all
19 applicable provisions of law and their legal duties, as set forth herein.

20 162. A judicial declaration and determination is necessary and appropriate at this
21 time in order that the parties ascertain their rights and obligations with respect to the City’s
22 obligations under CEQA, the City’s Municipal Code, and Planning and Zoning Law and in
23 order to resolve all controversies between the parties hereto regarding such rights and duties.

24 163. Therefore, Petitioner seeks a declaration that the City’s implementation of the
25 2024 Revised Greenleaf Promenade Amendment Project is an abuse of discretion, or
26 otherwise fails to comply with the law.

1 **PRAYER FOR RELIEF**

2 In each of the respects enumerated above, the City has violated its duties under law,
3 abused its discretion, failed to proceed in the manner required by law, and decided the matters
4 complained of without the support of substantial evidence.

5 WHEREFORE, Petitioner prays for relief as follows:

6 1. For an alternative and peremptory writ of mandate ordering the City of Whittier
7 to:

8 A. To set aside the approval of the 2024 Revised Greenleaf Promenade
9 Amendment Project.

10
11 B. To suspend any and all activities pursuant to the challenged decisions,
12 determinations, and approvals that could result in an adverse change or
13 alteration to the physical environment until the City of Whittier has taken all
14 actions necessary to bring the Project's environmental review, decisions, and
15 determinations into full compliance with CEQA, Planning and Zoning Law
16 and the City's Municipal Code;

17
18 C. To prepare, circulate, review and certify legally adequate subsequent
19 environmental review for the whole of the Greenleaf Promenade project so
20 that the City will have a complete disclosure document before it, all
21 potential significant impacts will be identified for the decision-makers and
22 public, and the City will be able to formulate feasible and effective
23 mitigation measures to avoid those impacts;

24
25 D. To take such further specific action as shall be necessary to bring the City's
26 decisions, determinations, and approvals into full compliance with CEQA,
27 Planning and Zoning Law, and the City's Municipal Code.

28

1 2. For an order enjoining the City from taking any action to commence any
2 portion of the 2024 Revised Greenleaf Promenade Amendment Project or to develop or alter
3 the Project site in any way that could result in a significant adverse impact on the
4 environment unless and until a lawful approval, compliant with CEQA, Planning and Zoning
5 Law and the City’s Municipal Code, is obtained from the City Council, after the preparation
6 and consideration of adequate subsequent environmental review and mitigation measures;


7
8 3. For a declaration that the City’s approval and implementation of the 2024
9 Revised Greenleaf Promenade Amendment Project is a violation of CEQA, Planning and
10 Zoning Law and the City’s Municipal Code.

11
12 4. For Petitioner’s costs and attorney fees pursuant to Code of Civil Procedure
13 section 1021.5; and

14
15 5. For other and further relief as the Court finds just and proper.

16
17 Dated: December 6, 2024

Respectfully Submitted,
CARSTENS, BLACK & MINTEER LLP

18
19 By:  _____
20 Amy Minter
21 Attorneys for Petitioner Whittier
22 Conservancy
23
24
25
26
27
28

VERIFICATION

1
2
3 I, the undersigned, declare that I am the President of Whittier Conservancy, the
4 Petitioner in this action, and I am authorized to make this verification. I have read the
5 foregoing PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR
6 DECLARATORY RELIEF and know the contents thereof, and the same is true of my own
7 knowledge.

8 I declare under penalty of perjury under the laws of the State of California that the
9 foregoing is true and correct. Executed this 4 day of December, 2024 in Whittier,
10 California.

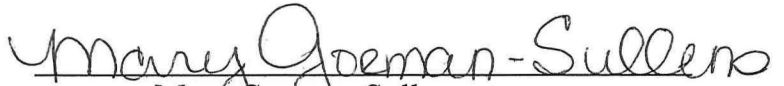
11 
12 Mary Gorman-Sullens

EXHIBIT A



Carstens, Black & Minter LLP
700 North Pacific Coast Highway, Suite 200
Redondo Beach, CA 90277
www.cbcearthlaw.com

Amy C. Minter
Email Address:
acm@cbcearthlaw.com

Main Office Phone:
310-798-2400
Direct Dial:
310-798-2409

December 6, 2024

By Electronic Mail
California Attorney General
CEQA@doj.ca.gov

Re: Challenge under the California Environmental Quality Act to the approval of revisions to the Greenleaf Promenade Amendment to the Uptown Whittier Streetscape Beautification Plan

Honorable Attorney General Bonta:

Please find enclosed a copy of the Petition for Writ of Mandate filed to challenge the actions of the City of Whittier in violation of the California Environmental Quality Act ("CEQA").

This Petition is being provided pursuant to the notice provisions of the Public Resources Code. Please contact me if you have any questions.

Sincerely,


Amy C. Minter

Enclosure

PROOF OF SERVICE

I am employed by Carstens, Black & Minter LLP in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 700 North Pacific Coast Highway, Ste. 200, Redondo Beach, CA 90277. On December 6, 2024 I served the within documents:

**LETTER TO THE CA ATTORNEY GENERAL REGARDING
PETITION FOR WRIT OF MANDATE**

VIA ELECTRONIC MAIL.

Based on Public Resources Code 21167 of CEQA, I caused the above-referenced document to be sent to the CA Attorney General at the following electronic address:
CEQA@doj.ca.gov

I declare that I am employed in the office of a member of the bar of this court whose direction the service was made. I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on December 6, 2024, at Redondo Beach, California 90277.

Sarah Bloss
Sarah Bloss

SERVICE LIST
CEQA Coordinator
Office of the CA Attorney General
CEQA@doj.ca.gov

EXHIBIT B



Carstens, Black & Minter LLP
700 North Pacific Coast Highway, Suite 200
Redondo Beach, CA 90277
www.cbcearthlaw.com

Amy C. Minter
Email Address:
acm@cbcearthlaw.com

Main Office Phone:
310-798-2400
Direct Dial:
310-798-2409

December 5, 2024

By U.S. Mail:
Mr. Rigo Garcia
City Clerk
City of Whittier
13230 Penn Street
Whittier, CA 90602

Re: Challenge to approval of revisions to the Greenleaf Promenade Amendment to the Uptown Whittier Streetscape Beautification Plan

Dear Mr. Garcia,

Please take notice that this firm will be filing a Petition for Writ of Mandate and Complaint for Declaratory Relief challenging the City of Whittier's actions on June 18, 2024 to approve revisions to Greenleaf Promenade Amendment to the Uptown Whittier Streetscape Beautification Plan addressing the historic promenade along Greenleaf Avenue, in violation of the California Environmental Quality Act, Planning and Zoning Law, and the City of Whittier Municipal Code.

Please contact the undersigned if you have any questions.

Sincerely,

Amy C. Minter

PROOF OF SERVICE

I am employed by Carstens, Black & Minter LLP in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 700 North Pacific Coast Highway, Ste. 200, Redondo Beach, CA 90277. On December 5, 2024 I served the within documents:

LETTER TO CITY CLERK

VIA UNITED STATES MAIL. I am readily familiar with this business' practice for collection and processing of correspondence for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid. I enclosed the above-referenced document(s) in a sealed envelope or package addressed to the person(s) at the address(es) as set forth below, and following ordinary business practices I placed the package for collection and mailing on the date and at the place of business set forth above.

I declare that I am employed in the office of a member of the bar of this court whose direction the service was made. I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on December 5, 2024 at Redondo Beach, California 90277.

/s/ Sarah Bloss

Sarah Bloss

SERVICE LIST
Mr. Rigo Garcia
City Clerk
City of Whittier
13230 Penn Street
Whittier, CA 90602

EXHIBIT C

1 CARSTENS, BLACK & MINTEER, LLP
2 Amy Minter, SBN: 223832; acm@cbcearthlaw.com
3 Michelle N. Black, SBN:261962; mnb@cbcearthlaw.com
4 Sunjana Supekar, SBN: 328663; sss@cbcearthlaw.com
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7 Telephone: 310.798.2400;
8 Fax: 323.347.7228

9 Attorneys for Petitioner
10 Whittier Conservancy

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE CITY OF LOS ANGELES**

13 WHITTIER CONSERVANCY,) CASE NO.:

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v.

CITY OF WHITTIER,

Respondent;

DOES 1 TO 10;

Real Parties in Interest.

**NOTICE OF ELECTION TO PREPARE
ADMINISTRATIVE RECORD AND
NOTICE OF ALTERNATIVE DISPUTE
RESOLUTION INFORMATION PACKET**

(Violations of California Environmental
Quality Act; Planning and Zoning Law;
Whittier Municipal Code)

1 PLEASE TAKE NOTICE:

2 1. Pursuant to Public Resources Code section 21167.6, Petitioner Whittier
3 Conservancy hereby elects to prepare the administrative record in this matter.

4 2. In accordance with California Rules of Court Rule 3.221, subd. (c), Petitioner
5 hereby serves the Alternative Dispute Resolution information package provided by the Los
6 Angeles County Superior Court, located on the Court's website at

7 [https://lascpubstorage.blob.core.windows.net/forms/Forms%20Comprehensive%20List/LASC%](https://lascpubstorage.blob.core.windows.net/forms/Forms%20Comprehensive%20List/LASC%20CIV%20271.pdf)
8 [20CIV%20271.pdf](https://lascpubstorage.blob.core.windows.net/forms/Forms%20Comprehensive%20List/LASC%20CIV%20271.pdf). This document is attached as Exhibit A.

9 DATE: December 6, 2024

Respectfully Submitted,

10 CARSTENS, BLACK & MINTEER LLP

11 By: 
12 _____

Amy Minter

13 Attorneys for Petitioner
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EXHIBIT A



Superior Court of California, County of Los Angeles

ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION PACKAGE

THE PLAINTIFF MUST SERVE THIS ADR INFORMATION PACKAGE ON EACH PARTY WITH THE COMPLAINT.

CROSS-COMPLAINANTS MUST SERVE THIS ADR INFORMATION PACKAGE ON ANY NEW PARTIES NAMED TO THE ACTION WITH THE CROSS-COMPLAINT.

WHAT IS ADR?

Alternative Dispute Resolution (ADR) helps people find solutions to their legal disputes without going to trial. The Court offers a variety of ADR resources and programs for various case types.

TYPES OF ADR

- **Negotiation.** Parties may talk with each other about resolving their case at any time. If the parties have attorneys, they will negotiate for their clients.
- **Mediation.** Mediation may be appropriate for parties who want to work out a solution but need help from a neutral third party. A mediator can help the parties reach a mutually acceptable resolution. Mediation may be appropriate when the parties have communication problems and/or strong emotions that interfere with resolution. Mediation may not be appropriate when the parties want a public trial, lack equal bargaining power, or have a history of physical or emotional abuse.
- **Arbitration.** Less formal than a trial, parties present evidence and arguments to an arbitrator who decides the outcome. In "binding" arbitration, the arbitrator's decision is final; there is no right to trial. In "nonbinding" arbitration, any party can request a trial after the arbitrator's decision.
- **Settlement Conferences.** A judge or qualified settlement officer assists the parties in evaluating the strengths and weaknesses of the case and in negotiating a settlement. Mandatory settlement conferences may be ordered by a judicial officer. In some cases, voluntary settlement conferences may be requested by the parties.

ADVANTAGES OF ADR

- **Save time and money.** Utilizing ADR methods is often faster than going to trial and parties can save on court costs, attorney's fees, and other charges.
- **Reduce stress and protect privacy.** ADR is conducted outside of a courtroom setting and does not involve a public trial.
- **Help parties maintain control.** For many types of ADR, parties may choose their ADR process and provider.

DISADVANTAGES OF ADR

- **Costs.** If the parties do not resolve their dispute, they may have to pay for ADR, litigation, and trial.
- **No Public Trial.** ADR does not provide a public trial or decision by a judge or jury.

WEBSITE RESOURCES FOR ADR

- **Los Angeles Superior Court ADR website:** www.lacourt.org/ADR
- **California Courts ADR website:** www.courts.ca.gov/programs-adr.htm

Los Angeles Superior Court ADR Programs for Unlimited Civil (cases valued over \$35,000)

Litigants should closely review the requirements for each program and the types of cases served.

- **Civil Mediation Vendor Resource List.** Litigants in unlimited civil cases may use the Civil Mediation Vendor Resource List to arrange voluntary mediations without Court referral or involvement. The Resource List includes organizations that have been selected through a formal process that have agreed to provide a limited number of low-cost or no-cost mediation sessions with attorney mediators or retired judges. Organizations may accept or decline cases at their discretion. Mediations are scheduled directly with these organizations and are most often conducted through videoconferencing. The organizations on the Resource List target active civil cases valued between \$50,000-\$250,000, though cases outside this range may be considered. *For more information and to view the list of vendors and their contact information, download the Resource List Flyer and FAQ Sheet at www.lacourt.org/ADR/programs.html.*
RESOURCE LIST DISCLAIMER: The Court provides this list as a public service. The Court does not endorse, recommend, or make any warranty as to the qualifications or competency of any provider on this list. Inclusion on this list is based on the representations of the provider. The Court assumes no responsibility or liability of any kind for any act or omission of any provider on this list.
- **Mediation Volunteer Panel (MVP).** Unlimited civil cases referred by judicial officers to the Court's Mediation Volunteer Panel (MVP) are eligible for three hours of virtual mediation at no cost with a qualified mediator from the MVP. Through this program, mediators volunteer preparation time and three hours of mediation at no charge. If the parties agree to continue the mediation after three hours, the mediator may charge their market hourly rate. When a case is referred to the MVP, the Court's ADR Office will provide information and instructions to the parties. The Notice directs parties to meet and confer to select a mediator from the MVP or they may request that the ADR Office assign them a mediator. The assigned MVP mediator will coordinate the mediation with the parties. *For more information or to view MVP mediator profiles, visit the Court's ADR webpage at www.lacourt.org/ADR or email ADRCivil@lacourt.org.*
- **Mediation Center of Los Angeles (MCLA) Referral Program.** The Court may refer unlimited civil cases to mediation through a formal contract with the Mediation Center of Los Angeles (MCLA), a nonprofit organization that manages a panel of highly qualified mediators. Cases must be referred by a judicial officer or the Court's ADR Office. The Court's ADR Office will provide the parties with information for submitting the case intake form for this program. MCLA will assign a mediator based on the type of case presented and the availability of the mediator to complete the mediation in an appropriate time frame. MCLA has a designated fee schedule for this program. *For more information, contact the Court's ADR Office at ADRCivil@lacourt.org.*
- **Resolve Law LA (RLLA) Virtual Mandatory Settlement Conferences (MSC).** Resolve Law LA provides three-hour virtual Mandatory Settlement Conferences at no cost for personal injury and non-complex employment cases. Cases must be ordered into the program by a judge pursuant to applicable Standing Orders issued by the Court and must complete the program's online registration process. The program leverages the talent of attorney mediators with at least 10 years of litigation experience who volunteer as settlement officers. Each MSC includes two settlement officers, one each from the plaintiff and defense bars. Resolve Law LA is a joint effort of the Court, Consumer Attorneys Association of Los Angeles County (CAALA), Association of Southern California Defense Counsel (ASCDC), Los Angeles Chapter of the American Board of Trial Advocates (LA-ABOTA), Beverly Hills Bar Foundation (BHBF), California Employment Lawyers Association (CELA), and Los Angeles County Bar Association (LACBA). *For more information, visit <https://resolvewlawla.com>.*

- **Judicial Mandatory Settlement Conferences (MSCs).** Judicial MSCs are ordered by the Court for unlimited civil cases and may be held close to the trial date or on the day of trial. The parties and their attorneys meet with a judicial officer who does not make a decision, but who instead assists the parties in evaluating the strengths and weaknesses of the case and in negotiating a settlement. For more information, visit <https://www.lacourt.org/division/civil/CI0047.aspx>.

Los Angeles Superior Court ADR Programs for Limited Civil (cases valued below \$35,000)

Litigants should closely review the requirements for each program and the types of cases served.

- **Online Dispute Resolution (ODR).** Online Dispute Resolution (ODR) is a free online service provided by the Court to help small claims and unlawful detainer litigants explore settlement options before the hearing date without having to come to court. ODR guides parties through a step-by-step program. After both sides register for ODR, they may request assistance from trained mediators to help them reach a customized agreement. The program creates settlement agreements in the proper form and sends them to the Court for processing. Parties in small claims and unlawful detainer cases must carefully review the notices and other information they receive about ODR requirements that may apply to their case. *For more information, visit <https://my.lacourt.org/odr>.*
- **Dispute Resolution Program Act (DRPA) Day-of-Hearing Mediation.** Through the Dispute Resolution Program Act (DRPA), the Court works with county-funded agencies, including the Los Angeles County Department of Consumer & Business Affairs (DCBA) and the Center for Conflict Resolution (CCR), to provide voluntary day-of-hearing mediation services for small claims, unlawful detainer, limited civil, and civil harassment matters. DCBA and CCR staff and trained volunteers serve as mediators, primarily for self-represented litigants. There is no charge to litigants. *For more information, visit <https://dcba.lacounty.gov/countywidedrp>.*
- **Temporary Judge Unlawful Detainer Mandatory Settlement Conference Pilot Program.** Temporary judges who have been trained as settlement officers are deployed by the Court to designated unlawful detainer court locations one day each week to facilitate settlement of unlawful detainer cases on the day of trial. For this program, cases may be ordered to participate in a Mandatory Settlement Conference (MSC) by judicial officers at Stanley Mosk, Long Beach, Compton, or Santa Monica. Settlement rooms and forms are available for use on the designated day at each courthouse location. There is no charge to litigants for the MSC. *For more information, contact the Court's ADR Office at ADRCivil@lacourt.org.*