

June 8, 2015

Los Angeles City Council
200 North Spring Street, Room 360
Los Angeles, CA 90012
Attn: Herb J, Wesson, Jr. President
Cc: Michael Espinosa, Office of the City Clerk

RE: Glendale-Hyperion Complex Improvement Project (CF #05-0173)

Honorable Councilmembers,

I write to voice concerns regarding the lack of compliance with Federal Americans with Disabilities Act regulations (“ADA”) in the proposed design for the Glendale-Hyperion Bridge Complex Improvement Project (CF #05-0173).

Overview:

The proposed design calls for removal of the sidewalk on the South side of the Hyperion Avenue Viaduct (“Hyperion”) portion of the project. In removing this sidewalk, it is explained that the proposed design improves upon the existing condition by providing a single path accessible to those who utilize a wheelchair on the North side of Hyperion. The proposed design, however, results in a condition in which able-bodied persons are provided a more direct, convenient, and less time-consuming route; while persons with disabilities are not afforded *equivalent facilitation*.

In providing a prioritized route for able-bodied people that does not accommodate those of limited abilities, the proposed design discriminates against people with disabilities. The proposed design is not compliant with ADA regulations and California Civil Code, and as such, creates an unacceptable financial liability for the City of Los Angeles and its taxpayers for the cost of a judgment against the City and/or subsequent retrofit to comply with ADA.

Legal Requirement to Eliminate ADA Barriers in Hyperion Bridge:

It is noted in a technical memorandum prepared by project structural engineer, Psomas, dated May 28, 2015, “Sidewalks exist on both sides of the Hyperion Bridge over I-5, and over the L.A. River.” These sidewalks are acknowledged to be non-ADA compliant due, in part, to a pinch point at the Waverly Drive underpass that causes the sidewalk to reduce to a 2’-0” section.

Under ADA and Section 504 of the U.S. Rehabilitation Act of 1973, an alteration project is required to remove barriers from public facilities that would provide discrimination against persons with disabilities. ADA [28 C.F.R. § 35.151 (b)] states:

(1) Each facility or part of a facility altered by, on behalf of, or for the use of a public entity in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by individuals with disabilities, if the alteration was commenced after January 26, 1992.

(3)
(i) Alterations to historic properties shall comply, to the maximum extent feasible, with the provisions applicable to historic properties in the design standards specified in § 35.151(c).

(ii) If it is not feasible to provide physical access to an historic property in a manner that will not threaten or destroy the historic significance of the building or facility, alternative methods of access shall be provided pursuant to the requirements of § 35.150.

No reasoning for non-compliance with ADA has been provided for the proposed project, however the City's Bureau of Engineering has argued that adjustment to the roadway configuration would have impacts to vehicle Level Of Service ("LOS") on the road that may require further study to mitigate under California law. Because vehicle LOS is not an aspect of *historic significance*, this claimed requirement for further study under state law does not absolve the City's requirement to provide for the civil rights of users with disabilities by complying with Federal ADA Law.

These requirements to provide equal access for users of all abilities is mirrored in California Civil Code Section 54:

54. (a) Individuals with disabilities or medical conditions have the same right as the general public to the full and free use of the streets, highways, sidewalks, walkways, public buildings, medical facilities, including hospitals, clinics, and physicians' offices, public facilities, and other public places.

54.1 (3) "Full and equal access," for purposes of this section in its application to transportation, means access that meets the standards of Titles II and III of the Americans with Disabilities Act of 1990 (Public Law 101-336) and federal regulations adopted pursuant thereto, except that, if the laws of this state prescribe higher standards, it shall mean access that meets those higher standards.

Option 3 is the Only Design Provided that Complies with ADA:

In August 2014, the Bureau of Engineering provided three (3) feasible design alternatives for review by a Citizen's Advisory Committee, convened by Los Angeles City Councilmembers Mitch O'Farrell and Tom LaBonge. Design Option 3 ("Exhibit 3") provided a design with two sidewalks on Hyperion, by widening existing non-compliant sidewalks. This option provides a path for users between the Silver Lake and Atwater Village communities on the South side of the bridge complex that accommodates not only able-bodied persons, but also persons with disabilities.

Because Exhibit 3 represents an option "readily accessible" to all users without requirement of detour for people with disabilities, it is evidence that Options 1, 1A, and 2 do not meet the requirement under ADA for alterations to comply with ADA design guidelines "to the maximum extent feasible." Exhibit 3 shows dimensional ability to incorporate widened sidewalks compliant with ADA design guidelines. Exhibit 3 further shows that no *structural impracticability* or *impracticability with regard to historic significance* exists to exempt the alteration project from the requirements of ADA.

The Bureau of Engineering has stated that further study in the form of an Environmental Impact Report ("EIR") of Exhibit 3 is required in order to comply with California Environmental Quality Act ("CEQA") provisions. Because an EIR is required by state law for projects that may have impacts on the environment, such a study and time required to perform does not represent an unreasonable hardship in eliminating a discriminatory condition and complying with ADA.

Discrimination Against People with Disabilities Detailed in Technical Memorandum:

The May 28, 2015 Technical Memorandum prepared by Psomas provides an Appendix detailing the routes available to users for the proposed design. Although this Appendix obfuscates the condition of unequal access by showing a destination on the North side of Hyperion from a starting point on the South side (as well as inaccurate distance and time calculations), the Appendix clearly shows evidence of a discriminatory lack of equivalent facilitation for those with disabilities.

The first diagram shows the existing pathway and ADA compliant path (the document misstates the accessible path from Ferncroft Road to Hyperion's south sidewalk as 1,260 feet, when it is actually 660 feet). This graphic shows the convenient and accessible path that would be provided to all users in design option, Exhibit 3.

The second diagram of the Appendix shows a new pathway provided to able-bodied persons via a new bridge constructed over the former Red Car right of way. It estimates that this path provided to able-bodied persons adds 310 feet from the path that would be provided were design option Exhibit 3 selected.

The third and final diagram of the Appendix shows the required path for people with disabilities under the proposed design. This path for users with disabilities – fully separated from those provided to able-bodied users – is estimated, under Psomas' own calculations to add a significant distance and time only to users with disabilities. Psomas notes, "Compared to shortest ADA route on south side adds 1,550 ft." and that the proposed design "adds 7.4 minutes walking time" only for users with disabilities. These distances would be even greater and longer in duration if a destination on the south side of Hyperion were considered, and if waiting time for the four traffic lights on the selected route was incorporated.

This Appendix details discriminatory design in the project proposal against users with disabilities by forcing such users to take a separate and unequal pathway to cross the Los Angeles River and I-5 Freeway from that which is provided to able-bodied users.

Summary:

In its proposed design and in its consultant's documentation, the City of Los Angeles appears to attempt only to reduce – rather than eliminate – discrimination faced by people with disabilities in traversing over the Los Angeles River at Hyperion Avenue from the bridge's current condition. This objective, however, is inconsistent with the Americans with Disabilities Act, because it does not *minimize* discrimination, per § 35.151, "to the maximum extent feasible" in making the bridge complex "readily accessible to and usable by individuals with disabilities."

In light of the recent \$1.4 billion ADA sidewalk settlement, *Willits v. City of Los Angeles*, it is imperative that the City of Los Angeles perform new and alteration to infrastructure projects in compliance with California and Federal law with regards to the civil rights of users with disabilities. **By providing a design that is discriminatory towards users with disabilities, the City's proposed option for the Glendale-Hyperion Bridge Improvement Project fails to comply with ADA, and places a significant financial liability on its taxpayers.**

Thank you,

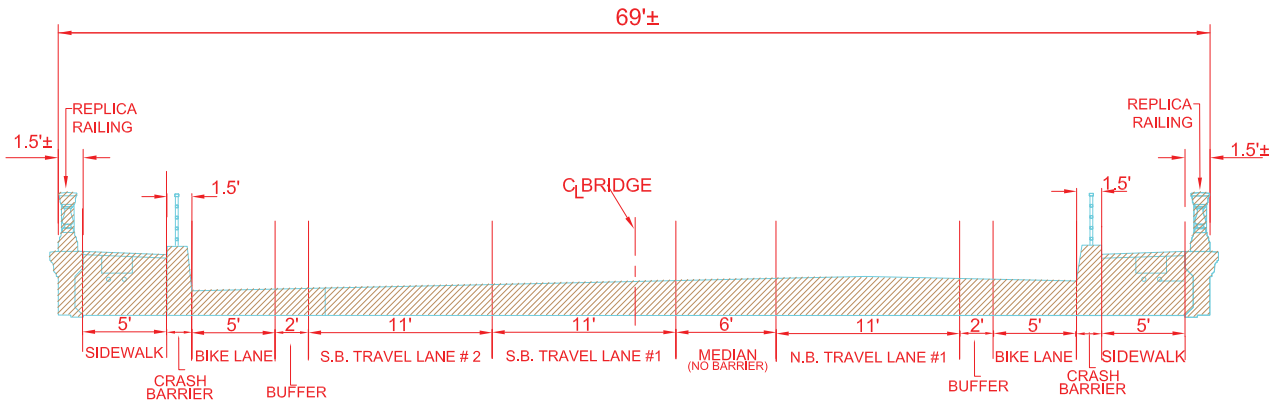


Michael MacDonald
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EXHIBIT 3

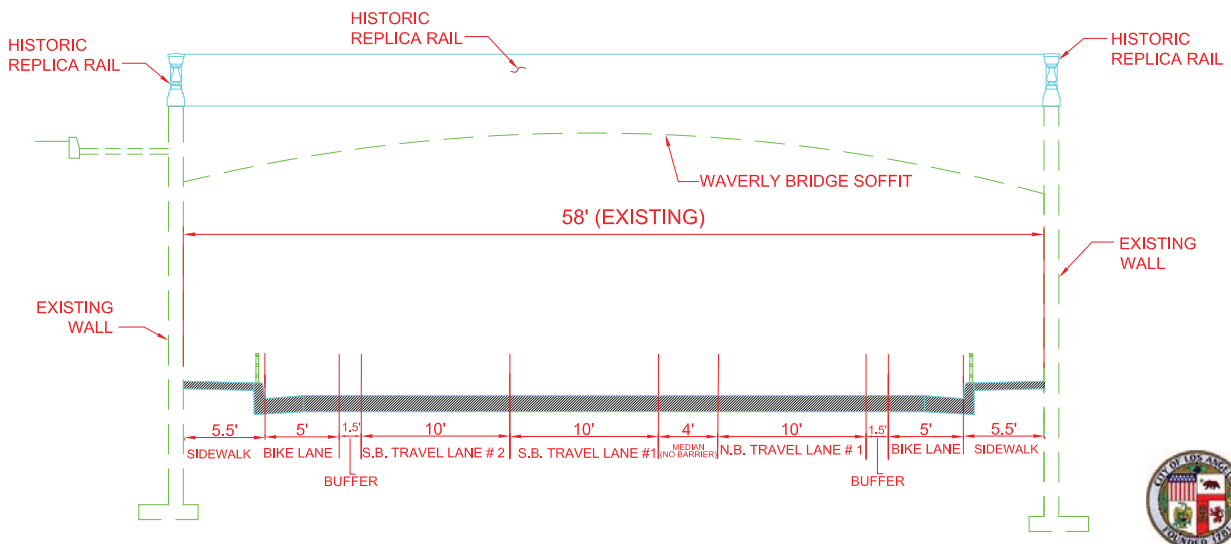
HYPERION AVENUE BRIDGE OVER I-5, RIVERSIDE DRIVE AND LA RIVER (LOOKING NORTH)

- 1) THREE-11 FT. LANES (ONE LANE DOWNHILL; TWO LANES UPHILL)
- 2) SIDEWALK AND BUFFER ON BOTH SIDES
- 3) 6 FT. MEDIAN (NO BARRIER)



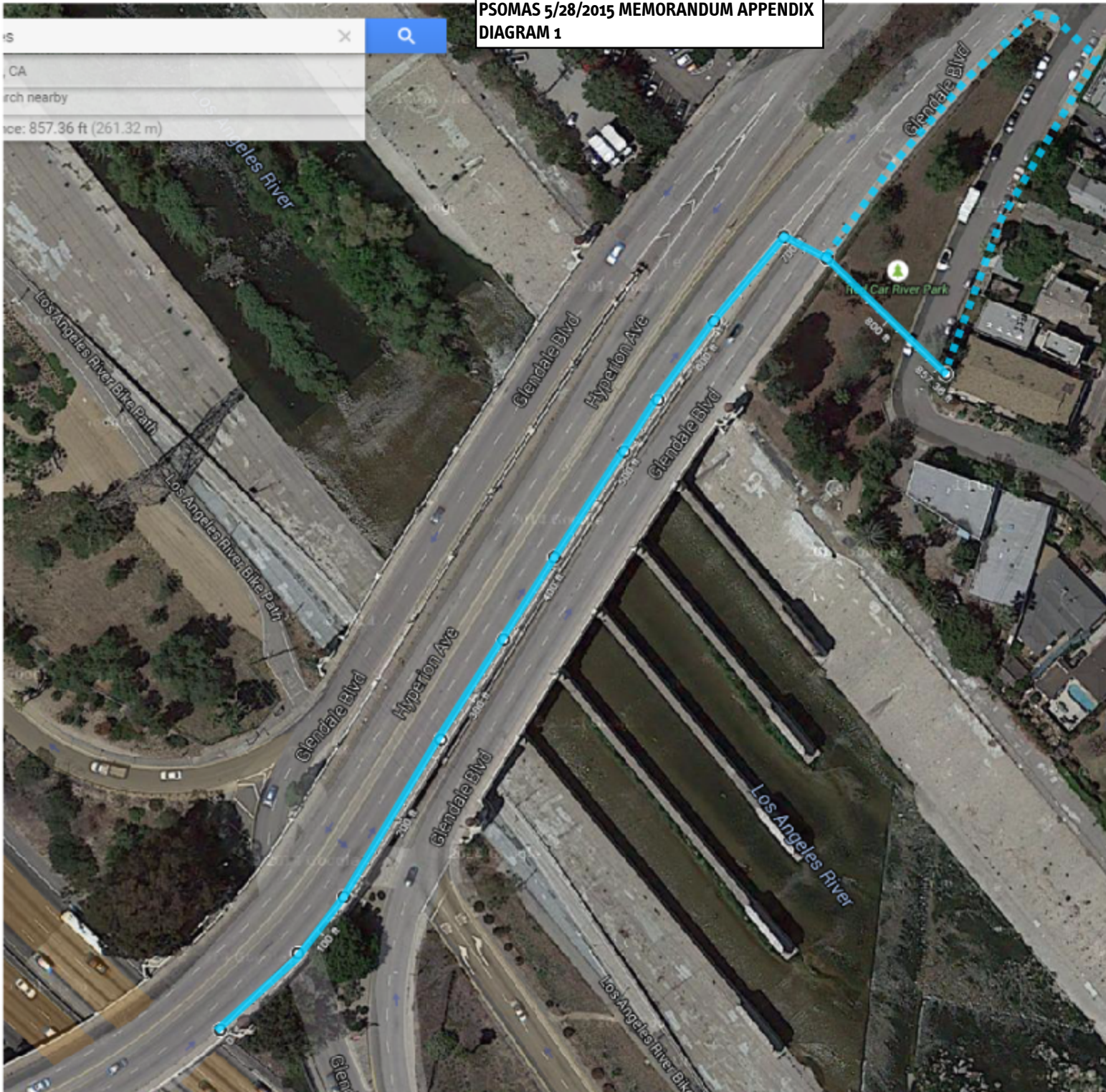
HYPERION AVENUE AT WAVERLY DRIVE (LOOKING NORTH)

- 1) THREE-10 FT. LANES (ONE LANE DOWNHILL ; TWO LANES UPHILL)
- 2) SIDEWALK AND BUFFER ON BOTH SIDES
- 3) 4 FT. MEDIAN (NO BARRIER)



This Exhibit is strictly a preliminary design alternative under consideration, and does not represent the final design of the bridge.

PSOMAS 5/28/2015 MEMORANDUM APPENDIX
DIAGRAM 1



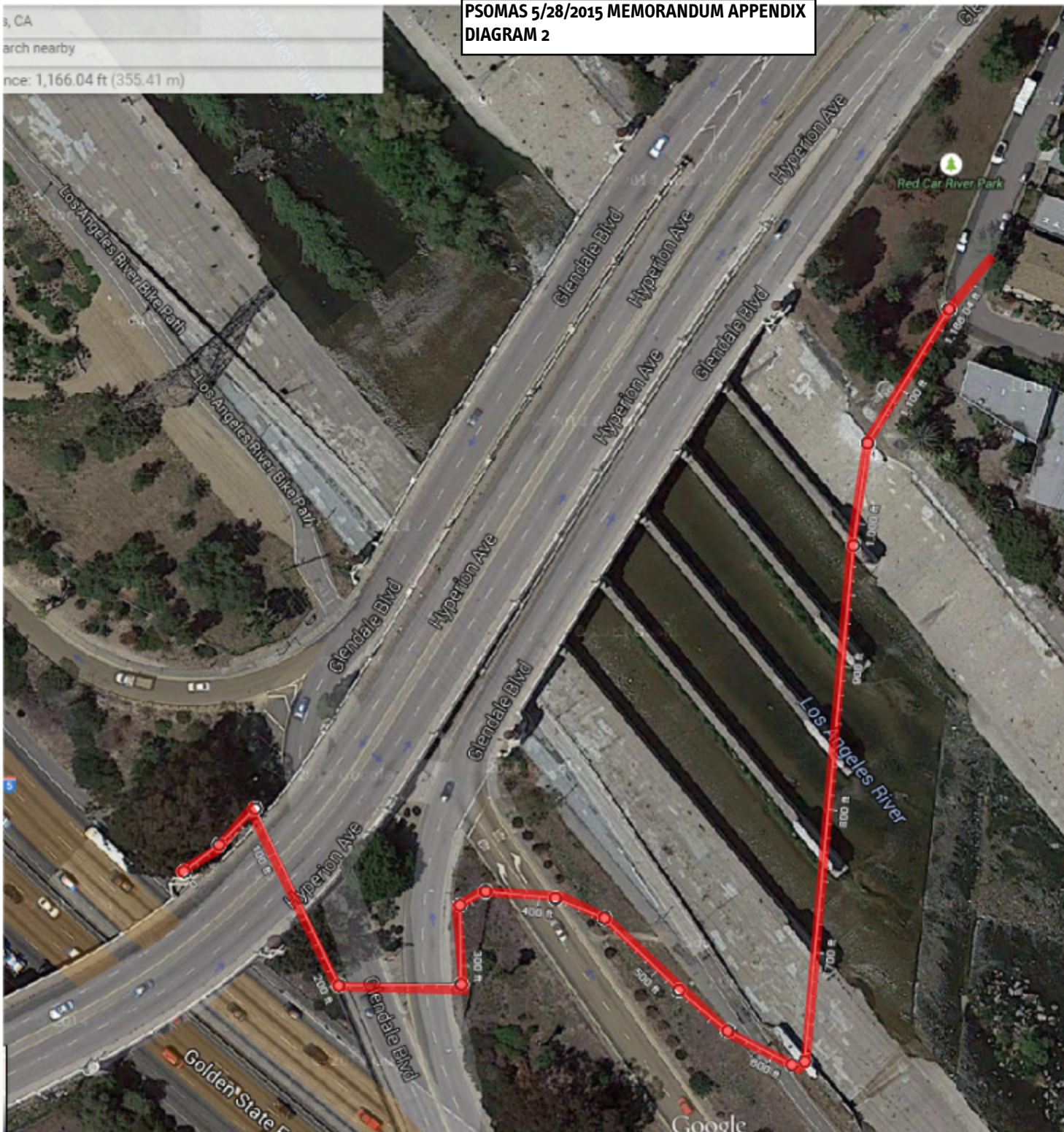
Sidewalk on south side
of bridge - 860 ft
(non-ADA compliant,
uses slope)

If ADA compliant (going
to Greensward and
coming back, dashed
line) would be 1,260 ft.

s, CA
arch nearby

nce: 1,166.04 ft (355.41 m)

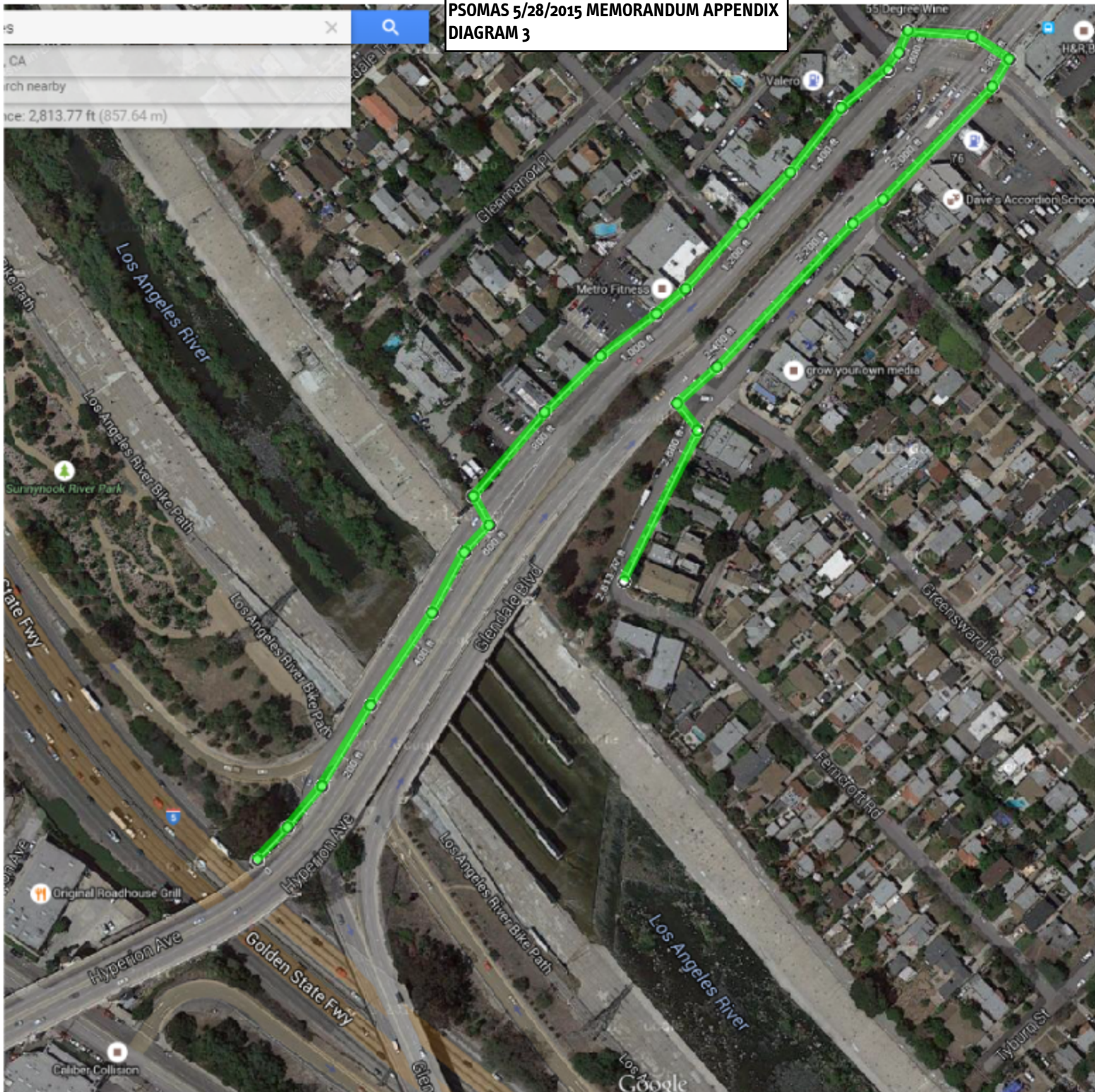
**PSOMAS 5/28/2015 MEMORANDUM APPENDIX
DIAGRAM 2**



Using stair and Red Car pedestrian bridge - 1,170 ft (non-ADA compliant at stairs).

Additional 310 ft at 3.5 ft/s walking speed = 1.5 min additional walking time.

PSOMAS 5/28/2015 MEMORANDUM APPENDIX
DIAGRAM 3



Using sidewalk on west side of bridge then crossing at Glenfeliz - 2,810 ft (ADA compliant)

Compared to shortest ADA route on south side (1,260 ft) adds 1,550 ft.

At 3.5 ft/s walking speed adds 7.4 minutes walking time