

REPORT FROM

## OFFICE OF THE CITY ADMINISTRATIVE OFFICER

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Date: May 26, 2015

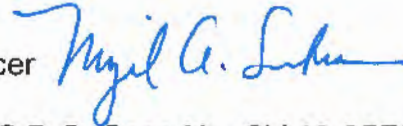
CAO File No. 0220-04907-0000

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.