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August 30, 2023

Honorable City Council  
c/o Holly L. Wolcott  
City Clerk  
Room 360, City Hall

## **COUNCIL FILE NO. 21-1469 - RECOMMENDATIONS FOR IMPROVEMENTS OR CHANGES TO THE CITY'S SIDEWALK PROGRAMS**

### **SUMMARY**

This report is in response to Council's instruction for the Bureau of Engineering (BOE), with the assistance of the Bureau of Street Services (BSS), Los Angeles Department of Transportation (LADOT), Department on Disability (DOD), and other relevant departments to report back with recommendations for improvements or changes to the City's sidewalk programs, instruction No. 1. The recommendations aim to improve the responsiveness, efficiency, and effectiveness of the programs while better aligning them with Council's policy priorities.

### **RECOMMENDATIONS**

That the City Council:

1. DIRECT the Bureau of Engineering (BOE) to report in 60 days with recommended changes to the Council-adopted Access Request Prioritization Matrix (C.F. 14-0163-S3) which update the existing scoring methods to better implement the *Willits, et. al.* Settlement (Settlement) and City priorities, including the addition of equity and damage severity factors.
2. DIRECT BOE to report in 60 days with recommended changes to the Council adopted City Facility Matrix and associated Damage Severity Sub-Matrix (C.F. 14-0163-S3) which update the existing scoring methods to better implement Settlement and City priorities, including prioritizing locations with significant access barriers over reconstruction of pedestrian facilities in reasonable condition and adding equity factors.



3. DIRECT BOE, in consultation with the City Attorney, StreetsLA, LADOT, and other relevant departments, to report in 120 days with recommended changes to sidewalk and pedestrian facility related ordinances and policies consistent with the “public stewardship” framework, including recommended exceptions to maintain property owner, developer, and other public agency responsibility under specific circumstances.
4. DIRECT all City departments, offices, and agencies delivering projects on behalf of the City in the public right of way to coordinate with BOE’s Sidewalk Division via processes established in the *Interdepartmental Memorandum of Understanding: Improving Project Planning and Delivery in the Public Right-of-Way (2022)* to ensure that pedestrian facility improvements required by disabled access laws and regulations are included in the project scope and to take advantage of opportunities to improve pedestrian facilities beyond those requirements, to the maximum extent feasible.

## **BACKGROUND**

In 2016, the City entered into the *Willits, et. al.* Settlement (Settlement) for the purpose of providing people with disabilities equal access to the City’s pedestrian facilities, such as sidewalks, curb ramps, crosswalks, etc. Under the terms of the Settlement, the City has agreed to remediate or remove barriers to access in existing pedestrian facilities. Barriers to access are any condition that is not in compliance with disabled access standards, inclusive of the Americans with Disabilities Act (ADA) Standards. The Settlement requires the City to expend a minimum “Annual Commitment” amount each year, currently \$35.743M, on barrier removal work that meets the prioritization requirements and other terms of the Settlement. This barrier removal work is delivered via the City’s Sidewalk Repair Program (SRP) and its sub-programs, led by BOE. The Settlement stipulates that eligible expenditures above the minimum Annual Commitment in any year may be credited toward the Annual Commitment in future years. This “pour over” credit provides the City with a cushion that may help mitigate the impact of circumstances beyond its control such as the recent COVID-19 pandemic and severe storm weather that temporarily diverted resources from the SRP.

In addition to the Annual Commitment to remediate existing barriers, the Settlement also requires the City to ensure that ongoing and future work on the City’s pedestrian facilities meets federal and state disabled access regulations and standards, whether completed by City departments or outside agencies. All new pedestrian facilities must be constructed to be fully accessible and projects are often required to remediate existing pedestrian facilities within their project limits.

The Sidewalk Repair Program is organized into four sub-programs:

### **I. Access Request Sub-Program**

The City’s Access Request sub-program remediates barriers to equal access, as experienced and identified by or on behalf of persons with mobility disabilities, in

pedestrian facilities such as sidewalks, intersections, crosswalks, curb ramps, or other pedestrian pathways owned or maintained by the City. Under the Settlement, the City has agreed to (1) expend a minimum of 20% of the minimum Annual Commitment on the Access Request sub-program; (2) review and investigate Access Requests in the order received; (3) give priority to Access Requests in residential neighborhoods or that are necessary to provide access to public transit; and (4) to use its best efforts to, and to the extent feasible, complete requests within 120 days of receipt.

## **II. City Facilities Sub-Program**

Per the Settlement Agreement, pedestrian facilities adjacent to City facilities and paths of travel leading to the primary entrance of City facilities are prioritized for remediation. For each City facility improved under the SRP, all access barriers within the adjacent pedestrian facilities shall be removed and made compliant with disabled access standards.

Under the Settlement, the City agreed to complete barrier removal at City facilities within the first five years of the Program. However, in consultation with SRP stakeholders, the SRP has prioritized work on the Access Request Sub-Program over the City Facilities Sub-Program. Currently, through year six of the program (FY22-23), construction has been completed at 253 of over 3000 City facilities. In addition, the City's proprietary departments have removed barriers in the pedestrian facilities fronting 221 of their properties.

## **III. General Program Access Improvements (PAI) Sub-Program**

Per the Settlement Agreement, the City may complete pedestrian facility barrier removal projects at locations under its discretion, subject to the Settlement's prioritization requirements and other terms. To date, the PAI Sub-Program has focused on installing curb ramps, but has otherwise been a small share of the overall SRP to date due to the focus on Access Requests.

## **IV. Rebate Sub-Program**

The Rebate Sub-Program is an elective program enabling property owners to share costs with the City if they take the initiative to remediate sidewalks fronting their property. Although work is performed by a contractor of the property owner's choosing, the City ensures that the finished project has successfully remediated all barriers within the entire sidewalk fronting a property and issues a Certificate of Compliance (COC) prior to reimbursement. While the Rebate Sub-Program is not required by the Settlement, the City's costs to implement the program count toward the Annual Commitment.

## **DISCUSSION**

### **1 a. Prioritizing mitigation of significant access barriers over reconstruction of sidewalks and driveways in reasonable condition.**

Since program inception, BOE has refined scoping processes to make the Access Request Program more responsive to individuals with mobility disabilities and more

effective at addressing a greater volume of reported barriers. Originally, the scope of Access Request projects included removal of the barrier experienced by the requestor and reconstruction of additional pedestrian facilities along the entire side of the block on which the request was located. Over time, to improve the Program's ability to respond to Access Requests more quickly, the scope of projects was reduced to include the barrier requested for removal and the pedestrian facilities along the property frontage where the barrier was located. Subsequently, the Access Request sub-program further refined its scoping methodology to "barrier only" scoping based on feedback from SRP Stakeholders and in an effort to reduce the significant wait time experienced by persons with disabilities to have their requests addressed. Currently, under the "barrier only" method, the scope of each Access Request project is limited to the removal of the specific barrier(s) as reported by the person with mobility disabilities. These changes have allowed the Program to address high priority locations in a timely manner while working through the backlog of medium priority requests. This scoping methodology is consistent with the intent of the Settlement Agreement and revision is not recommended.

Within the Access Request Program, BOE recommends updating the Access Request Program Prioritization Matrix previously adopted by the City Council in January 2018 (C.F. 14-0163-S3) to simplify current factors and introduce new damage severity and equity factors. These changes will give greater weight to more severely damaged sidewalks in neighborhoods with more pedestrian activity and where people—especially people with disabilities—are more likely to depend on pedestrian facilities as their primary means of travel.

Similarly, BOE recommends that the City Facility Matrix and associated Damage Severity Sub-Matrix (also established under C.F. No. 14-0163-S3) be revised to better implement Settlement and City priorities, including prioritizing locations with significant access barriers over reconstruction of pedestrian facilities in reasonable condition, consideration for City facilities which provide services to the public, and adding equity factors. A revised City Facility matrix should:

- Prioritize City Facilities that provide a program or service to the community.
- Increase the weight of damage severity in the overall prioritization score and remove the original two-tier scoring system.
- Propose a revised Damage Severity Sub-Matrix for SRP City Facilities (CF 14-0163-S3) to better define the types of pedestrian facilities (sidewalks and curb ramps) and assessment of the most severe barriers by utilizing available virtual data, and in-person field assessments as necessary.
- Incorporate bus and paratransit ridership, and socioeconomic and environmental equity measures.
- Update data sources to ensure the original priorities of facility types and proximity to pedestrian transportation networks are more accurately represented.

The General Program Access Improvements (PAI) Sub-Program does not currently have an active Council-adopted prioritization matrix in use. In previous years, this subprogram was almost exclusively dedicated to the Settlement's top priority of installing missing curb ramps. In more recent years, the City's curb ramp capacity has been fully utilized by the Access Requests Sub-Program with no installations under PAI. BOE anticipates making recommendations to initiate a proactive sidewalk repair and remediation program based on the findings of the Pilot Pedestrian Facility Inventory and Assessment (C.F. 21-1469). At that time, BOE would recommend establishing a prioritization matrix for general pedestrian facilities.

BOE does not recommend any changes to the Rebate Sub-Program at this time. Rebate applications are currently processed on a first-come, first-served basis as established under the Board of Public Works adopted policy.

**1 b. Options for reprioritizing sidewalk repair funded above and beyond the City's Willits commitment to better align with the City's safety, mobility, and accessibility priorities.**

In recent years, the Mayor and City Council have allocated funding toward sidewalk repair above that required by the Annual Commitment (\$10M in FY 2018-19, \$10M in FY 2019-20, \$15M in FY 2021-22). The City has broad discretion over how to use this additional funding and can choose to invest it within any of the existing Sidewalk Repair Program's subprograms, in which case the City would receive credit toward future years' Annual Commitment via the Settlement's "pour over" provision. The City could also choose to invest this additional funding in other types of sidewalk repair work that does not receive credit under the Settlement, such as interim repair (i.e., patching and grinding).

To date, the Sidewalk Repair Program has utilized this additional funding to accelerate the Access Request Program. The recently approved FY2023-24 budget appropriated \$28.3 million to further augment the Sidewalk Repair Program, but included an instruction to BOE to report with options for the use of this supplemental funding prior to expenditure, including the potential for investing in interim repair.

With this additional level of investment, BOE anticipates the need and opportunity to shift from a primarily request-based sidewalk repair approach toward a multifaceted strategy to manage the sidewalk network in a general state of good repair. Making this shift will require investment in proactive assessment, multiple levels of response capability (interim repair, remediation, and reconstruction), and more effective coordination between City agencies with sidewalk responsibilities. Consistent with this new strategy, BOE proposes to use a small portion of the FY2023-24 supplemental funding for a Pilot Pedestrian Facility Inventory and Assessment (separate report under C.F. 21-1469).

Any investment in sidewalk repair makes pedestrian facilities safer and more accessible to people of varying abilities. The Access Request Program is designed to be directly responsive to people with mobility disabilities. Other investments could emphasize different policy priorities, such as reducing City liability from injuries, closing gaps in the pedestrian network with the construction of new facilities, or advancing pedestrian elements of Mobility Plan 2035. BOE will report with recommendations on the best use of FY2023-24 and potential future year funding in response to the budget instruction (C.F. 23-0600). In developing these recommendations, BOE anticipates giving immediate priority to access barrier remediation, with increasing consideration over time of other policy priorities as the Access Request backlog is reduced.

### **1.c Reconsideration of the City's "fix and release" policy.**

The Controller's 2021 audit of the City's sidewalk repair programs (<https://controller.lacity.gov/audits/sidewalks>) identified inconsistencies between the "fix and release" process anticipated by LAMC 62.104, as adopted by Council in 2017 and amended in 2020, and the practices developed subsequently by the City. The "fix and release" policy was intended to provide for a gradual return of sidewalk responsibility to property owners after the City repairs the sidewalk fronting their property to full ADA compliance. However, a dedicated program to implement the fix and release policy was not effectuated. Further, work completed on sidewalks by City programs has not occurred at the scale needed to effectively implement the policy. Due to this misalignment, and others, between ordinance and practice, the Controller's audit found that, after five years, approximately one percent of sidewalks had been "released" to property owners after a City repair.

As alternatives to the current "fix and release" policy, BOE analyzed three alternative approaches:

#### ***Public Stewardship (Fix Without Release)***

Under this alternative, the City would continue its sidewalk repair efforts without releasing the maintenance obligation to the property owner. Achieving a Certificate of Compliance would no longer be a consideration in the scoping of City projects, allowing project managers to optimize scopes for cost-effectiveness rather than reconstructing sidewalks that are in reasonable condition. The City would manage the responsibility for remediation and maintenance of pedestrian facilities in most cases.

#### ***Modified Fix and Release (Fix Significant Barriers Only)***

Under this alternative, the City would continue its sidewalk repair efforts with releasing the maintenance obligation to the property owner, even in cases where the City did not correct all accessibility barriers fronting the subject property. The City would define significant barriers (e.g. tree roots) and only scope projects to address those barriers, leaving the property owner responsible for remediating all

other sidewalk barriers. Any remaining barriers to disabled access would be addressed by enforcement actions, such as citation.

***Private Responsibility (Release and Assist)***

Under this alternative, the property owner would be responsible for maintenance and remediation of the sidewalk. Barriers to disabled access would be addressed by enforcement actions, such as citation. The City would shift its sidewalk repair efforts toward targeted assistance programs, such as an income-based rebate program, to maintain and remediate sidewalks where the property owner does not have the financial capacity to comply.

This report recommends the City Council endorse the pursuit of a “public stewardship” framework for a new pedestrian facility policy and direct BOE, the City Attorney, StreetsLA, and the Department of Transportation to report back with specific recommendations to implement the new approach. This approach would embrace the City’s network of pedestrian facilities as one of the City’s vital infrastructure assets and facilitate the use of asset management best practices to achieve optimal asset condition across the City with available resources. The foundational principles of asset management include 1) using proactive assessment to evaluate repair needs; 2) strategic investment in both interim repairs and full remediation; 3) and stable funding commitments to facilitate multi-year capital planning.

The advantages of this approach include the ability to align investment strategy with a robust ADA self-evaluation and transition plan to inventory and assess current asset condition, more immediately mitigate known injury and liability risks via the appropriate use of interim repairs, and better align program implementation with both accessibility and sustainability policy goals such as tree preservation. The City would be holistically responsible to preserve, plant, and maintain trees along with the adjacent pedestrian facilities. Furthermore, this approach maximizes City investment in infrastructure management and improvement while avoiding the need to establish a robust enforcement apparatus to cite property owners for sidewalk defects. Under the alternative policies, a dedicated enforcement program would be needed to effectuate necessary repairs that would potentially issue millions of citations to property owners across the City.

If approved, department staff will report with recommended changes to the municipal code, clear roles and responsibilities among the Public Works bureaus, and changes to program management needed to implement an asset management strategy. The report back will further recommend any caveats or carveouts to the new policy, such as continuing private investment in sidewalks associated with private development or damage to public infrastructure caused by activity on adjacent private property.

**1.d Opportunities to coordinate with other street improvement programs, including the Complete Streets Program, the Safe Routes to School Program, the Active Transportation Program, the Pavement Preservation Program, and stormwater programs.**

The City of Los Angeles manages over 9,000 miles of sidewalks. Many City departments and other public agencies construct and maintain infrastructure within or across these pedestrian facilities. At a minimum, the Settlement requires that all City projects meet federal and state disabled access regulations and standards. Given the overlap between sidewalks and other infrastructure, there is significant untapped potential to leverage other projects in the public right of way to improve pedestrian facility accessibility.

On January 21, 2022, the Board of Public Works adopted the [Interdepartmental Memorandum of Understanding: Improving Project Planning and Delivery in the Public Right of Way \(PROW\)](#). This MOU establishes protocols to coordinate and review project scopes across multiple infrastructure agencies. Under the MOU, the “Right-of-Way Protocols Checklist” tasks each department’s project managers with reviewing if the project area overlaps with an SRP Access Request and to discuss opportunities to coordinate with SRP. The SRP intends to fully utilize the structure established by the MOU to synchronize work programs, leverage available resources, and proactively pursue multi-benefit projects with other street improvement programs across the City.

Furthermore, the SRP can work with other departments to disseminate information and guidance on implementation of disability access regulations and standards relating to projects in the PROW.

**1.e Governance changes to help ensure that the City's expenditures on sidewalks are coordinated and fully reflect the City's priorities.**

Currently, management and remediation of the City’s pedestrian sidewalk assets is spread across various departments. BOE manages the Sidewalk Repair Program to implement the Willits Settlement Agreement, oversees PROW permitting, manages pedestrian facility improvement requirements, and performs capital project delivery for LADOT and other client departments. StreetsLA serves as the citywide asset manager for pedestrian facilities (sidewalks, crosswalks, and curb ramps) and further performs risk and liability repairs, implements grant projects, manages the General Sidewalk Repair Request Queue / Interim Repair Activities, conducts Street Use Enforcement, manages the urban forest, and administers the Street Transit Amenities Program. Many other departments including LADOT, Planning, the Los Angeles Department of Water and Power, and the Bureau of Street Lighting play important roles in the safety and accessibility of the City’s pedestrian facilities. The interdepartmental MOU, mentioned above, provides a new coordinating mechanism to ensure that all departments consider improvements to pedestrian facilities during project development.

## **FISCAL IMPACT**

The recommendations in this report will have no impact to the general fund.

If you have any questions, please contact City Engineer Ted Allen at (213)485-4935.

Respectfully submitted,

 Electronically Signed by Deborah Weintraub  
on 08/30/2023 10:29:00 AM

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