



**CITY OF LOS ANGELES**  
INTER-DEPARTMENTAL CORRESPONDENCE

Date: November 13, 2015

To: Honorable Members of the Joint Public Works and Gang Reduction  
and Budget and Finance Committees

From: Sharon M. Tso   
Chief Legislative Analyst

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Subject: **Citywide Sidewalk Repair Program**

**SUMMARY**

In August 2010, *Willits v. City of Los Angeles* was filed in Federal Court asserting that the City violated the Americans with Disabilities Act (ADA) and the Rehabilitation Act of 1973. In April 2015, the City Council approved a Willits Settlement Agreement Term Sheet (Term Sheet - CF 11-0573), which does not include any findings of intentional ADA violations by the City. The Term Sheet enumerates various actions that the City must undertake; however, the forthcoming Willits Settlement Agreement will provide the City wide latitude in the implementation of a sidewalk repair program. The Willits Settlement Agreement is subject to final approval by the United States District Court, anticipated sometime in the spring of 2016.

The Public Works Department is currently implementing a Sidewalk Repair Program adjacent to public facilities, pursuant to Council instruction. However, additional Council and Mayor policy decisions are required to expand the program to sidewalks adjacent to private property.

As instructed by Council, on May 26, 2015, the CAO transmitted a report including recommended sidewalk repair policies for a program that: 1) is permanent and ongoing, 2) is consistent with the Willits Settlement Term Sheet, 3) shares responsibility for maintenance and repair with adjacent property owners; and, 4) ensures accessibility in areas most highly used. The CAO report was prepared in consultation with the various affected City departments and agencies.

Previously, on August 18, 2014, the Public Works and Gang Reduction and Budget and Finance Committees (Joint Committee) considered various motions relative to options for a comprehensive and sustainable City sidewalk repair program. On August 26, 2014 Council requested the City Administrative Officer (CAO) to prepare a report on this matter, (C.F. 14-0420-S1, 14-0163-S3, and 14-0163-S4).

Given the high level of public interest in this issue, the anticipated large number of sidewalk locations needing repair, and the potential impact on residents, businesses and the disability community, the Chairs of the Joint Committee moved that the City Council establish a fair,

transparent and deliberative process for reviewing the proposed policies. The CAO was directed to present its report to a televised special Joint Committee meeting on June 1, 2015, in the John Ferraro Council Chamber at City Hall.

The General Manager of the Department of Neighborhood Empowerment was directed to transmit a copy of the CAO report to every Neighborhood Council, and to inform them of the June 1<sup>st</sup> meeting.

The Chief Legislative Analyst (CLA) was directed to arrange a series of community hearings to be held by the Joint Committee at various locations throughout the City, with the intent to provide greater opportunity for all stakeholders to hear a CAO presentation on findings and proposed policies included in his May 2015 report, and to provide valuable feedback to the members of the Joint Committee. A total of five regional community meetings were conducted in the following areas: Harbor, South Los Angeles, West Los Angeles, East Los Angeles and the Valley during June and July 2015.

The Joint Committee requested that the CAO and the CLA prepare a document outlining the range of policy options associated with the development, implementation, and structure of a Citywide Sidewalk Repair Program. This report includes an outline (decision tree) of a citywide sidewalk repair program (Attachment 1), a review of the May 2015 CAO report recommendations in the context of the Settlement Agreement Term Sheet (Attachment 2), a summary of comments received at the five regional hearings conducted by the Joint Committee (Attachment 3), and a summary of questions/answers received from public comments at regional hearings (Attachment 4).

Since the regional community meetings, which ended on July 28, 2015, the current Sidewalk Repair Program (Program) continues to proceed with the repair of damaged sidewalks adjacent to City facilities. This is being accomplished through contractors and City forces. The Bureau of Engineering (BOE) is acting as Program Manager. The City Attorney has advised that such repair work is considered a maintenance activity, which is exempt from the California Environmental Quality Act (CEQA), as set forth in the City of Los Angeles Environmental Quality Act Guidelines (2202). However, a long-term Sidewalk Repair Program consistent with the approved Term Sheet, which would include sidewalk repairs adjacent to all land uses and potentially result in the removal of large quantities of mature trees may require an Environmental Impact Report (EIR) under CEQA. Therefore, this report also recommends that the Bureau of Engineering, with assistance from the City Attorney, report back with the resources necessary to initiate the preparation of a project-level EIR for implementation of the Sidewalk Repair Program. While the EIR is being prepared (approximately two years), the City will continue the Sidewalk Repair Program pursuant to the Settlement Agreement.

## **RECOMMENDATION**

Changes to the Municipal Code Section 62.00 regarding curb and sidewalk repairs are policy matters for the Council's consideration. This report summarizes various policy considerations presented in the CAO's report dated May 26, 2015 in a decision tree format (Attachment 1). These policy considerations should also include potential CEQA issues. Staff should be directed to report, as necessary, in accordance with Council direction on this matter.

## **BACKGROUND**

On June 1, 2015, the Joint Budget & Finance and Public Works & Gang Reduction Committee considered the CAO report relative to the repair and management of City sidewalks. After consideration and discussion, the Chairs of the Committees moved to conduct a series of hearings on this matter in order to receive comments from residents, businesses owners and Neighborhood Councils on the recommendations contained in the CAO Report.

The Joint Budget & Finance and Public Works & Gang Reduction Committee held five regional hearings at the following locations:

East Los Angeles  
Eagle Rock Center for Performing Arts  
Wednesday, July 29 at 6:00 p.m.

Harbor Area  
Harbor Gateway Branch Library  
Tuesday June 23, 2015 at 6:00 p.m.

San Fernando Valley  
Van Nuys City Hall  
Thursday, July 30, 2015 at 6:00 p.m.

South Los Angeles  
Estelle Van Meter Senior Center  
Tuesday, June 30, 2015 at 6:00 p.m.

West Los Angeles  
Mar Vista Recreation Center  
Tuesday, July 28, 2015 at 6:00 p.m.

### Public Meetings

The Joint Committee gathered comments from residents, businesses, community groups, Neighborhood Councils, the general public and other interested parties in response to the recommendations set forth in the CAO's May 26, 2015 report entitled New Policy for Repair and Management of Sidewalks Adjacent to Private Property. Each meeting included opening remarks from the Committee Chairs and Committee members, with representatives of the CAO presenting the findings and recommendations of their May 2015 report. Following the CAO report presentation, community speakers were given an opportunity to provide comment. Also, attendees

were given the opportunity to present written questions to the Committee which City staff addressed at the close of the public comment period.

Speaker comments generally covered the following key issues:

- Urban forest
- Liability
- Program structure
- Alternative materials

### **Urban Forest:**

Comments ranged from “trees are the problem and should be removed,” to “trees are an important community asset and should be protected and preserved.” Some speakers were advocates for tree preservation and others, concerned about liability issues, voiced opposing views. The treatment and management of street trees was a significant issue raised at all meeting locations throughout the City. The disposition of tree streets, as consequence of a comprehensive City Sidewalk Repair Program, is a significant policy challenge. Trees and sidewalks are intrinsically linked. The City should establish a comprehensive urban forest policy including removal/replacement, maintenance, canopy and preservation of the Urban Forest in a time of drought, rising temperatures and infrastructure improvements and modifications. Under separate cover, the CAO and the CLA will report on this matter.

### **Liability:**

Considerable time was spent by speakers addressing the issue of property owner liability, especially in the context of the CAO’s proposed “Fix and Release” program. With the proposed repeal of the tree root exception section of the LAMC and the implementation of the “Fix and Release” program, homeowners expressed concern for their perceived increased exposure associated with trip and falls and other related sidewalk incidents adjacent to their homes, with some speakers questioning the impacts to homeowner insurance policies and homeowner associations. Some speakers expressed the desire to remove street trees to avoid future sidewalk damage at a future date. This too is a challenge in the development of policy.

### **Program Structure:**

While much support was expressed for a comprehensive sidewalk repair program, significant concern was expressed as to the how the City would undertake implementation/administration of a sidewalk repair program and at what cost. There appeared to be a high level of confusion as to what “Fix and Repair” meant, the timing of sidewalk repairs, the quality of work undertaken and who pays. The Committee heard questions including: 1) who will perform the work (contractors vs. city forces), 2) how will it be financed, 3) who assumes the financial burden; and, 4) what are the implementation priorities. Some issues appear resolvable with continued dialogue and outreach, hut significant reservations were expressed for those with limited incomes, and concerns about future tree and sidewalk maintenance obligations and liability. Sentiment was expressed for sidewalk repair work to be spread across numerous contractors, including smaller firms, and the need for local job opportunities.

**Alternative Materials:**

Numerous comments were in support of alternative, permeable materials, and sustainable methods in the repair of damaged sidewalks. With the advent of Complete, Great, and Green and Sustainable Streets Programs, community speakers advocated the leveraging of other community infrastructure opportunities with sidewalk repair. This would also include the work being undertaken to implement storm water capture, alternative materials and other efforts that recognize the significance of sustainable activities, including Department of Water and Power water projects.

Commentary from the five regional Joint Committee hearings is set forth in Attachment 3.

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