



RON GALPERIN
CONTROLLER

November 17, 2021

Honorable Eric Garcetti, Mayor
Honorable Michael Feuer, City Attorney
Honorable Members of the Los Angeles City Council

Re: Repairing L.A.'s Broken Sidewalk Strategy

Los Angeles has long struggled to keep its sidewalks accessible and safe for pedestrians. Historically, the City's sidewalk repair programs have been insufficient in size and scope. While that has changed recently, the City's sidewalk problems have grown. Over the past five fiscal years, the City received more than 1,700 claims and 1,020 lawsuits for sidewalk injuries, paying out more than \$35 million in settlements, including \$12 million in FY 2020. With a massive sidewalk network — estimated at more than 9,000 miles long — that winds through the entire City of Los Angeles, it is clear that a superior repair and maintenance program is needed.

The City primarily administers sidewalk repairs through its compliance with the Willits settlement, an agreement that ended a class action lawsuit initiated by disability rights advocates alleging poor sidewalk conditions across Los Angeles. Finalized in 2016, the settlement required the City to spend \$1.37 billion over 30 years to address broken sidewalks, inaccessible curb ramps and other access barriers in the pedestrian public right-of-way.

That same year, the City Council also adopted a "fix and release" policy with the stated goal of repairing all sidewalks in Los Angeles, making the City officially responsible for initial required sidewalk repairs. Under the policy, the City completes repair work and then issues a sidewalk certificate of compliance, along with a limited warranty to the adjacent property owner for the repair. After that, the City can begin to enforce the property owner's duty to maintain the sidewalk on their private property. It should be noted that **the current fix and release policy does not alter the City's liability for sidewalk injuries under state law**, underscoring the importance of having a more balanced, ongoing sidewalk repair and maintenance program in Los Angeles. The shortcomings of the City's sidewalk strategy is the subject of this report.

Less than one percent certified

The Public Works Department's Bureau of Engineering (BOE) leads the City's sidewalk repair efforts, including its compliance with the Willits settlement. While the department is actively

repairing and rebuilding sidewalks at sites in Los Angeles, **the scale of the problem, combined with the City's inefficient strategy, means hazardous sidewalks are not getting repaired** fast enough.

As part of its Willits settlement obligations, the City has completed sidewalk repairs at approximately 2,100 sites – a small fraction of locations that need fixing. Public Works has received more than 3,700 accessibility repair requests and 4,400 sidewalk repair rebate applications since the program began in 2017. Also identified by the department are approximately 2,700 City facilities where it must evaluate adjacent sidewalks and address accessibility issues. These sidewalks next to City properties are prioritized for repair under the current sidewalk program, moving most locations next to private properties further down the line.

Consistent with the fix and release policy, BOE also has issued sidewalk certificates of compliance for each property parcel where construction is completed, which begins the process of “releasing” sidewalk repair responsibilities to the property owner. As of the end of June 2021, BOE had issued only 4,879 certificates – **which represent less than one percent of the 640,000 sidewalk parcels in Los Angeles.**

Better strategy needed

Various factors are impacting the City's ability to quickly repair more sidewalks. My office found that, although sidewalk repair work must comply with disability access standards to count toward the Willits settlement, **neither the Americans with Disabilities Act (ADA) nor the settlement agreement require the City to repair the entire sidewalk on each parcel when only small defects exist in one or more spots on the parcel.** Yet, that's what is happening now — the City's fix and release policy is resulting in more work than required by law. Changing the City's sidewalk inspection and prioritization criteria to focus only on significant defects would give Public Works more discretion to focus only on what is required by the Willits settlement and would be more in line with the practices of other jurisdictions, including New York City, Sacramento, Portland and Seattle.

In addition, L.A.'s program excludes basic sidewalk maintenance concerns. Along with accessibility requests, rebate applications and repairs next to City facilities, **there are an additional 50,000 reports of sidewalk problems not being addressed by Willits settlement repair work** — a substantial backlog built up over decades of neglect. According to Bureau of Streets Services (StreetsLA) managers, the bureau does not have a program with resources dedicated to these problems and, instead, addresses them with short-term asphalt patches as a temporary solution. In FY 2021, it took StreetsLA an average of **41 days to complete sidewalk repair requests with asphalt**, compared to just three business days to close street pothole repair requests. A far quicker response on sidewalks would benefit pedestrians and prevent costly lawsuits.

As of now, **the City does not know how many sidewalk locations need repair and how much the repairs will cost.** A comprehensive sidewalk condition assessment was deemed too expensive when raised during policy discussions in 2016. While such an investment would require funding, other cities have performed sidewalk assessments efficiently and effectively. Without data on sidewalk conditions, the City's approach has been scattershot at best. Having an inventory of sidewalk and curb ramp conditions combined with measures of pedestrian traffic

volume in Los Angeles would help the City prioritize available funding for the types of repairs at locations that bring the most value.

A path forward

To repair the City's broken sidewalk strategy, I urge the City Council to adopt the following recommendations:

- Amend Los Angeles Municipal Code 62.104, which governs sidewalk repairs, to include new sidewalk inspection criteria that identifies significant defects in need of repair, instead of assessing entire parcels for compliance with accessibility standards.
- Modify the prioritization system so that sidewalks other than those next to City facilities can also be considered for repair by the sidewalk repair program.
- Exercise discretion so that more sidewalk repairs can move forward, while minimizing the need for extensive pre-construction processes.
- Expand StreetsLA's capacity to provide quicker short-term responses to sidewalk problems reported by the public.
- Implement long-term solutions to sidewalk repair in concert with the Willits-focused sidewalk repair program.
- Invest in a citywide condition assessment of all sidewalks and curb ramps to identify locations that need urgent fixes and help the City meet its ADA obligations.
- Pursue additional funding opportunities to address the mounting backlog of sidewalk requests.

Acting on these recommendations will improve the sidewalk repair program and result in greater benefits to Angelenos and others who deserve accessible walkways in their neighborhoods.

Along with the report, my office created an interactive dashboard mapping more than 50,000 sidewalk repair requests reported over the past six years. View the requests by Council District and Neighborhood Council area at lacontroller.org/sidewalks.

Respectfully submitted,



RON GALPERIN
L.A. Controller

Repairing L.A.'s Broken Sidewalk Strategy



RON  **GALPERIN**
LA CONTROLLER

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EXECUTIVE SUMMARY

Through recent initiatives such as Vision Zero, Great Streets, and the Mobility element of the General Plan, the City has laid out a vision for Los Angeles that is less car-dependent. **Making room for other modes of travel can help to make the City more mobile, accessible, and equitable for all Angelenos.** A common element to realizing each of these important initiatives is how the City manages sidewalks and other pedestrian facilities.

Based on recent mapping efforts, there are at least 9,000 linear sidewalk miles in the City, cumulatively equivalent to 11 square miles of concrete. Los Angeles, like many other cities, struggles to keep sidewalks accessible and safe to use. However, the City's problematic relationship with sidewalks is magnified by years of neglect and confusion over who is liable for maintenance. **In the last five fiscal years alone, the City received more than 1,700 claims and 1,020 lawsuits for sidewalk injuries, and paid out over \$35 million in settlements as a result.**

As commonplace as these individual claims and lawsuits have become, they are still only a microcosm of the widespread sidewalk issues facing the City. One lawsuit, however, made clear how decades of deferred sidewalk maintenance have systemically impacted accessibility throughout all of Los Angeles.

Figure 1. Broken Sidewalks Throughout Los Angeles Impede Pedestrian Traffic



Source: Google Maps - Street View, Westchester Golf Course along 6900 W. Manchester Ave.

Filed against the City in 2010, the Willits class action lawsuit alleged disability rights violations based on the poor condition of sidewalks and other pedestrian infrastructure. The case resulted in a historic settlement agreement that was finalized in 2016. **The Willits settlement requires the City to expend \$1.37 billion over 30 years to address broken sidewalks, inaccessible curb ramps, and other barriers to access in the pedestrian public right-of-way (PROW).** Any work performed by the City's Sidewalk Repair Program must comply with disabled access standards to be eligible for the Willits settlement annual commitment.

The Council also adopted a “Fix-and-Release” policy in 2016 **with the goal of repairing all sidewalks in Los Angeles**. To clear up confusion over who is responsible for maintenance, the Council adopted an ordinance that effectively makes the City responsible for sidewalk repairs first. Under Fix-and-Release, the City will only start to enforce the property owner’s duty to maintain sidewalks after it has made the initial repair, issued a sidewalk certificate of compliance, and a limited-time warranty for one additional repair has expired as applicable.

Leading the City’s efforts to comply with the Willits settlement is the Public Works Department, with its Bureau of Engineering (BOE) serving as the program manager for the new Sidewalk Repair Program. On March 30, 2016, City Council actions (Council File 14-0163-S3) instructed the BOE to implement the program consistent with the approved Willits Term Sheet, which is also consistent with the annual budgets adopted for the Sidewalk Repair Program.

Unfortunately, the scale of the problem combined with the challenges presented by the City’s approach, means progress has been slow, leaving the City’s sidewalk maintenance backlog as daunting as ever.

Meanwhile, our sidewalk infrastructure continues to deteriorate and everyone—especially people with mobility challenges—continues to struggle. **Absent a significant influx of funding, we recommend that decision-makers resolve this dilemma by revisiting the Fix-and-Release policy and changing the City’s approach to sidewalk repair.**

What We Found

Through the Sidewalk Repair Program, the City has completed construction at over 2,100 sites encompassing sidewalks that cross over thousands of property parcels. However, Public Works has struggled to keep up with the overwhelming demand. Public Works has received over 3,800 access requests and 4,400 rebate applications, and has identified approximately 2,700 Council-controlled City facilities that it must evaluate and address.

Consistent with the City’s Fix-and-Release policy, Public Works has also issued sidewalk certificates of compliance for each property parcel where construction is completed, which begins the process of “releasing” sidewalk repair responsibilities to the property owner. As of December 2020, Public Works has issued about 4,500 certificates, equal to less than 1% of the 640,000 parcels with sidewalks in Los Angeles.

Two major issues are affecting the City’s ability to address more sidewalk defects:

- **Fix-and-Release requires more work than is necessary in some cases** — To issue sidewalk certificates under the Fix-and-Release framework, Public Works assesses the entire sidewalk within the parcel lines of a property for compliance with accessibility

standards. When applied to the built environment of an entire parcel, Public Works has found that many existing sidewalk locations do not meet current disabled access standards and therefore must go through an extensive pre-construction and construction process that often removes and replaces the sidewalk in its entirety in order to issue a sidewalk certificate of compliance.

While the Willits settlement generally requires the City to improve all sidewalks adjacent to City facilities in order to bring them into compliance with accessibility standards, the same is not the case for non-City facility parcels. **When performing sidewalk repair work at locations other than City facilities, neither the Americans with Disabilities Act (ADA) nor the Willits settlement agreement require the City to repair the entirety of existing sidewalks on parcels.** They also do not require the City to issue certificates of compliance or to fix and release responsibility to the property owner. However, this is currently the practice under the Fix-and-Release policy. Changing the City's sidewalk inspection and prioritization criteria to focus on significant defects would give Public Works more discretion to focus only on what is required by the Willits settlement.

- **More investments should be made for basic maintenance** — Beyond access requests, rebate applications, and sidewalk repairs adjacent to City facilities, there are an additional 50,000 reports of sidewalk problems that are not being addressed by the Sidewalk Repair Program. According to Public Works Bureau of Streets Services (StreetsLA) managers, they do not have a program with dedicated resources for these problems, and addresses these sidewalk reports with short-term asphalt maintenance repairs as a temporary stopgap measure.

In FY 2021, StreetsLA took an average of 41 calendar days to close sidewalk requests with a temporary asphalt maintenance repair. The City needs to do more to address these requests and complete short-term repairs in a timely manner, as these repairs reduce tripping hazards. The City should also invest more in long-term concrete repairs, and consider conducting a sidewalk and curb ramp assessment separate from the Willits settlement-focused Sidewalk Repair Program to identify and prioritize locations that have the greatest need.

What We Recommend

Even the Willits settlement's \$1.37 billion 30-year obligation may not be enough to address decades of insufficient sidewalk maintenance. **The City should change its Fix-and-Release**

policy and invest more to make the sidewalk system safer for pedestrian use. Specifically, we recommend that the City consider the following:

- Amend Los Angeles Municipal Code 62.104 to include new sidewalk inspection criteria that identifies significant defects for repair, instead of assessing the entire sidewalk for compliance with accessibility standards;
- Modify the prioritization system so that project prioritization categories other than City facilities can also be considered for the Sidewalk Repair Program;
- Exercise its discretion so that more sidewalk repairs can move forward, while minimizing to the greatest extent possible the need for the extensive pre-construction process;
- Expand StreetsLA's capacity to provide timelier short-term responses to reported sidewalk problems;
- Implement long-term sidewalk repair solutions in coordination with the Willits-focused Sidewalk Repair Program;
- Complete a sidewalk and curb ramp condition assessment to identify high priority sidewalk and curb ramp locations to contribute towards meeting the City's ADA obligations; and
- Pursue additional funding opportunities to address the backlog of sidewalk requests and support a sidewalk and curb ramp condition assessment.

Angelenos have endured the City's inadequate management of sidewalks for decades, and a sidewalk system that is more usable and accessible, when viewed in its entirety, is long overdue. By implementing the recommendations in this report, the City will have a more comprehensive and practical approach to sidewalk repair and maintenance going forward.

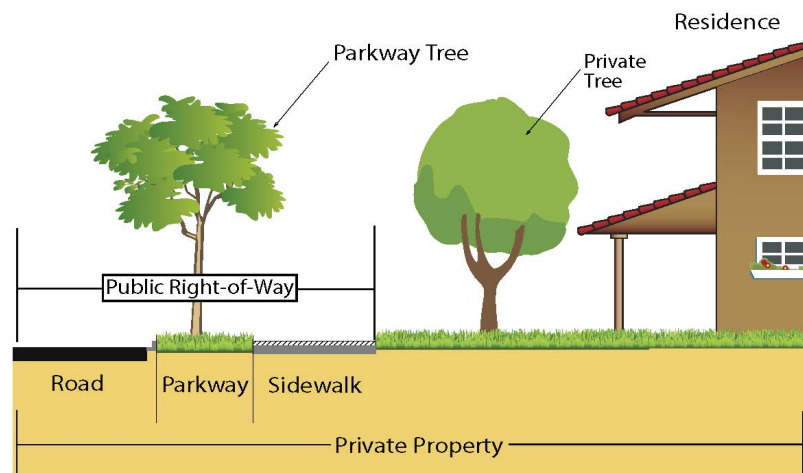
BACKGROUND

The City holds the rights over streets, parkways, sidewalks, and other elements that collectively form the public right-of-way (PROW) and mainly serve to facilitate public travel. As a public space for all Angelenos, the PROW is affected by a complex array of issues, including sidewalk vendors and on-demand e-scooters. Some issues that intersect with the PROW, such as homelessness, are particularly difficult and do not come with any easy solutions.

The City exercises control over this public space by passing and enforcing ordinances that govern what is allowed or required in the PROW. Sidewalk vending permits, on-demand mobility rules and guidelines, and anti-camping ordinances are just a few recent examples related to sidewalks. The PROW's usability and accessibility are also affected by how well the City maintains supporting infrastructure such as sidewalks.

However, the City's sidewalk repair programs have historically been insufficient in size and scope. Plaintiffs in the class action lawsuit of *Willits v. Los Angeles* alleged that the City's broken sidewalks, inaccessible curb ramps, and a generally widespread level of disrepair in the pedestrian PROW amounted to discrimination against people with mobility disabilities.

Figure 2. The City Governs the Public Right-of-Way (PROW)



Source: Adapted from Los Angeles County's "Parkway Trees & Concrete" Brochure

The alleged discrimination, if proven at trial, would have resulted in a legal finding that the City violated the federal Americans with Disabilities Act (ADA) and other disability rights laws. Instead, the case was settled in 2016. The resulting Willits settlement agreement requires the City to invest at least \$1.37 billion over 30 years to remediate existing barriers to access in the pedestrian PROW in compliance with disabled access standards.

Concurrently, policymakers adopted a new City policy for sidewalk repair. **Under the City Council's "Fix-and-Release" policy, the City intends to inspect and repair all sidewalks throughout Los Angeles, with the goal of eventually transferring that responsibility to abutting property owners.** LA Municipal Code (LAMC) 62.104 was revised to enact Fix-and-

Release, and it went into effect January 2017. The City began its Willits settlement 30-year compliance period in July 2017.

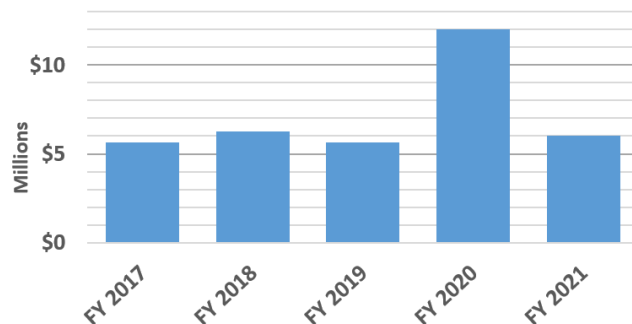
To both comply with the Willits settlement and implement Fix-and-Release, the City established the Sidewalk Repair Program. Monitoring the City’s compliance with the settlement agreement is the exclusive purview of the Willits class, their legal counsel, and the Federal Court’s Central District of California. Separately, the City is under litigation over its recently completed environmental impact report study for sidewalk repairs. **This report focuses on assessing the City’s progress under Fix-and-Release, and providing recommendations to improve sidewalk maintenance.**

The Importance of Usable and Accessible Sidewalks

Sidewalks, like all capital assets, degrade over time and require maintenance to extend their useful life. Through age, ground settlement, or other natural processes, sidewalks can become cracked, broken, shifted, or uplifted. **The root systems of City trees, construction, and other external factors can also damage sidewalks.** Whatever the cause, sidewalk defects can and do become a dangerous hazard if left unaddressed.

The City is often held responsible for injuries caused by sidewalk defects. Injured parties who can prove that the City was negligent or had sufficient notice of a dangerous condition on a property in the City’s control may receive compensation for their injuries. **In the last five fiscal years, the City received over 1,700 claims and 1,020 lawsuits for sidewalk injuries, and paid out more than \$35 million in settlements.**

Figure 3. The City Pays Over \$5M Annually for Sidewalk Injuries

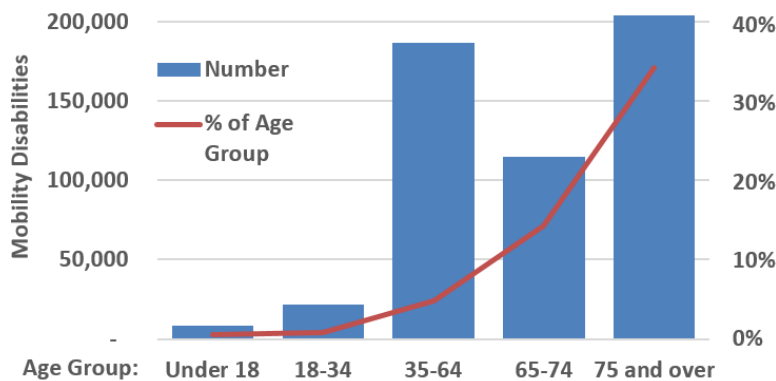


Source: Analysis of Payout Data from the Office of the City Attorney

Surveys and needs assessments commissioned by the City also show that sidewalk repairs are top of mind for many residents. The City Administrative Officer’s 2017 FUSE fellow report evaluated the state of street-related infrastructure and found that sidewalk repair, along with tree trimming and street repair, were among the top three services that constituents wanted to be improved. According to the Community Investment for Families Department (formerly part of the Housing and Community Investment Department), residents have often said sidewalk improvements and reconstruction were a top concern during community needs assessments.

For persons with mobility disabilities, accessible sidewalks are even more important. Sidewalks with uplifts, cracks, excessive slopes, and other issues, are physical barriers that disproportionately impact pedestrians who have limited mobility, individuals who have low vision or are blind, and/or people who have other disabilities. Missing sidewalks and curb ramps, or poorly designed curb ramps are also major obstacles. **These barriers to access inhibit or prevent persons with mobility disabilities from freely traveling in the pedestrian PROW.** The ADA, like other civil rights laws, requires state and local governments to remove barriers so that historically marginalized and disenfranchised people can participate and integrate with mainstream American society.

Figure 4. Mobility Disabilities Increase Significantly with Age



Source: US Census Bureau's American Community Survey, 2019
Estimates for Los Angeles County

Repairing sidewalks is both a safety issue and a matter of civil rights that impacts all Angelenos. The US Census Bureau estimates that 10% of residents in LA County have a disability, including 5.7% who experience mobility difficulties. The prevalence of mobility disabilities also increases significantly with age, affecting 35% of LA County residents 75 and over.

The City's Sidewalk Repair Responsibilities

The City is primarily responsible for ensuring that sidewalks in the PROW are in a state of good repair. The State's sidewalk maintenance law allows local governments to impose a duty onto property owners to repair sidewalks adjacent to their property. Within this framework, local governments are still responsible for making repairs if notified property owners do not do so in a timely manner. Many cities throughout California have adopted the State's sidewalk maintenance law or enacted similar ordinances. **In adopting the Fix-and-Release policy, the City's goal is to eventually make property owners responsible for repair by:**



However, imposing sidewalk repair responsibilities onto property owners does not transfer or diminish the City's essential responsibility to ensure that sidewalks are safe and usable. In the case of *Lenahan v. Schaefer* (1944), the California Court of Appeals made it clear that municipalities have an "unconditional and unquestioned" obligation to make sidewalk repairs, and that the State's sidewalk maintenance law does not transfer or "relieve the city of that primary duty and responsibility."

Federal courts have also determined that sidewalk maintenance is a municipal responsibility. The ADA's wide-reaching regulations cover every program, service, and activity provided by state and local governments. In deciding the landmark case of *Barden v. Sacramento* (2002), the Ninth Circuit for the US Court of Appeals determined that existing sidewalks fell under the ADA's purview because "maintaining public sidewalks is a normal function of a city and without a doubt something that the city does."

The City's Three Sidewalk Repair Programs

The City's Sidewalk Repair Program is divided into three different sub-programs: access request, City facility, and rebate. The Willits settlement requires the City to maintain an access request program so that persons with a mobility disability can request sidewalk repairs, curb ramp installations, or other improvements in the pedestrian PROW. The Willits settlement also requires the City to prioritize pedestrian improvements serving City facilities.

In addition, the City Council enacted a rebate program to share the cost of sidewalk repair with participating private property owners. Access requests and rebate applications are submitted through the City's 311 service request system. Any Angeleno can also report a sidewalk problem through 311, though these are not addressed by the access or rebate programs.

Table 1. The City Has Received 8,200 Access and Rebate Requests Through 311 Since FY 2016

Sidewalk Repair Sub-Program	Description	Requests as of FY 2021
Access Request	Can only be requested by (or on behalf of) persons with mobility disabilities. The City must (1) review and investigate requests in the order received; (2) give priority to requests in residential neighborhoods or that are necessary to provide access to public transit; and (3) try to complete requests within 120 days of receipt.	3,753

Rebate	Cost-sharing program for private property owners. Applicants may receive up to a \$10,000 rebate for completing City-approved sidewalk improvements.	4,451
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The Public Works Department (Public Works) is the lead agency for the City’s Sidewalk Repair Program. **Public Works’ Bureau of Engineering (BOE) is the designated program manager and oversees all aspects of compliance with Willits and its overlap with the implementation of Fix-and-Release.** The Bureau of Street Services (StreetsLA) and the Bureau of Contract Administration (BCA) also play important roles related to field assessment, construction, tree work, and inspection.

In addition to access requests and rebate applications, the Willits settlement prioritizes the pedestrian improvements in the PROW adjacent to City facilities, including the accessible route leading to each facility’s primary entrances. The Willits settlement’s goal for the City is to complete such work at City facilities within the first five years of the agreement’s compliance period, if feasible.

The City’s proprietary departments (Water & Power, Harbor, and Airports) also participate by repairing sidewalks in and around their facilities. Finally, the Department on Disability, the City Attorney’s Office, and other units in the City play key support roles for the program.

Table 2. Many City Departments Play a Role in the Sidewalk Repair Program

Unit	Responsibilities	Funded Positions (FY 2022)
Bureau of Engineering (BOE)	Program management and administration, including design, construction management, settlement compliance and reporting	16
Bureau of Street Services (StreetsLA)	The Special Projects Division handles initial assessment, sidewalk/curb ramp construction, and inspection and certification for access requests constructed by StreetsLA	70
	The Urban Forestry Division (Urban Forestry) handles all tree work, including inspection, root pruning, canopy trimming, removal, planting, and maintenance	20
Bureau of Contract Administration (BCA)	Field assessment for rebate requests, construction inspection and certification for permitted sidewalk	9

	construction (City facility, rebate, proprietary, access request performed by contractors)	
Proprietary Departments	Repairing sidewalks and other pedestrian infrastructure at respective facilities (Water & Power, Harbor, Airport)	N/A
Other Units	Program support, including application and payment processing, traffic devices field support, legal counsel, etc.	6.15

The Willits settlement requires the City to allocate at least 20% of its annual obligation towards access requests and \$5 million towards curb ramps. The proprietary departments have also contributed towards the City’s annual obligation by allocating some revenues towards pedestrian improvements at their own facilities. The remaining obligation has been spent towards Council-controlled City facilities, the rebate program, and overall program administration.

Table 3. Program Spending

Spending Category	Amount (Millions)
Access Requests	\$64.3
Proprietary Dept. Facilities	18.3
Curb Ramps	16.5
Council-Controlled Facilities	10.1
Program Administration	8.7
Rebate	4.0
Total (FY2017 through Dec. 2020)	\$121.9

ADA Requirements and Accessibility Design Standards

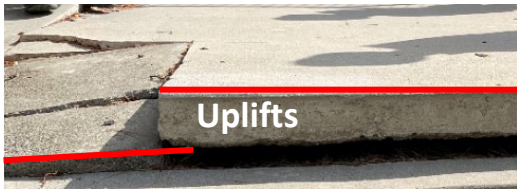



The ADA requires the City to apply accessibility standards during new construction, the alteration of existing facilities (not maintenance), and the remediation of barriers at existing facilities. The US Access Board develops accessible design guidelines, which help to ensure that a facility’s features do not become a physical barrier to access. These guidelines become enforceable standards after they are adopted by the US Departments of Justice (USDOJ) and Transportation (USDOT), the designated federal agencies for enforcing the ADA’s requirements for state and local government and transit agencies. Current ADA standards were adopted by the federal government in 2010, and went into effect in March 2012.

In addition, the California Building Code has accessibility standards that may go above and beyond minimum ADA requirements. For example, ADA standards require a minimum sidewalk width of 36 inches, while the California Building Code requires a minimum width of 48 inches.

The Willits settlement requires all pedestrian improvements funded under the settlement agreement to comply with whatever standards provide the most accessibility for persons with

mobility disabilities. In the example above, the California Building Code's minimum width of 48 inches would be used. The City has also adopted the ADA's accessibility standards as its criteria for inspecting and repairing sidewalks under the Fix-and-Release policy.

Table 4. Examples of Sidewalk Problems and Associated Accessibility Standards

Issue	Problem and Solution
	<p>Problem: may inhibit or prevent a person with a disability from being able to travel on the sidewalk</p> <p>Standard: uplifts between ¼-½ inch can be beveled, uplifts greater than ½" must be ramped or removed</p>
	<p>Problem: may inhibit or prevent a person with a disability from being able to travel on the sidewalk</p> <p>Standard: sidewalks must be at least 48" wide (sidewalks should be at least 60" wide, but may be reduced to the 48" minimum if 60" passing spaces are provided at least every 200 feet)</p>
	<p>Problem: requires more energy to overcome, can prohibit someone from traveling on the sidewalk, and may cause a person with a mobility disability to fall</p> <p>Standard: running slopes should not exceed 1V:20H (5%), but can match the street's grade</p>
	<p>Problem: requires more energy to overcome, and may cause a person with a mobility disability to fall</p> <p>Standard: cross slopes should not exceed 2.08%, equivalent to a 1-inch rise for a 48" wide sidewalk</p>

The Sidewalk Repair Process

As shown in **Table 5**, repairs for access requests, City facilities, and rebate applications generally follow the same phases, with some steps that are specific to each sub-program. **Because property ownership is recorded in parcels, Public Works must evaluate the entire sidewalk within a parcel for compliance with accessibility standards to determine what needs repair in accordance with the Fix-and-Release policy.**

In accordance with the Council adopted sidewalk repair prioritization system, sites are field assessed to identify non-compliant portions of sidewalk. Assessed sidewalk sites then go through design and construction to comply with accessibility and engineering standards. In addition, Urban Forestry assesses trees at all project sites to determine if and how they can be retained to allow for sidewalk repair, and performs the tree work during construction.

Table 5. The Sidewalk Repair Process by Phase

Phase	Steps (Access Request, City Facility, and Rebate Request)
<p>Initial Review</p>	<p>Access: Department on Disability reviews the request for eligibility and works with the requester to clarify the request.</p> <p>Rebate: Public Works coordinates with the applicant to verify property ownership and eligibility.</p>
<p>Field Assessment</p>	<p>Access: StreetsLA inspects the site for non-compliant conditions and makes rough estimates of the amount of repair needed (i.e., square feet of sidewalk).</p> <p>Rebate: BCA inspects the site for non-compliant conditions, estimates the amount of repair needed, and provides a rebate offer to the property owner.</p> <p>All: Urban Forestry assesses trees to determine if and how they can be preserved, or if they need to be removed and replaced.</p>
<p>Queue</p>	<p>Access and City Facility: BOE validates the scope of access requests, and the prioritization scoring for both access requests and City facilities, and conducts engineering field assessments to support prioritization and design. Sites are then queued in line based on prioritization and budget availability.</p>
<p>Pre-Design</p>	<p>Access and City Facility: BOE analyzes property information, and conducts field surveys to get more precise measurements for the design phase. BOE also develops the scope of work for each site and the concept plans.</p>
<p>Design</p>	<p>Access and City Facility: BOE develops design plans for each project site, with construction specifications necessary to comply with accessibility standards. This includes obtaining agreements/approvals from public and private entities, resolving private and public utility conflicts, and producing final construction documents.</p>
<p>Bid-and-Award</p>	<p>Access: BOE issues construction package with designs for several sites to StreetsLA.</p> <p>City Facility and some Access Requests: BOE prepares the construction package for advertisement, and awards it to private construction contractors through the Board of Public Works.</p> <p>Rebate: Applicants must find their own contractor to obtain a sidewalk repair permit and do the construction.</p>

Construction

Access: StreetsLA reviews site plans with BOE, prepares the site for construction, and performs construction work. Urban Forestry works with construction crews to remove or preserve street trees, and to assign trees for planting by private contractors.

City Facility, Rebate, and some Access Requests: Contractor performs the construction, with BCA completing inspections. Urban Forestry permits and oversees tree work performed by private contractors, while BOE works with rebate applicants to resolve construction issues. Other public and private entities provide construction support to adjust or relocate conflicting elements

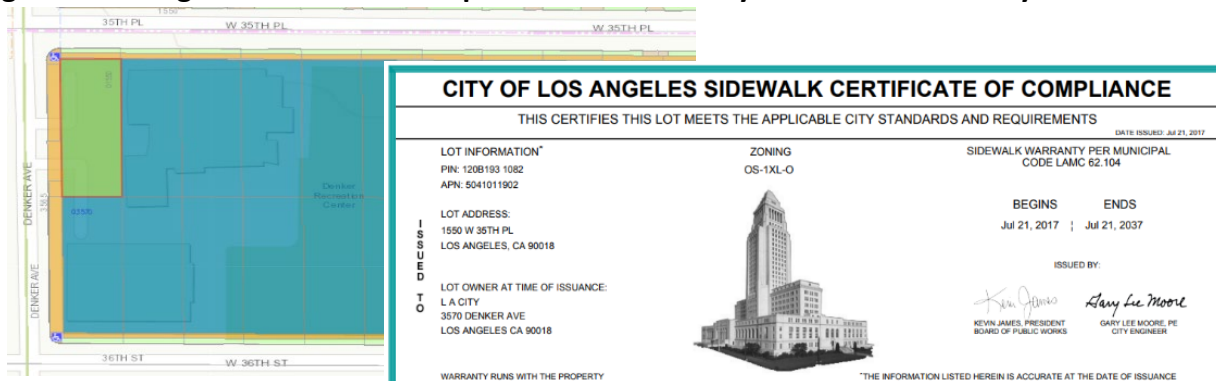
City Facility and Access Requests: BOE provides construction management, coordination, and construction design support. BCA inspects work performed by private contractors. Urban Forestry works with construction forces to oversee tree work as needed to allow for sidewalk construction, and performs tree removals and preservation for sites constructed by StreetsLA.

Post-Construction

StreetsLA inspectors (for access) and BCA inspectors (for City facility, rebate, and some access) review the site for compliance with accessibility standards, and issue a certificate of sidewalk compliance. Urban Forestry provides tree maintenance as needed.

After non-compliant sidewalk portions have been remediated and inspected for compliance, Public Works will issue a sidewalk certificate of compliance to the property owner. Residential property owners are given a 20-year warranty that is good for one repair by the City, while commercial and industrial property owners receive a 5-year warranty. After the warranty has elapsed, property owners will be responsible for sidewalk repair next to their property, and the City may issue a notice and order to repair if there is a non-compliant defect.

Figure 5. Issuing a Certificate of Compliance Starts the City’s Sidewalk Warranty



Source: The City’s NavigateLA website, Sidewalks (Mapped Areas), showing a certified parcel

As of the end of December 2020, Public Works reports that it has spent over \$122 million, repaired over 2.1 million square feet of sidewalk, constructed 1,372 curb ramps, and issued 3,693 sidewalk certificates of compliance under the Sidewalk Repair Program. Public Works has also issued 804 sidewalk certificates for other street repair projects or new developments that are required to repair sidewalks up to accessibility standards.

The following sections provide details about progress under the Sidewalk Repair Program, and makes recommendations to improve how the City can remediate and maintain more sidewalks throughout Los Angeles.

FIX-AND-RELEASE SIDEWALK POLICY SHOULD CHANGE

Using BOE's mapped sidewalk areas, we estimate that Los Angeles has more than 640,000 properties with adjacent sidewalks that may be subject to Fix-and-Release. More than four years after the City adopted its ordinance for the Fix-and-Release policy, Public Works has issued about 4,497 sidewalk certificates. **This means that progress so far under Fix-and-Release is equivalent to less than 1% of properties with sidewalks in Los Angeles.**

The City's own policies and practices are a significant factor behind the slow pace of progress. Implementing Fix-and-Release has often meant removing and replacing the entire sidewalk at selected project sites. The difficulties of reshaping the built environment have also added time and costs.

Progress Under Fix-and-Release Has Been Slow

Access Requests

Although the City has allocated an additional \$20 million between FY 2019 and FY 2020 to accelerate repairs for access requests, Public Works still has a large backlog of pending requests that have been accumulating since the start of the Sidewalk Repair Program. **Of the 3,753 access requests that the City has received through 311 up to June 2021, 2,958 have been deemed eligible and assessed, a process which takes 41 calendar days on average.**

Construction takes an average of 32 days to complete once it has started. But before construction begins, all access requests must wait for available program funding, after which it then proceeds through the pre-design, design, and bid-and-award phases of the sidewalk repair process. **On average, this pre-construction process takes 646 days to complete.** BOE reports that it takes approximately 190 days on average to complete the process after it clears the funding queue, with the pre-design, engineering survey, design and plan production phases taking approximately 40 days.

Certain factors beyond BOE's control can slow the process. It can take months to obtain rights of entry, property owner agreements, and resolve other utility conflicts with private and public owners. Projects are also subject to the City's contracting process. BOE handles these pre-construction phases, where more than 2,500 access requests are still pending completion. Completed access requests spent the most time (over 470 days) in queue between StreetsLA's initial assessment and BOE's pre-design phase to start.

City Facilities

Similar funding and resource limitations apply to sidewalks next to Council-controlled City facilities, where progress has also been slow. BOE reports that there could be up to 2,700 Council-controlled City facilities that may need sidewalk repairs. **From the start of the Willits compliance period in July 2017 through September 2021, the Sidewalk Repair Program has completed sidewalk repairs at only 60 of these City facilities.**

Although the City facilities that have undergone repairs include parks, senior centers, and other sites that are vital to the community, the vast majority of City facility sidewalk locations are still waiting to be addressed by BOE, which expects the work to continue throughout the 30-year Willits compliance period. **To complete all Willits settlement work at all Council-controlled City facilities, BOE estimates that it may cost between \$290M to \$520M in construction costs alone.** So far, the City has spent \$16 million on sidewalk repairs for Council-controlled City facilities.

By contrast, the proprietary departments have been able to invest more funding (\$18.8 million) relative to the number of facilities within their control and plan to finish construction more quickly. The Department of Water and Power's Water Division began construction in November 2020. It reported completing sidewalk repairs at 33 out of 106 facilities as of June 2021, and estimates that all repairs will be done by Spring 2023. Water and Power's Power Division began construction at its facilities in 2018, and anticipates completing sidewalk repairs at all 148 of its facilities by the end of 2024. Harbor has assessed 270 sites and determined that 124 sites need repair. The department will have completed 37 (30%) by June 2022.

Airports has reported spending \$3.4 million for sidewalk repair. However, it is not clear how much progress Airports has made because it has not addressed all public sidewalks adjacent to its facilities. The Federal Aviation Administration (FAA) restricts the airport from spending revenues on capital or operating costs that are not directly related to the actual transportation of passengers or property.

Rebate

Finally, the Rebate program's lengthy and complex application process requires property owners to manage their own sidewalk repairs in order to share the cost of repair with the City. Documentation requirements, perceived low rebate offers, increased costs of repair, requirements to reconstruct the entire sidewalk in front of their property, and the need to find their own contractor and pay for the cost of the work prior to a rebate being issued, can deter many applicants from completing the rebate process. The City has only issued 538 rebate checks for the 4,451 rebate applications received as of June 2021.

On average, a successful application will take approximately 355 days from the submission of their request, to the mailing of the rebate check. According to BOE, it takes approximately 100 days for the City to process a successful application after it clears the funding waitlist. Once an application is accepted into the program from the waitlist, the time it takes for the property owner to submit ownership documentation and complete construction can add significant time to completion. In addition, approximately 50% of applicants had their applications cancelled due to either a missed deadline, withdrawal, or inactivity.

The City Faces Many Site Challenges When Implementing Fix-and-Release

According to BOE, all project sites have unique considerations that require research, engineering, and coordination in order to comply with City requirements. For example, **the Fix-and-Release policy requires Public Works to assess the entire length of sidewalks for compliance with widths, uplifts, cross slopes, and other accessibility standards, even if an access request is only for a specific sidewalk or curb ramp access barrier.** The intent of the Fix-and-Release Policy is to certify the entire sidewalk at the parcel and issue a sidewalk certificate of compliance once repairs are complete.

Figure 6. Entire Sidewalks in Front of a Property Are Assessed for Compliance



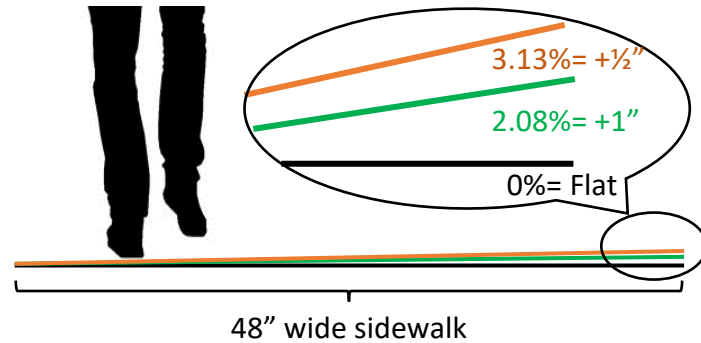
Source: Adapted from BOE's 2019 Access Request Scoping and Assessment Guidelines

Many portions of existing sidewalk in the City are likely non-compliant with the ADA's standards, such as for cross slopes. For many years, the City's standard for sidewalk cross

slopes was 2.5%, until 1979 when BOE adopted a cross slope standard of 2.08%. Tolerances for minor construction errors, ground settlement, seismic activity, and other factors could increase cross slopes further than the ADA standard's 2.08% maximum.

Based on a selection of 30 field assessments for access requests covering 269 property addresses, more than half had cross slope concerns; 152 properties (57%) had sidewalks with maximum cross slopes exceeding 2.1%, though only 34 of those properties had maximum cross slopes exceeding 4%.

Figure 7. Complying with Cross Slopes Requires Precision



Portions of sidewalk may also be non-compliant with widths, cracks, uplifts, and other accessibility standards. **As shown in Figure 8, non-compliance with any accessibility standard is enough to require a sidewalk's removal and replacement under Fix-and-Release.**

Figure 8. Non-Compliant Sidewalks are Marked for Removal and Replacement



Source: Google Maps - Street View Timeline, Leslie N. Shaw Park at 2223 W. Jefferson Blvd

During the first several years of the Sidewalk Repair Program, BOE would also evaluate the entire sidewalk block at the access request locations. According to BOE, doing so allowed Public Works to create an accessible route, and efficiently deploy construction forces to work on multiple locations at a time. Because many portions of sidewalk are non-compliant, Public Works would often remove and replace the entire sidewalk at these project sites, as shown in **Figure 9.**

Figure 9. Early Design Plans Often Call for Sidewalk Removal Along the Entire Path of Travel



Top left: Yellow areas designate sidewalks for replacement along several parcels.

Bottom right: Sidewalk removal during the construction phase.

Removing every non-compliant portion of sidewalk increases the cost of repair at each location and may contribute to many rebate applicants dropping out of the rebate process. Although Public Works does not keep track of actual costs and terms between rebate applicants and their own contractor, successful rebate applicants received an average rebate amount of \$5,840. **As we discuss later in the report, the average construction cost for access request project sites managed by the City (nearly all of which were also residentially-zoned) was \$17,800 per parcel. The low rebate offer relative to the likely cost of construction may explain why 17% of applicants drop out of the rebate process after an offer has been made.**

Creating compliant sidewalks and curb ramps within a non-compliant built environment could also require BOE to conduct field surveys and engineering design. The precise measurements obtained from a field survey would be used during the design phase to ensure that sidewalks, curb ramps, driveways, or other features will meet accessibility requirements as well as other engineering requirements. According to BOE, the additional time invested during the design phase to create sufficiently detailed plans typically results in a more efficient construction process.

BOE has also encountered other challenges that require coordination with other parties or additional resources. For example, existing utilities, trees, and private property elements, and other infrastructure elements may create conflicts with the sidewalk. Relocation of utility boxes, such as those for traffic signals, telecommunications, and street lighting, can take a substantial amount of time. In some cases, BOE may work with the property owner to get their

permission and move part of the sidewalk onto their property and minimize the need for relocation work. Additionally, tree preservation policies, including adherence to removal and replacement policy, slow the process.

All of these issues faced during the sidewalk repair process add a significant amount of time and cost to a project. **Construction costs for access request and City facility sidewalks have averaged \$38 per square foot, and \$51 per square foot after incorporating soft costs.** The cost per square foot includes many other factors besides sidewalk replacement, such as mobilization, traffic control, curb and gutter, tree work, and utilities. Costs can also differ between private contractors and City construction forces, though BOE does not compare these costs.

While an extensive pre-design and design phase may be necessary to comply with accessibility standards for an entire sidewalk path, it is neither practical nor cost-effective to respond to every access request location in this way. In the next section, we explore the Fix-and-Release policy's requirement to apply accessibility standards for the entire parcel of sidewalk, and recommend adopting more limited criteria for the Fix-and-Release policy. **If the City adopts this recommendation, BOE should reassess the sidewalk repair process so that, to the greatest extent possible, more requests can move forward without the need to go through an extensive pre-design and design process.**

For Some Sites, the City Replaces More Sidewalk Than Is Necessary

Although the pedestrian PROW falls within the ADA's purview, its requirements apply differently for existing infrastructure. **The pedestrian PROW and existing sidewalks are held to the ADA's program access standard, which requires the City to remediate existing sidewalk barriers to ensure access when viewed in its entirety, while newly constructed sidewalks and alterations must follow accessibility design standards.** Existing facilities that are altered are required to comply to the maximum extent feasible.

A consistent body of regulatory interpretations and court rulings support the view that the ADA does not require full sidewalk replacement to meet accessibility standards. For example, in the landmark case of *Barden v. Sacramento*, the USDOJ filed legal briefs with the Ninth Circuit Court of Appeals and the US Supreme Court, stating that the ADA's program access standard does not require public entities to replace their system of existing sidewalks or make each and every sidewalk compliant with ADA standards.

More recently, federal courts determined in *Kirola v. San Francisco* that the city was meeting the ADA's program access standard for the pedestrian PROW. Of note is the fact that San

San Francisco's sidewalk inspection guidelines only identify specific holes, cracks, and uplifts greater than ½" as a defect. Uplifts and cracks less than ½", cross slopes greater than 2.08%, and other non-compliant features are left in place. For the US District Court and the Ninth Circuit, San Francisco's sidewalk repair programs and their focus on these defects was sufficient.

Figure 10. San Francisco's Sidewalk Programs Only Repair a Portion of the Sidewalk



Other cities (including New York City, Sacramento, Portland, and Seattle) have also adopted sidewalk inspection criteria that are different from the ADA's accessibility design standards. Common inspection criteria among these cities include:

- Vertical displacement (uplifts) of ½ inch or more;
- Horizontal displacement (voids, cracks, holes, gaps) of ½" or more; and
- Excessive slopes caused by trees, or improper slopes that do not drain toward the curb.

The Willits settlement's objective is similar to the ADA's requirement: to provide program access for the City's pedestrian facilities. To achieve program access, the settlement agreement sets forth a time period and expenditure level to make improvements in the pedestrian PROW. The Willits settlement generally requires the City to improve the sidewalks adjacent to facilities owned or operated by the City so that the pedestrian PROW complies with current accessibility standards. According to BOE, this ultimately requires full sidewalk replacement at City facilities in nearly all cases.

For access request work (sites that are not adjacent to a City facility), the City must, at a minimum, address every barrier specified in the request, and give priority to requests at residential locations or that are necessary to provide access to public transit. Access requests that are more than 120 days old also receive additional priority.

However, the Willits settlement does not require the City to address every aspect of non-compliance within the parcel lines of an access request location, and gives the City discretion to determine the scope and order of pedestrian improvements, subject to certain priorities. Without the Fix-and-Release policy's framework to ensure full compliance with accessibility

standards, BOE would in many situations have more discretion to determine how much sidewalk needs repair for each access request or rebate site.

For other improvements in the pedestrian PROW, the Willits settlement lists location types in descending order of priority:

- City government offices and facilities, and paths of travel leading to their primary entrances, to be prioritized for completion within the first five years if feasible;
- Transportation corridors;
- Healthcare facilities
- Places of public accommodation, such as commercial and business zones
- Facilities containing employers; and
- Other areas such as residential neighborhoods and underdeveloped areas.

While the Willits settlement does not require the City to complete sidewalk repairs and other pedestrian improvements at all locations related to a higher priority (i.e., City facilities) before it can move on to working at locations with a lower priority, the Willits settlement does include a 5-year requirement for completion of City facilities (if feasible).

With regard to the types of pedestrian improvements that the City can perform, the Willits settlement prioritizes projects that remove barriers to access, which is defined as any condition that is not compliant with accessibility standards. **In practice, the Willits settlement's prioritization requirements related to removing non-compliant conditions does not provide specific guidance because so much of the infrastructure in the pedestrian PROW encountered by the City so far is non-compliant.**

Nevertheless, the City's interpretation of the Willits settlement and the Fix-and-Release policy is that they require the removal of all access barriers at all City facilities first, before proceeding with other priority locations with significant defects. **For example, the project shown in Figure 11 is a City-owned corner parking lot that took 460 days to complete, from the day it was initially assessed on August 2018 to when construction completed on November 2019.** Though it took approximately 30 days for engineering design and 65 days for construction, a significant amount of additional time was needed for property access agreements, public contracting procedures, and street trees before construction could begin.

The project included design and reconstruction for one curb ramp and its roadway transition, the curb and gutter, and the accessible route from the sidewalk to the parking lot. It also included tree removal, planting, and preservation work (with root control barriers), the relocation of eight utilities, and the removal and replacement of 2,500 square feet of sidewalk to ensure compliance with accessibility standards.

Figure 11. Repairs Include Every Aspect of Non-Compliance with Accessibility Standards



Source: Google Maps - Street View Timeline, 2420 S. Hoover Street, Park-and-Go Lot

However, as shown in **Figure 12**, the pedestrian improvements did not extend far beyond the property's edges, leaving nearby sidewalk defects unaddressed because they are outside the scope of the City facility project. **Although every aspect of non-compliance within the project's scope was removed in order to meet the Willits settlement requirements for City facility sites and issue a sidewalk certificate of compliance, the poor condition of sidewalks on the adjacent parcel can still present access challenges for persons with disabilities. There remains a need for improvements beyond the limits of City facilities and access requests.**

Figure 12. Sidewalk Construction Does Not Extend Far Beyond a Lot's Parcel Lines



Source: Google Maps - Street View Timeline, 2467 S. Hoover St. (Feb. 2020). The City parking lot with the reconstructed sidewalk (to the right) is not captured in this image.

To overcome the significant task facing the City, Public Works should use its discretion to instead prioritize work on significant sidewalk obstacles first where allowed by the Willits settlement agreement, rather than all aspects of non-compliance within a parcel. **The Sidewalk Repair Program's response should be more agile, minimizing the amount of work that is needed during the sidewalk repair process so that more locations across Los Angeles can be addressed.**

Deciding which sidewalk repairs and other pedestrian improvements to work on would require Public Works to carefully consider what aspects and degrees of non-compliance to prioritize, and which can be left unaddressed for now. Although there are no clear guidelines from the federal government on how to prioritize which sidewalk uplifts, widths, and cross slopes to address, Public Works can look to the precedent set by Sacramento and Long Beach.

Sacramento's settlement agreement for its Barden case identifies specific sidewalk access barriers to address, including:

- Removing obstacles that narrow the pedestrian pathway to less than 32 inches;
- Ramping or removing uplifts greater than $\frac{1}{2}$ ";
- Removing excessive cross slopes, defined as (1) cross slopes greater than 3.3% that extend for a distance greater than 15 feet or that exist at locations where the running slope exceeds 5%, or (2) at other locations with cross slopes greater than 4%.

In addition, the Barden settlement agreement encourages Sacramento to address severe access barriers near a project site, and even allowed the city to address these defects in lower priority areas before it finished addressing all barriers in higher priority areas.

Long Beach settled its ADA class action lawsuit in 2017 and was required to develop a self-evaluation and transition plan to address access barriers it identified in the pedestrian PROW. To prioritize its efforts, Long Beach developed the three-tiered ranking system shown in **Table 6**, which is based on degrees of non-compliance.

Table 6. Long Beach's Transition Plan Prioritizes Higher Uplifts and Greater Cross Slopes

Priority	Curb Ramps	Sidewalk Displacement	Sidewalk Cross Slopes
Tier I	Missing curb ramps	3 inches or greater	4% or more
Tier II	Noncompliant curb ramps with slopes greater than 10%	1-3" displacements	3-4%
Tier III	All other non-compliant ramps	¼ - 1" displacements	2-3%

Leaving certain aspects of non-compliance unaddressed for now would mean that Public Works will not be able to issue a certificate of compliance under the current Fix-and-Release framework. **However, focusing on significant defects first in a manner that is still consistent with the Willits settlement has the potential to free up resources that could be used to improve overall usability at more locations throughout Los Angeles, and move the City closer to achieving program access in the pedestrian PROW.**

Recommendations

To give the Sidewalk Repair Program more flexibility and discretion to focus on significant sidewalk defects, City Council should consider the following:

1. Instruct BOE, with the assistance of the City Attorney’s Office, to report back on the discretion that the City can exercise to determine the scope and order of Sidewalk Repair Program projects for access requests, and other Willits settlement project priorities.
2. If the Willits settlement allows for greater discretion than currently practiced, instruct BOE to report back on new sidewalk inspection criteria that the City can use to identify and prioritize significant obstacles for removal at access request, City facility, and rebate request locations.
3. If the Willits settlement allows for greater discretion than currently practiced, instruct BOE to report back on a new prioritization system that includes City facilities as a weighted factor alongside transportation corridors, healthcare facilities, and other Willits settlement project prioritizations so that the City can prioritize significant sidewalk obstacles at non-City facilities for removal.
4. Request the City Attorney, with the assistance of BOE, propose revisions to LAMC 62.104 to reflect new inspection criteria for sidewalk assessment, if the establishment of that new criteria is appropriate and feasible.

5. Instruct BOE to review the sidewalk repair process and implement methods to allow more locations to move forward with sidewalk construction while minimizing, to the greatest extent possible, the need for extensive pre-construction efforts.
6. Instruct Public Works to re-evaluate the rebate program to determine why so many applicants have dropped out in the middle of the process, and report back on methods to retain more eligible applicants, such as by increasing the rebate amount relative to the amount of construction required, allowing applicants to use a pre-approved list of contractors, or having the City do the construction work for the applicant after they have paid their share of costs.
7. Instruct BOE to compare and report back on sidewalk repair costs between private contractors and City construction forces.

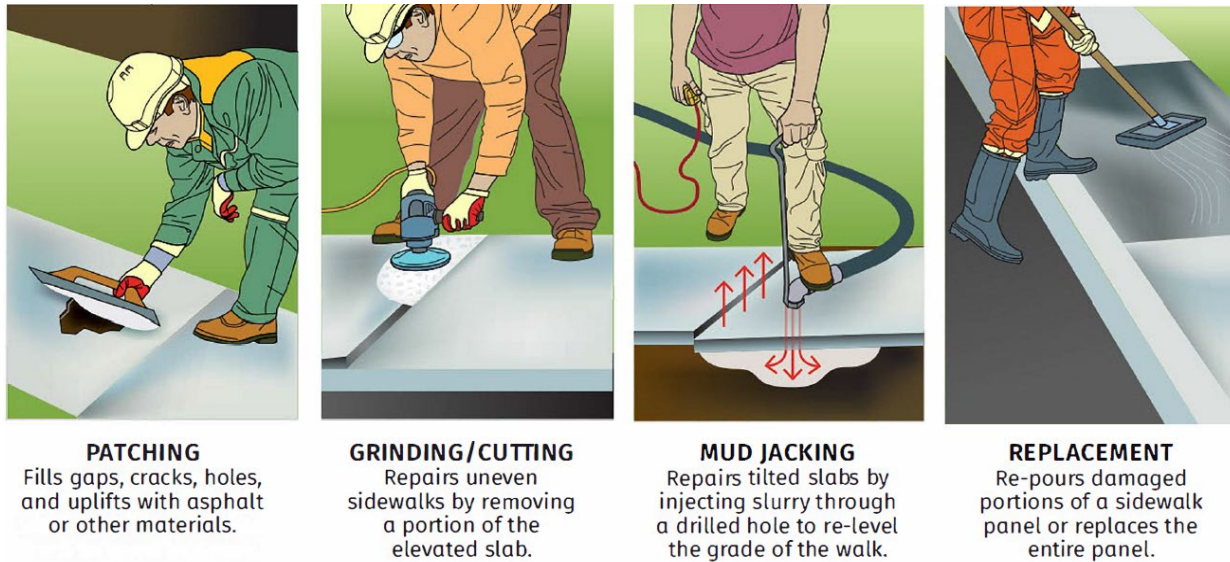
DEFERRED SIDEWALK MAINTENANCE NEEDS ATTENTION

After it adopted an ordinance in 1974 to repair tree root-damaged sidewalks at no cost to adjoining property owners, the City has not consistently operated a sidewalk repair program that matched the scale of the problem. Nearly five decades of deferred maintenance has accumulated since, across more than 9,000 miles of sidewalk in Los Angeles.

Even if the City changes its Fix-and-Release policy to focus on significant access barriers first, the Willits settlement expenditure requirements and the additional funding allocations intended to accelerate access request work may not be enough to address sidewalk maintenance issues. **At this point, it is not clear when the Sidewalk Repair Program will be able to address other Willits settlement priority locations like transportation corridors, healthcare facilities, places of public accommodation, employers, or residential areas.**

The Willits settlement focuses on the important task of updating conditions in the pedestrian PROW to meet the needs of people with mobility disabilities. This is a larger and more urgent goal than simply maintaining existing sidewalks in a usable condition. In some situations, following accessibility standards also precludes the City from using the Willits settlement expenditures to fund other methods of sidewalk maintenance. These include temporary asphalt repairs, and concrete grinding or cutting. Each of these methods may be cost-effective alternatives that minimize tripping hazards and extend the useful life of existing sidewalks.

Figure 13. The City Has Several Options for Sidewalk Maintenance



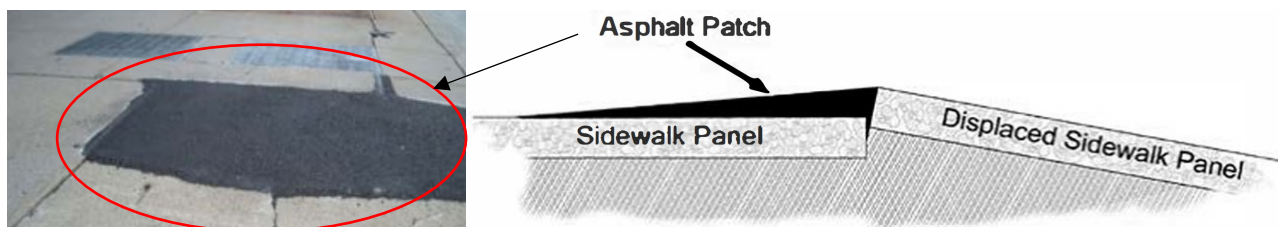
Source: Denver Auditor's 2020 Report on the Sidewalk Repair Program

Since FY 2016, Angelenos have reported more than 53,000 sidewalk problems through the MyLA311 system, none of which have been addressed by the Sidewalk Repair Program. For the reasons above and others, the City cannot wait or rely on the Willits-focused Sidewalk Repair Program to respond to these requests.

The City's Short-Term Maintenance Response for Sidewalk Problems Needs Improvement

According to the USDOT's Guide for Maintaining Pedestrian Facilities, asphalt typically has a shorter life span than concrete, but has significantly lower initial costs to install. Many cities commonly use asphalt as a temporary measure to minimize sidewalk tripping hazards until a more long-term repair can be made (Figure 14). Although StreetsLA is responsible for sidewalk problems reported to 311 by the general public, it does not have a dedicated, funded asphalt repair program.

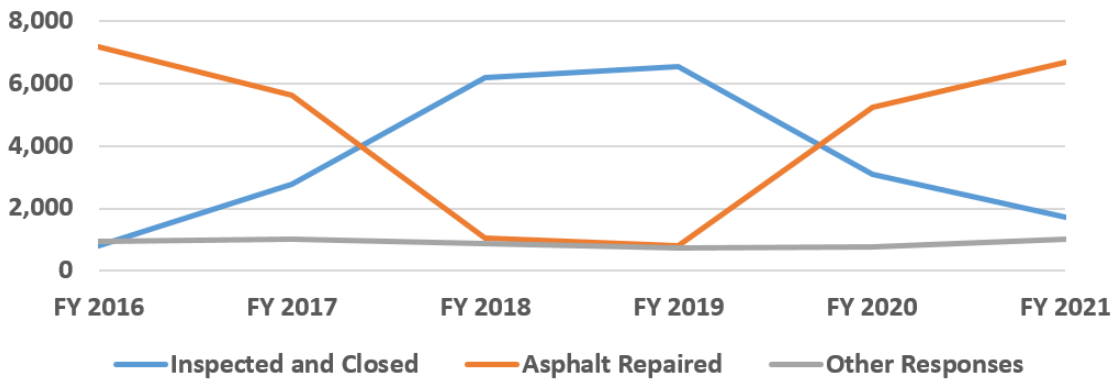
Figure 14. Temporary Small Asphalt Repairs for Sidewalk Defects are a Basic Safety Measure



Source: Adapted from Sacramento's Temporary Sidewalk Patching Criteria Document

During FY 2018 and 2019, StreetsLA inspected and closed over 12,700 service requests for reported sidewalk problems without completing an asphalt repair (Figure 15). StreetsLA managers explained that they did not have dedicated resources to perform small asphalt repairs for sidewalks and were instructed to inspect the reported issue and refer it to the Sidewalk Repair Program. However, the Sidewalk Repair Program is focused on access requests, City facilities, and rebate requests, and therefore resources have not been budgeted for the referred general sidewalk requests (“Report a Sidewalk Problem”).

Figure 15. Asphalt Repairs for Sidewalks Dropped Significantly in FY 2018 and 2019



Source: Analysis of MyLA311 Service Request Data for “Report a Sidewalk Problem”

According to StreetsLA managers, staff were instructed several years ago to begin completing temporary asphalt repairs for general sidewalk requests. However, because of a lack of dedicated staff and funding, StreetsLA managers stress that their ability to perform asphalt repairs of sidewalks is dependent on the availability of overtime funds and staff willingness to work overtime.

In FY 2021, StreetsLA took an average of 41 calendar days to close 6,337 sidewalk requests with an asphalt repair. The median time to close out a request with an asphalt repair was 24 days. In addition, over 49% of those asphalt-repaired requests were completed on Saturdays and Sundays. By comparison, the StreetsLA asphalt repair program is funded with a service level goal of completing street pothole requests in three business days. StreetsLA reported that it managed to close 92% of the 19,252 street pothole requests it received in 3 business days or less in FY2021.

Though permanent sidewalk repairs are ideal for sidewalk problems, temporary asphalt repairs help the City reduce tripping hazards and improve walkability. Timely asphalt repairs are also important temporary solutions until more comprehensive repair work can take place. **To improve safety and minimize liability, StreetsLA and City policymakers should establish a**

reasonable service level goal and fund short-term repairs of uplifts, cracks, and other sidewalk hazards.

These short-term repairs should include asphalt repairs, as well as other options like concrete grinding or cutting, which many cities use as another short-term, low-cost alternative for some uplifts. For small uplifts where the underlying cause does not continue shifting the sidewalk, concrete grinding or cutting can sometimes be considered a permanent repair and extend the useful life of a sidewalk.

Looking further ahead, asphalt repairs may last a few years at most, and could quickly deteriorate due to weather conditions, wear-and-tear, and underlying issues that continue shifting the sidewalk. If the City does not follow up within a reasonable timeframe with a longer-term sidewalk solution, then policymakers should also consider establishing a proactive program to periodically inspect and repair known sidewalk defect locations.

Targeted Sidewalk Replacement for Long-Term Repair

Among available repair options, replacement is considered the best and longest-term solution to address tree root growth and other underlying causes of sidewalk damage. In FY 2020, the City established the Risk and Liability Mitigation Program in StreetsLA to perform street, bike lane, and sidewalk repairs at locations with known dangerous conditions associated with injury claims and lawsuit payouts. The risk and liability crews then rotate between Council districts to perform temporary and permanent asphalt and concrete repairs at selected lawsuit/claim locations and other reported locations within the vicinity.

As of FY 2021, the Risk and Liability Mitigation Program performed targeted concrete sidewalk repairs at over 170 locations. Because it is not funded through the Willits settlement and does not apply the current Fix-and-Release policy, the risk and liability program can quickly make concrete sidewalk repairs that do not require (1) design and engineering, and (2) work on the entire parcel's sidewalk.

Figure 16. The Risk and Liability Mitigation Program Can Make Targeted Sidewalk Repairs



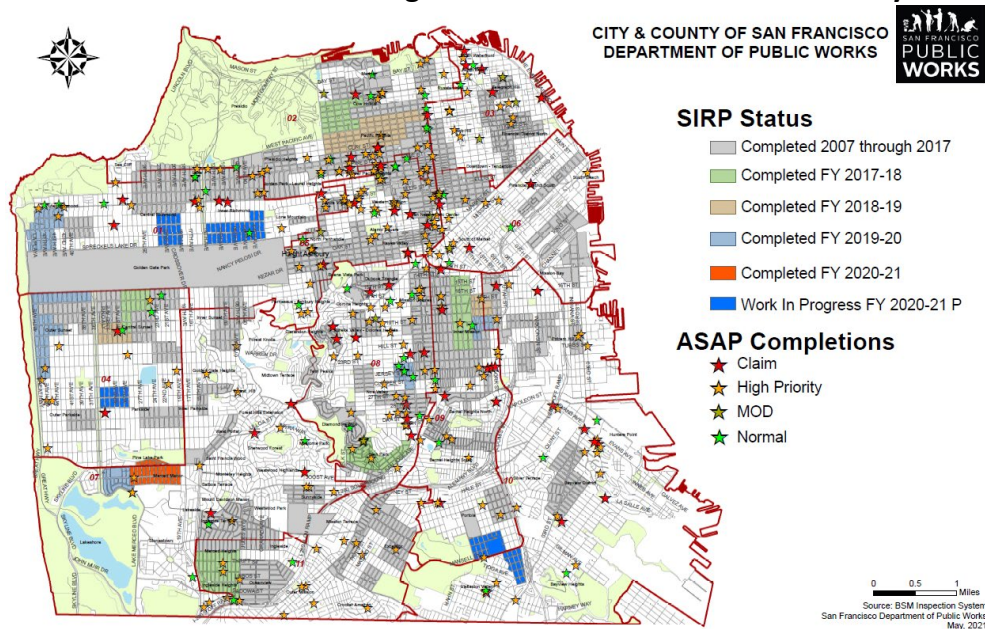
50 square feet of concrete sidewalk was removed and replaced at this location on 3/4/20.
 Source: Google Maps - Street View Timeline, 8233 Whitsett Ave, Los Angeles

The StreetsLA risk and liability program is funded for 10 concrete repair staff at an annual cost of \$1.4 million. **To provide a more long-term fix to known sidewalk problems, policymakers should consider expanding the Risk and Liability Mitigation Program to increase its capacity to perform permanent concrete repairs.**

In addition, the City should also consider implementing a proactive response to sidewalk maintenance. If the City adopts new sidewalk inspection criteria to focus on significant defects, one approach would be to proactively inspect the entire street block on the same side of the street in response to a reported sidewalk issue. **Sacramento follows this approach when responding to its 311 sidewalk requests, inspecting sidewalks at the complaint location and at neighboring properties up to the entire block on the same side of the street.**

The City could extend this block inspection approach to encompass regions of sidewalk at a time. In addition to its Accelerated Sidewalk Abatement Program (ASAP) that responds to 311 sidewalk requests, San Francisco's Sidewalk Inspection and Repair Program (SIRP) proactively inspects multiple contiguous blocks at a time. **SIRP was established in 2007 and has a goal of inspecting and repairing 200 blocks each year and covering the entire city within 25 years.** According to San Francisco sidewalk repair staff, SIRP had inspected and repaired about 1,800 of the 5,000 street blocks in their city as of June 2021.

Figure 17. San Francisco's Sidewalk Programs Have Covered Much of the City in 14 Years



Source: San Francisco Department of Public Works

By implementing a proactive approach to sidewalk repair, the City of Los Angeles can (1) identify unreported sidewalk defects, (2) improve routes for pedestrians, and (3) deploy construction forces to work on many sidewalk issues at one general location, which can boost efficiency.

Conducting a Sidewalk and Curb Ramp Condition Assessment

To facilitate cost-effective management of sidewalk and curb ramp projects, the City should consider an asset management approach that prioritizes pedestrian facility reconstruction and maintenance activities at locations that bring the most value for Angelenos. However, the Sidewalk Repair Program's current prioritization system does not include citywide data on sidewalk conditions and damage. Currently, the system obtains sidewalk condition data as the sites are being reviewed for prioritization. This system is incomplete because Public Works does not have data on sidewalk damage conditions.

Broadly speaking, sidewalk and curb ramp repair locations can be prioritized by two groups of factors: (1) activity drivers such as pedestrian traffic volume, and proximity to community resources such as government offices, transit corridors, and medical facilities; and (2) site conditions such as damage severity, degree of non-compliance, and estimated cost.

The City's Sidewalk Repair Program has two prioritization systems: one for access requests required by the Willits settlement, and another for City facilities and other locations. **Although the prioritization system for City facility sidewalks uses some alternative criteria in lieu of pedestrian traffic volumes as a measure of activity, it does not incorporate site conditions until those locations have already been selected for field assessment through the Tier 1 factors shown in Table 7.**

Table 7. The City Facility Prioritization System

Tier 1 – Available Data Based Criteria	
Factors	Max Points
Transportation corridor	70
Other project priority locations	50
Proximity to High Injury Network	15
Metro Priority Network	15
Complaints/Claims	20
Tier 1 Maximum Points	165
Tier 2 – Pending Field Assessment	
Damage Severity	40
Estimated Cost Effectiveness	10
Tier 2 Maximum Points	50

Assessing sidewalk damage is typically a time-consuming process. Inspectors must walk the entire sidewalk length and manually measure and record different slopes and lengths. In 2012, StreetsLA estimated that a comprehensive survey covering the entire system of sidewalks and parkways in Los Angeles could cost well over \$10 million and take 2-3 years to complete, an investment that was deemed too costly at the time. However, without data on sidewalk conditions, the City has not been able to prioritize repairs at locations that need it the most.

While a sidewalk and curb ramp condition assessment is traditionally a labor-intensive process, a number of other cities have used new methods and technologies to make the process more efficient. For example, Seattle relied on a team of college engineering interns to manually assess sidewalks and curb ramps for each sidewalk block, and equipped the data collectors with tablets preconfigured with geolocation software that sped up data entry and processing. **Seattle received \$400,000 for its sidewalk condition assessment, which took 15 months to complete and covered all 2,336 miles of sidewalk in their city.**

To conduct a self-evaluation of its pedestrian facilities as required by its ADA class action lawsuit, Long Beach contracted with an outside firm to conduct a self-evaluation of its sidewalk and curb ramp conditions. **Long Beach’s contractor deployed technicians on specially-equipped Segway scooters with sensors that captured slopes, lengths, and other observations as it rode along sidewalks, largely automating the tasks of measuring and recording data.** This approach provided Long Beach with detailed data that it plans to use to prioritize repairs based on the degree of noncompliance with accessibility standards.

Figure 18. Long Beach’s Sidewalk Assessment Provided Useful Data for Decision
Sidewalk Changes in Levels **Sidewalk Cross Slope**

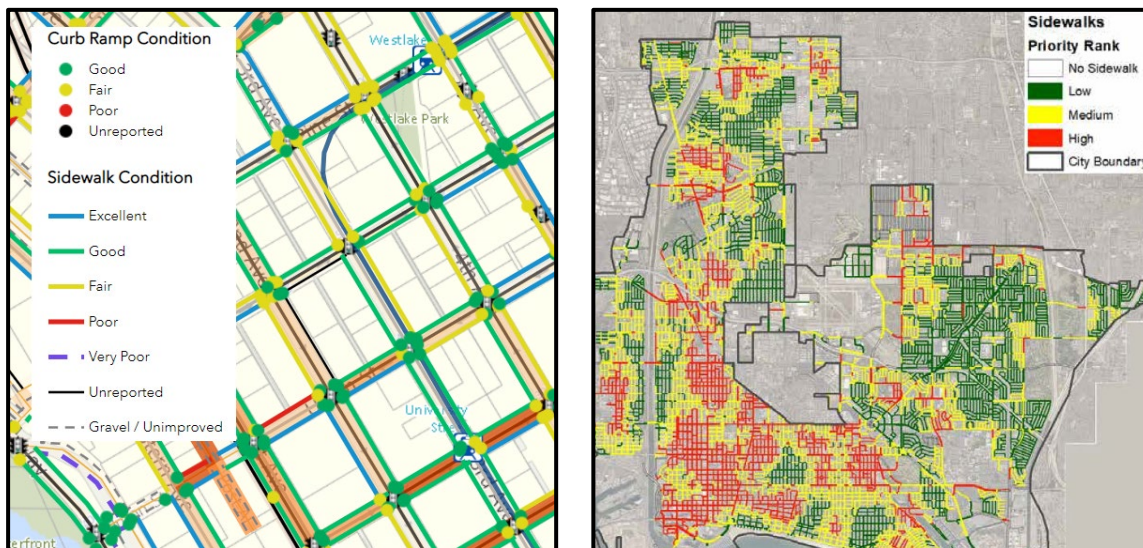
Sidewalk Changes in Levels		Sidewalk Cross Slope		
% Slope	Count	% Slope	Miles	Status
¼ – ½"	53,855	0-2.00	602.9	Compliant
½" – ¾"	13,539	2.01-3.00	357.1	ADA Concerns
¾" – 1"	5,574	3.01-4.00	153.5	ADA Concerns
1" – 3"	4,679	4.01-5.00	50.7	ADA Concerns
3" +	37	5.01-6.00	18.9	ADA Concerns
Total	77,684	6.01-7.00	9.6	ADA Concerns

Source: Long Beach ADA Self-Evaluation and Transition Plan 2019

According to their ADA coordinator, Long Beach’s contractor was able to conduct the self-evaluation covering 1,214 sidewalk miles in one year, process the collected data, and provide a final report at a cost of about \$1.5 million.

With at least 9,000 sidewalk miles in Los Angeles, the scale of a similar project for the City would be much larger. Still, the results may be worth the cost if it helps the City identify and strategically target repairs in areas that need it the most. **Having an inventory of sidewalk and curb ramp conditions in Los Angeles would help the City better prioritize available funding for the types of repairs at locations that bring the most value.**

Figure 19. Seattle and Long Beach Have Mapped Sidewalk Conditions and Priorities



Sources: Seattle Accessible Router Planner website (left), Long Beach ADA Self-Evaluation and Transition Plan 2019 (right)

Conducting a sidewalk condition and curb ramp assessment would also help the City comply with its ADA obligations. Although not required by the Willits settlement, the ADA does require public entities to conduct a self-evaluation to identify and create an inventory of barriers to access for its existing facilities, programs, services, and activities. Public entities then have to translate the results of its self-evaluation into a transition plan that describes how and when access barriers will be prioritized and addressed to provide program access.

The City's outdated transition plan was last revised in September 2000 and does not include an inventory of access barriers in existing sidewalks. The Department on Disability (DoD) is currently leading the City's new ADA self-evaluation and hopes to have an updated transition plan in three years. **However, DoD currently does not plan to conduct a sidewalk or curb ramp assessment as part of the City's new self-evaluation, due largely to a lack of funding.**

Instead, the City's upcoming transition plan will only point to the number of access requests and reports of sidewalk problems as evidence of access barriers in the pedestrian PROW. In addition, the new transition plan will only reference the Willits settlement's \$1.37 billion obligation over 30 years as the City's transition plan for the pedestrian PROW. The City's obligations under the Willits settlement do not encompass the entirety of the City's obligations under the ADA.

Without an actual condition assessment to know what sidewalk and curb ramp defects are in the pedestrian PROW, or a plan that identifies and connects resources to priorities, it is not clear that the City's current sidewalk repair programs will be enough. As part of a failed ballot proposition in 1998, the City estimated that approximately 40% of the City's sidewalks needed repair. Even if the estimated amount of sidewalk in disrepair was halved, it would cost more than \$3 billion to repair 20% of the City's 307 million square feet of sidewalk, at a cost of \$51 per square foot. While this estimate far exceeds the Willits settlement's \$1.37 billion obligation, the reality is that the City does not know how many sidewalk locations need repair and how much it will cost. **To identify sidewalk and curb ramp repair locations and better prioritize its remediation efforts, City policymakers should consider funding a condition assessment.**

Outside Funding Opportunities for Sidewalk Repairs

With a significant amount of sidewalk repair still to be addressed, the City should also look at every opportunity available to accelerate its work. City departments have had some success with grant applications for federal and state funding for several projects that include sidewalk repair work. One shortcoming of many grant opportunities is that their one-time funding model makes it difficult to reliably incorporate funding into wider plans for sidewalk repair. **To**

overcome this problem, the City should explore using the Community Development Block Grants (CDBG) and other reliable funding streams for sidewalk improvement.

CDBG is a formula-based federal grant that is annually allocated to state and local governments. CDBG is relatively flexible and has many eligible uses, as long as the City can demonstrate that funded activities chiefly benefit low-and-moderate income persons. The City generally has about \$70 to 80 million each year in CDBG funding to allocate for qualifying activities, which includes projects to remove and replace defective sidewalks.

Although there are many competing uses, including housing assistance, senior services, and community centers, the City has used CDBG funding in the past for sidewalk repairs. In FY 2001, the Council adopted a plan to allocate \$3.65 million in CDBG funds alongside \$4.6 million in general funds to improve 46.5 miles of sidewalk. More recently, the City has funded several smaller projects that include sidewalk improvements, though some of these projects have yet to get started.

According to staff from the Community Investment for Families Department, the City's lead department for planning and administering CDBG funds, some recent projects that include sidewalk improvements have been slow to start construction and expend grant funding. As of June 2021, there were five CDBG-funded projects that include sidewalk improvements, with \$12.3 million in unspent balances from the \$16 million that were allocated. Funding allocations for several of these projects even date back to FY 2016.

With over 61,000 requests sent to the City's 311 system since August 2015, there is no shortage of sidewalk problems that are waiting to be addressed. Improving sidewalks and installing curb ramps at all 3,000 pending access request locations would likely qualify for CDBG funding because they serve people with mobility disabilities. In addition, over 57% (30,270) of the 53,000 reported sidewalk problems submitted by the general public are located in low-and-moderate income census areas which may qualify for CDBG funding.

Even some rebate requests may qualify for CDBG funding. Over 160 of the 500 completed rebate applications, and more than 1,700 of the 3,900 canceled, pending, or open rebate applications, are for sidewalks located in low-and-moderate income census areas. The City may be able to use CDBG funding to subsidize an even higher percentage of rebate costs in CDBG-qualifying areas, just as San Antonio, Texas has done.

Figure 20. San Antonio's Sidewalk Rebate Increases for CDBG-Qualifying Areas

LAND USE TYPE	CITIZEN SHARE	CITY REBATE	CITIZEN SHARE	CITY REBATE	TOTAL COST
Residential (Non-CDBG)	50%	50%	\$1,500	\$1,500	\$3,000
Residential (CDBG)	30%	70%	\$900	\$2,100	\$3,000

Note: the example above was developed by San Antonio for demonstration purposes

Even certain planning and administrative activities may qualify for CDBG or other grant funding opportunities. Fontana and Covina have used CDBG funding for their ADA self-evaluation and transition planning efforts, while the San Bernardino County Transportation Authority received a \$537,000 grant from the State’s Sustainable Transportation Planning Grant to fund a portion of their sidewalk condition assessment covering 17,000 miles of sidewalk. Although it already spends the maximum amount allowed by CDBG for planning and administrative activities, the City could still consider leveraging CDBG and other funding opportunities to support a sidewalk and curb ramp assessment.

Recommendations

To make sidewalks safer to use, and to allow for better planning and accelerate the City’s response to reported sidewalk problems, City Council should consider the following:

8. Instruct StreetsLA to report back on a plan to complete short-term maintenance repairs of reported sidewalk problems, both in response to 311 requests and proactively at known sidewalk defect locations going forward. The plan should include proposed service level goals, frequency of proactive inspections, and funding levels necessary to achieve those goals.
9. Instruct StreetsLA, with assistance from the Bureau of Engineering, to report back on a plan to implement long-term solutions for sidewalk repair. The plan should consider how the City can respond to 311 requests for general sidewalk repair in coordination with the Willits-focused Sidewalk Repair Program, proactively address unreported sidewalk defects, and create safe and usable sidewalk paths for pedestrians. The plan should include proposed service level goals, sidewalk inspection criteria, and funding levels necessary to achieve those goals.
10. Instruct the Bureau of Engineering, with the assistance of the Department on Disability, to review and report back on options for the City to conduct a sidewalk and curb ramp condition assessment, including new technologies and methods that have been used by Seattle, Long Beach, and other cities.

11. Instruct the Community Investment for Families Department, and other relevant City departments, to review and report back on grant opportunities for sidewalk repair work, and how departments can use those additional funds to address 311 general sidewalk requests, curb ramp installations, and a sidewalk and curb ramp condition assessment.

OTHER AREAS REVIEWED

In addition to the findings described in earlier sections of this report, we explored several other related areas. We present these additional findings and recommendations below.

The City Has Not Implemented the \$20,000 Per Parcel Cap on Sidewalk Repair Costs

The Council's 2016 proposal for the Sidewalk Repair Program includes a per-parcel cap on the City's cost to repair sidewalks. **The cap's purpose was to limit the City's obligation (1) for excessively complicated and expensive sidewalk repairs, or (2) at very large parcels.** Under this approach, the City would pay for the actual costs up to the cap, and require the property owner to pay the remaining cost. After Public Works determined that a \$20,000 cap was appropriate (with annual adjustments in accordance with the Consumer Price Index) that limit was enacted by ordinance into LAMC 62.104.

The cap would not apply to the City's own sidewalk repair costs for Council-controlled facilities, or the rebate program. It could be implemented for access requests, proprietary department sidewalk repairs, and repairs at other locations. However, while average construction costs per parcel have not exceeded the cap, **Public Works has not implemented a process to estimate costs by parcel, track sidewalk repair costs on a per-parcel basis, or require property owners to pay costs above \$20,000.** Had Public Works implemented the cap, some property owners that had their sidewalks fixed as part of an access request could have been impacted.

Public Works has issued sidewalk certificates of compliance to 2,694 parcels under the access request program. Since the start of the Willits compliance period through the end of December 2020, Public Works has spent \$48 million on construction, and \$64 million in total after including associated soft costs. **The average cost per parcel for access requests is \$17,800 for construction and \$23,900 after including soft costs.** The cap's actual impact would differ at each parcel depending on the scope of the project and costs that could be attributed to the parcel.

If the Council and Public Works adopt this report's earlier recommendations to change the Fix-and-Release criteria to focus on significant defects, City policymakers should also consider revising or eliminating the cost cap.

Recommendation

12. Policymakers should re-evaluate the ordinance revising the cap to reflect what the City has learned about the costs of sidewalk repair under the Fix-and-Release framework, and consider instructing Public Works to track and enforce the cap, or eliminate the cost cap all together.

Proactive Repeat Root Cutting is Untested as a Long-Term Solution

Poor tree selection decades ago has led to widespread conflicts between trees and sidewalks throughout the City. **Public Works faces difficult choices at each juncture between sidewalks and trees, with the need to balance the desire to maintain and grow the urban canopy while also allowing for sidewalk repair work to move forward.** Within this environment, the StreetsLA Urban Forestry Division (UFD) makes recommendations about whether to retain or remove a tree based on a combination of individual site assessments, and the knowledge and professional experience of staff. More often than not, UFD uses root pruning and root cutting to retain trees.

Figure 21. Previously Repaired Sidewalks Can Come into Conflict with Trees Again



This sidewalk location (6559 N. Figueroa St.) was previously repaired by the City in 2007

cracks and uplifts.

Available data from the Sidewalk Repair Program shows that, as of June 2021, UFD removed approximately 800 trees and planted 1,530 trees as part of Public Works' 2-to-1 tree replacement policy, and has used root pruning/cutting on over 2,900 trees. To cut tree roots, UFD may use a stump grinder or root cutting machine in some situations to sever enough roots on one side of the tree to allow for construction. **However, UFD's past experience shows that roots may grow back in as little as three to five years and cause new**

To resolve root cutting's temporary nature, StreetsLA proposed and implemented a proactive root cutting program to cut roots again at select sites on a three-to-five-year cycle. To do so, UFD may use a root cutting machine in some situations to create a path up to 14" deep in order to cut new roots that may have grown before they can cause any new sidewalk issues. UFD staff continue to monitor those trees. **However, arboricultural literature consistently highlights the general risks of root cutting to the tree's health and stability.**

Even if a tree can handle it, the stress of root cutting can make a tree more susceptible to pests and disease or trigger a negative response that may shorten its lifespan, and therefore could create the need for removal. The short-term and long-term effects can vary depending on the site conditions and the level of impact to the roots of the tree.

If roots must be severed at all, root management practices generally recommend selective root pruning. Root pruning requires a careful and labor-intensive process of excavating soil to expose roots for a thorough assessment to determine which roots can be cut and the best places to cut.

UFD acknowledges that it is not aware of any research on the effects of repeated root cutting over a long period of time. Despite the uncertainties, UFD has moved forward with its proactive root cutting program and continues to monitor the tree's health during post inspections. **Given the arboricultural industry's general consensus on the risks of root cutting, UFD's repeat root cutting protocol calls for added caution.**

Figure 22. Root Cutting Machines Are Used to Sever Roots Interfering with Construction



Recommendation

13. Policymakers should consider obtaining an independent opinion from a registered arborist consultant regarding UFD's root cutting practices, and obtain independent technical advice on how to sustainably manage tree and sidewalk conflicts.

Slag May Be a Sustainable Cement Alternative That Also Reduces Urban Heat

As part of the Sidewalk Repair Program, the Council instructed BOE to report on alternative materials that can be used for sidewalk repair, which is usually constructed with concrete made from a mixture of Portland cement, water, sand, and rocks. **In its March 2020 report back, BOE recommended removing the rubber materials and pavers that were tested because of its poor performance, while recommending continued monitoring for cementitious pavers and slag concrete materials.** The City should give slag further consideration for its potential environmental benefits.

Using slag cement is one strategy, among many, recommended by the US Environmental Protection Agency (EPA) which could help mitigate the urban heat island effect. According to the EPA's Cool Pavements reports, conventional pavements like asphalt and concrete can reach

peak summertime surface temperatures of 120-150°F. The sun's heat is then transferred into the pavement's sub-surface and re-released at night, increasing temperatures and contributing to the urban heat island effect. The increased temperatures create additional cascading effects, such as increased air conditioning use, summertime peak energy demands, and greenhouse gas emissions.

Slag holds two key environmental benefits over Portland cement. First, slag is an industrial by-product that is recovered from iron ore processing and can be reused to partially replace Portland cement for concrete applications, while producing Portland cement requires high temperatures exceeding 2500°F, which contributes to greenhouse gas emissions. Second, slag's lighter color, when compared to Portland cement, increases the finished product's solar reflectivity, leading to reduced heat absorption and lower urban temperatures. One study cited in the EPA's report measured solar reflectance of 60% from slag concrete compared to 35% for a conventional concrete mix.

During its limited monitoring period, BOE found that slag performed similarly to Portland cement concrete and was just as cost-effective. Other studies found that slag cement can have similar or greater strength than Portland cement. Some state and local governments have even incorporated the use of slag cement in their standards, or as part of the concrete mixture for airport runways, bridges, highways, and other public works projects.

Recommendation

14. If BOE's continued monitoring demonstrates sufficient strength, durability, workability, compliance with disabled access standards, cost-effectiveness, and other desirable characteristics, the City should consider using slag as a partial replacement or substitute for Portland cement in order to mitigate the urban heat island effect and the negative environmental impact of concrete used for sidewalk repairs.

Fix-and-Release Does Not Change the City's Liability for Sidewalk Injuries

As discussed in the background, the State's sidewalk maintenance law gives local governments a way to impose sidewalk repair responsibilities onto property owners. **However, local governments are still primarily responsible for sidewalk maintenance and are generally liable for sidewalk injuries.**

Street and Highway Code sections 5600 through 5630 describe a code enforcement framework that:

- Imposes a duty onto abutting property owners to repair sidewalks;

- Requires local governments to issue notices ordering property owners to repair sidewalks up to a safe and usable condition;
- Requires local governments to repair sidewalks that are not completed by notified property owners in a timely manner; and
- Allows local governments to assess the cost of repair as a lien on the property.

Local governments that choose to adopt the State's sidewalk maintenance law or enact similar ordinances do not transfer their primary duty of sidewalk repair onto property owners. They only create a repair responsibility for property owners. In the landmark case of *Schaefer v. Lenahan* (1944), the California Court of Appeals concluded that the property owner's duty to repair sidewalks is only owed to their local government because the State law's purpose was to provide local governments a way to transfer or recover the cost of sidewalk repair.

Further, unless there is legislative language that explicitly creates an additional responsibility to the public, the Court determined that property owners do not owe a general duty of care to pedestrians who may become injured by sidewalk defects. The City's Fix-and-Release policy, as enacted in LAMC 62.104, only imposes a duty of repair onto property owners after the City has issued a sidewalk certificate of compliance and the repair warranty period has elapsed. **LAMC 62.104 does not impose any new liabilities onto property owners that is owed to pedestrians injured by sidewalk defects adjacent to their property.**

In general, the only way for local governments to share liability for sidewalk injuries is to adopt "clear and unambiguous" legislative language doing so. San Jose enacted an ordinance to explicitly place liability onto property owners, which was confirmed by the courts in 2004 as allowable under State law and the California Constitution. Since then, many cities in and around the Bay Area (including San Francisco, Berkeley, Oakland, and Sacramento) have adopted similar ordinances.

If the City follows through with enforcing the property owner's repair responsibility after the sidewalk certification's warranty has ended, modifying LAMC 62.104 so that property owners share liability would simultaneously mitigate the City's risks and incentivize property owners to make sidewalk repairs. At the same time, sharing injury liability would come with its own challenges and potentially create unfair liabilities for some property owners.

Recommendation

15. If the City moves forward with imposing sidewalk repair responsibilities onto property owners, policymakers should consider whether the Municipal Code should be revised so that sidewalk injury liability is shared with property owners.

RECOMMENDATION TABLE

Number	Recommendation
Responsible Entity: City Council	
1	Instruct BOE, with the assistance of the City Attorney’s Office, to report back on the discretion that the City can exercise to determine the scope and order of Sidewalk Repair Program projects for access requests, and other Willits settlement project priorities.
2	If the Willits settlement allows for greater discretion than currently practiced, instruct BOE to report back on new sidewalk inspection criteria that the City can use to identify and prioritize significant obstacles for removal at access request, City facility, and rebate request locations.
3	If the Willits settlement allows for greater discretion than currently practiced, instruct BOE to report back on a new prioritization system that includes City facilities as a weighted factor alongside transportation corridors, health care facilities, and other Willits settlement project prioritizations so that the City can prioritize significant sidewalk obstacles at non-City facilities for removal.
4	Request the City Attorney, with the assistance of BOE, propose revisions to LAMC 62.104 to reflect a new inspection criteria for sidewalk assessment, if the establishment of that new criteria is appropriate and feasible.
5	Instruct BOE to review the sidewalk repair process and implement methods to allow more locations to move forward with sidewalk construction while minimizing, to the greatest extent possible, the need for extensive pre-construction efforts.
6	Instruct Public Works to re-evaluate the rebate program to determine why so many applicants have dropped out in the middle of the process, and report back on methods to retain more eligible applicants, such as by increasing the rebate amount relative to amount of construction required, allowing applicants to use a pre-approved list of contractors, or having the City do the construction work for the applicant after they have paid their share of costs.
7	Instruct BOE to compare and report back on sidewalk repair costs between private contractors and City construction forces.
8	Instruct StreetsLA to report back on a plan to complete short-term maintenance repairs of reported sidewalk problems, both in response to 311 requests and proactively at known sidewalk defect locations going forward. The plan should include proposed service level goals, frequency of proactive inspections, and funding levels necessary to achieve those goals.
9	Instruct StreetsLA, with assistance from the Bureau of Engineering, to report back on a plan to implement long-term solutions for sidewalk repair. The plan should consider how the City can respond to 311 requests for general sidewalk repair in coordination with the Willits-focused Sidewalk Repair Program, proactively address unreported sidewalk defects, and create safe and usable sidewalk paths for

	pedestrians. The plan should include proposed service level goals, sidewalk inspection criteria, and funding levels necessary to achieve those goals.
10	Instruct the Bureau of Engineering, with the assistance of the Department on Disability, to review and report back on options for the City to conduct a sidewalk and curb ramp condition assessment, including new technologies and methods that have been used by Seattle, Long Beach, and other cities.
11	Instruct the Community Investment for Families Department, and other relevant City departments, to review and report back on grant opportunities for sidewalk repair work, and how departments can use those additional funds to address 311 general sidewalk requests, curb ramp installations, and a sidewalk and curb ramp condition assessment.
12	Policymakers should re-evaluate the ordinance revising the cap to reflect what the City has learned about the costs of sidewalk repair under the Fix-and-Release framework, and consider instructing Public Works to track and enforce the cap, or eliminate the cost cap all together.
13	Policymakers should consider obtaining an independent opinion from a registered arborist consultant regarding UFD's root cutting practices, and obtain independent technical advice on how to sustainably manage tree and sidewalk conflicts.
14	If BOE's continued monitoring demonstrates sufficient strength, durability, workability, compliance with disabled access standards, cost-effectiveness, and other desirable characteristics, the City should consider using slag as a partial replacement or substitute for Portland cement in order to mitigate urban heat island effect and the negative environmental impact of concrete used for sidewalk repairs.
15	If the City moves forward with imposing sidewalk repair responsibilities onto property owners, policymakers should consider whether the Municipal Code should be revised so that sidewalk injury liability is shared with property owners.