Background Information for GB061710-5

Motion to Approve Community Impact Statement Concerning Council File No. 05-1853 and 05-1853-S1 (Sidewalks)
The City should explore creative approaches to solving the backlog of sidewalk repair needs. While many and varied approaches are helping, miles and miles of sidewalks heave and buckle. Tree roots must be pruned. Root barriers must be installed to protect new sidewalks, and more trees - species appropriate to planting next to new sidewalks - must line our City's streets. The Bureau of Street Services is budgeted to replace 52 miles of the 6,500 miles of sidewalks this year. A customer calling in for sidewalk service today can expect the work to be done in 83 years. The City's 2005-06 budget did expand the successful pilot 50/50 sidewalk repair program, but this still leaves 98% of the sidewalks in need of repair yet unfixed.

Urban planners have long advocated a point-of-sale plan similar to what is done in other cities and what is done currently to ensure the safety of water heaters and the water efficiency of toilets. This approach acknowledges that it is the property owner who is responsible for the repair of their sidewalk and then offers a simple and efficient way of getting sidewalks fixed: before real estate is sold, the city inspects the sidewalk fronting the property. If the sidewalk is in good condition, the owner is not required to do anything. If the sidewalk is damaged, the owner is required to repair it before the property is sold. City workers will fix sidewalks, affordably, and homeowners can pay for these repairs when they sell their homes. Beyond improving sidewalks, the point-of-sale strategy has several advantages. Owners don't have to do anything until they sell their property. The sale provides the cash to pay for required repairs. Owners fix only the sidewalk on their own property.

Improved sidewalks increase the value of property and this may persuade owners to make repairs early. Half of all properties in Los Angeles are sold at least once every decade. Because the turnover rate is about the same all over the city, sidewalks will be repaired at about the same rate. These repairs would cost the city nothing. In fact, the city would save money because better sidewalks reduce the number of trip-and-fall lawsuits. Half of what the City will spend this year paying for trip-and-fall lawsuits can serve as seed money to start this program. Given the rate at which houses change hands in Los Angeles, a revolving fund could build quickly.

In addition, there is a clear economic development benefit to this proposal. It is estimated that in the first year of a point-of-sale program, 460 miles of sidewalks would be repaired, total local wages would increase $102 million, and 2,600 new jobs would be created with average annual wages and benefits of $39,000. Los Angeles city workers strive to provide high quality cost effective services. This approach could provide benefits to all sectors. This pay-as-you go proposal promises to fix an unfixable sidewalk problem, to create many good jobs which would in turn pump millions into the local economy, enhance individual property values and neighborhood beauty and safety - and with no expense of public funds.

I THEREFORE MOVE that the Bureau of Street Services, with the assistance of the CAO and the City Attorney and in consultation with affected stakeholders such as realtors associations, apartment associations, homeowner groups, and others, be directed to report with recommendations relative to a point-of-sale plan for fixing the City's sidewalks whereby property sellers would be assessed the cost of fixing the sidewalks in front of their property, as further described in the text of this Motion.

PRESENTED BY: BERNARD PARKS
Councilman, 8th District

SECONDED BY:
DATE: May 4, 2007

TO: Honorable Bill Rosendahl, Chair
    Public Works Committee
    Attn: Adam Lid, Legislative Assistant
    Office of the City Clerk

FROM: William A. Robertson, Director
      Bureau of Street Services

SUBJECT: POINT OF SALE SIDEWALK REPAIR PLAN (C.F. 05-1853)

In response to the motion (CF 05-1853) put forth by Councilmembers Parks and Smith, requesting the Bureau of Street Services to report back with recommendations for a point of sale plan for fixing the City’s sidewalks including input from affected stakeholders.

In February 2007, the Bureau enlisted the assistance of two University of Southern California graduate students from the School of Policy, Planning and Development to identify and interview stakeholders, report findings and recommend viable alternatives under the direction of the Bureau. The attached report details the findings.

If you have questions or if additional information is needed, please contact William A. Robertson, Director at (213) 847-3333.

Attachment
WAR:dfh
Sidewalk Repair Policy
In the City of Los Angeles

An Evaluation of Current and Alternative Policies

May 2007

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Table of Contents

Executive Summary  
Background  
Literature Findings  
Objectives, scope, and methodology  
Findings  
Recommendations/Costs and Consequences  
Communication of Findings  
Likely/Actual Uses of Evaluation  
Primary client/Stakeholder Reactions  
Limitations  
Overcoming Limitations  
Appendix A: Revised design matrix  
Appendix B: Copies of data collection instruments  
Appendix C: References  
Appendix D: Examples of the data; storage  
Appendix E: Written Agreement Detailing Project Conditions  
Figures 1-2  
Figures 3-4  
Figures 5-6  
Figures 7-8  
Figures 9-10  
Figures 11-12  
Figures 13-14  
Figures 15-16  
Figure 17
Executive summary
The poor state of sidewalks in the City of Los Angeles significantly impacts the quality of life of all residents, but specifically those most vulnerable: families, children, senior citizens, and the physically challenged. As the current sidewalk repair policy cannot address the backlog of damaged sidewalks, this evaluation was conducted to determine viable alternatives as well as areas of consensus and divergence amongst stakeholders. Stakeholder interviews and focus groups were conducted and their content was coded and weighed both by the total number of interviews and focus groups and by stakeholder group, assigning the same weight to each group. Amongst stakeholders interviewed, 83% would potentially support a policy that requires property owners to repair sidewalks at the point-of-sale, 78% would potentially support a bond measure to fund sidewalk repair, and only 22% would potentially support the City citing property owners and requiring them to fix damaged sidewalks.

Background
Client:
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General Manager, Bureau of Street Services
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City of Los Angeles
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The Bureau of Street Services (BOSS) in the City of Los Angeles maintains 10,750 miles of sidewalks that impact the daily quality of life of all residents and visitors. Though the goal of the City’s Sidewalk Program is to provide a safe, acceptable walking surface for pedestrians and to decrease the City’s exposure to liability, approximately two out of every five miles of sidewalk in Los Angeles are damaged (5: pg5-6) and the City’s expenditures on liabilities have increased to the point where they rival those on repairs (2: pg10-12). (See Figures 1 & 4). At a critical juncture, the City is interested in implementing a new policy that will address the backlog of damaged sidewalks and reduce liability expenditures. The purpose of this project is to determine viable alternatives to the current sidewalk repair policy in the City of Los Angeles, as well as areas of consensus and divergence amongst stakeholders interviewed.
History of Sidewalk Repair in Los Angeles:

In 1911, the State of California enacted the Improvement Act which mandated that property owners are responsible for maintaining sidewalks adjacent to their property (5: pg7). During the housing booms of the 1950s and 1960s, developers planted varieties of fast growing trees whose root systems were inappropriate for small sidewalk wells, and as the trees grew over the years they damaged sidewalk surfaces dramatically. Recognizing this, Los Angeles enacted an ordinance in 1974 exempting homeowners from damage caused by tree growth and assuming that cost (5: pg7). Between the years of 1976 and 1978, the City repaired sidewalks, funding the program through federal monies which were depleted as soon as 1979 after which the City reinstated the 1911 policy (5: pg7). When the Americans with Disabilities Act (ADA) extended Civil Rights protection of persons with disabilities in 1990, cities across the country began scrambling to ensure persons with disabilities had access to sidewalks via curb ramps (5: pg7). To provide funding for both curb cuts and sidewalk repairs, the City Council proposed Proposition JJ in 1998 which would provide $550 million over 20 years (5: pg7). The measure failed, receiving support from only 43% of voters (11).

Though the City was able to allocate $7 million to fund sidewalk repairs from tobacco settlement monies, it continued to search for other long-term funding alternatives (5: pg7). In 2004, Councilmember Wendy Greuel tested a 50/50 Cost-sharing program requiring that homeowners requesting repairs split the cost with the City, and it was so successful that it was rolled out to the entire City the very next year (5: pg7).

Current Funding Issues:

While the cost-sharing policy has increased the reach of limited City sidewalk repair funding, it, alone, cannot begin to address the backlog of damaged sidewalks. Funds for sidewalk repairs currently come from the City's General Fund which is dominated by Police and Fire needs. Given that, funding from this source has no potential to be increased in the near future. At its height during the 2003-04 fiscal year (FY), funding allocations totaled $14.8 million and repaired a total of 76 miles of sidewalk, representing only 1.6% of all damaged sidewalks in the City of Los Angeles (3). However, the 2003-04 FY is an anomaly. In fiscal years 2001-03 and 2004-05, the City only repaired 52 miles of sidewalk, representing 1.1% of all damaged sidewalks and a backlog of 89 years. While the 50/50 cost-sharing program increased the reach of City funding in FY 2005-07 by 15% and 23% respectively, a total of 64 miles is expected be fixed in FY 2006-07, representing only 1.4% of all currently damaged sidewalks, only reducing the backlog of damaged sidewalks to 72 years. (See
Policy/Stakeholder Issues:

Since the backlog is calculated as a ratio of sidewalks fixed each year to total sidewalk damage, it only addresses existing sidewalk damage and not future damage. Los Angeles will need to consider long-term strategies that will help to address not only the backlog of damaged sidewalks, but in addition, any sidewalks that become damaged in the future. The City is currently considering three competing policies: one where the City cites property owners for damaged sidewalks and requires that they have them fixed, one where property owners are required to fix sidewalks upon the sale of their property, and one where funding is provided for the City to fix sidewalks through a bond measure. All of these policies require the input of stakeholders. We identified six groups of stakeholders, including: BOSS who is responsible for sidewalk repair, SEIU Local 347 who provides the labor for sidewalk repair, the Chamber of Commerce who represents business interests, Neighborhood Councils who are rising in power in the City who have the ability to influence Council decisions, Councilmembers who are responsible for making decisions for the City, and Realtors/Realty who would be impacted significantly by the point-of-sale policy.

Literature Findings

Citation Policy:

We were unable to find literature on a citation policy for sidewalk repair. However, in light of the fact that we discovered through both interviews and focus groups that there is almost no buy-in for this policy, our literature review section will primarily focus on a bond measure option and the point-of-sale policy.

Bond Measure:

While many stakeholders interviewed during the course of our evaluation expressed their potential to support a bond, they also expressed a number of concerns. One of the primary concerns was that once collected, the funds would not be used for their intended purpose. In the past, bond monies have been known to go towards paying such things as overtime for police officers, extending beyond the purpose of the bond. Residents might potentially feel more secure in voting for a sidewalk repair bond if there was independent citizen oversight, mandatory annual financial audits, and prosecution for criminal misuse of funds built into the bond itself. However, this may not be
feasible depending on the type of bond issued.

Another concern is that an increase in taxes would create an inhospitable business environment in Los Angeles. Funds for a bond must come from somewhere, and generally, the funding comes from increased sales or property taxes. These elevated tax rates make it more difficult for businesses to generate a profit, given their expenses. When faced with the prospect of incurring fewer expenses in another city with lower tax rates, businesses may choose to relocate in other nearby cities.

Finally, there is concern that a bond to repair streets would be more compelling than a sidewalk repair bond. The City is interested in adding a street repair bond on the 2008 ballot, and including sidewalk repair funding with that bond may make it too expensive for voters to support. Even if the City were to propose a sidewalk repair bond on its own, there is always the danger that voters would reject such a bond again, as they did with Proposition JJ in 1998. Additionally, there has not been much support in recent history for bonds or measures that fund infrastructure issues. In the November 2006 election, Measure H, an infrastructure bill for affordable housing just barely lost (4). Measure H was a bill trying to address a quality of life issue, much like Proposition JJ, and while a majority of voters (62%) supported the bill, it still failed by four percent (4). Both Proposition JJ and Measure H demonstrate the inherent difficulty of passing a bond in California where a two-thirds majority vote is needed.

However, if a $550 million bond were passed to provide funding for sidewalk repairs over 20 years, such a bond would extend the reach of City funding by 373% in its first year, repairing 293 miles of sidewalk, assuming that City funding remained the same and that the ratio of funding to miles repaired remained the same. (See Figure 8) Those miles are equivalent to 6.3% of all damaged sidewalks, meaning that all currently damaged sidewalks could be expected to be fixed within 20 years.

**Point-of-Sale Policy:**

The reach of the point-of-sale policy extends further than the bond proposed at the same level of funding as Proposition JJ, and it would not have to be passed by voters in order to be implemented. This is one of many positive aspects of the point-of-sale policy and a major reason it is so widely supported across stakeholder groups.
The success of the point-of-sale policy draws its strength from data contained in the 1990 Census, which suggests that about “half of all owner-occupied housing units in the United States were sold at least once within the previous ten years” (6: pg359). A Los-Angeles-County-specific study of all properties on five major commercial streets in Burbank, California from 1959-1991 concluded that 75% of all properties were sold within the previous 15 years, and 90% were sold within the previous 27 years. The sales rates for the properties on these five major streets were similar to one another, and to the sales rate for the whole city (6).

The nationwide Census data when combined with data from this Burbank study, suggest that about half of all housing units are sold within seven to ten years” (6: pg359). With a turnover rate this high, it is easy to see that compared to other planning efforts, the point-of-sale policy would improve sidewalks at a much faster pace. In fact, the point-of-sale policy is estimated to extend the reach of city repairs by 669% in its first year, and the 400 miles of sidewalk repaired in the first year will equal 8.7% of all damaged sidewalks. (See Figure 7) The policy is expected to reduce the 83-year backlog to 12 years.

One of the more far-sighted reasons for the implementation of a point-of-sale policy is that it would allow cities to regulate the repair process while at the same time being able to “spend more of their general revenue on such public services as education, safety, and even urban planning” (6: pg366). The freeing up of these monetary resources would also allow more specifically for the improvement of neighborhoods. This neighborhood improvement is not limited to safety, functionality and beautification; it also includes increased property values for homeowners. Dr. Donald C. Shoup of UCLA and a major advocate for the point-of-sale policy, believes that “landowners should pay for site-specific public services that increase the market value of their particular properties, while public revenue should pay for public services that benefit everyone” (6: pg366). This distinction may seem small, but it is important. The question of who bears the fiscal responsibility for sidewalk repair lies at the core of the viability of all policy alternatives.

Ideally when a point-of-sale policy is implemented it would increase the utility of low-income neighborhoods to standards that affluent areas already enjoy. This increased functionality has the potential to raise property values and benefit everyone who uses them, not just homeowners. In addition, the actual cost of repairing sidewalks would be minimal in comparison to the value of
almost any property. "A property's sale will provide the cash to reimburse the seller's cost of compliance" (6: pg357).

Another positive aspect of implementing a point-of-sale policy is that it can easily be streamlined so that it does not overburden the escrow process. One way to do so is for compliance at sale to be done privately. The city could contract with a nonprofit agency to inspect a property and issue the compliance certificates (6: pg360). Another way would be for the city to "certify compliance after inspection, and the private sector can then enforce compliance through the real estate transaction process. Dividing responsibilities between the public sector and the private sector should guarantee that properties comply when they are sold" (6: pg360).

One way to ensure compliance would be to make it a misdemeanor to violate the policy. In Santa Monica there is a retrofit-upon-sale ordinance that requires a compliance certificate to be issued before gas, electricity, and water service can be established in the buyer's name (6: pg361). However, it is important to note that under a point-of-sale policy most owners will want to maintain compliance if they expect to sell their properties.

There are various positive byproducts that could come about through the implementation of a point-of-sale policy. One of the most important is that in improving older neighborhoods, property owners might be encouraged to "invest more in maintaining their property, and developers to invest more in new construction" (6: pg363). It is also possible that as a result of this investment fewer families whose incomes are rising will want to leave, and that by "slowing the emigration of prosperous families, regulation at sale could bring about more economic integration in older neighborhoods" (6: pg366). On the downside, the policy may create a haphazard quilt work of repaired sidewalks vs. damaged ones, resulting in the inability for sidewalks to be used until 100% of the properties adjacent to them have been sold at least once. Also the policy may disproportionately impact neighborhoods where properties do not turn over frequently.

**Objectives, scope, and methodology**

The purpose of this study was to determine viable alternatives as well as areas of consensus and divergence amongst stakeholders and it also provided a variety of recommendations from the array of stakeholders. The questions answered were: what are the history and the current state of sidewalk
repair in the City of Los Angeles, what policy are stakeholders more likely to support, what are the beliefs that stakeholders possess about the condition of the state of sidewalks and sidewalk repair, what recommendations do stakeholders have about improving the sidewalk repair process, what considerations impact each stakeholder group, and what features would enhance stakeholder opinions of the alternatives?

To answer these questions, two informational meetings with BOSS and two informational meetings with BOSS & Council Staff were held, and a City of Los Angeles Public Works Committee meeting was attended to gather background information. Additionally an informational interview was conducted via e-mail with the Director of the City of Piedmont’s Department of Public Works as the City currently utilizes a point-of-sale policy. Furthermore, internal reports and statistics generated by BOSS on risk, sidewalk repair, and innovative ideas in the field were reviewed.

Interviews were conducted with individual stakeholders, five in-person interviews and two phone interviews (with members of the realty/realtor community). Additionally, two focus groups were conducted with two neighborhood councils; the first had 10 members of its transportation committee present and the second had five members of its transportation committee present. The same questions were asked at each interview/focus group. (See Appendix A) Coding concepts were developed from the notes and the prevalence of concepts across stakeholder groups were examined and weighed both by the total number of interviews and focus groups and by stakeholder group, assigning the same weight to each group, regardless of how many stakeholders were in each group.

It is important to realize that though this evaluation involved discussions with various individuals and groups, there are millions of stakeholders in this process and so interviews and focus groups would not be expected to represent all of them, nor the total range of opinions in existence. As all of the data and feedback came from persons widely identified as members of the stakeholder groups, their input is valid and credible. While some stakeholders clearly represented others in their constituencies, such was the case with BOSS, LA City Councilmembers, and SEIU Local 347 leadership, the opinions of those stakeholders in the Chamber of Commerce, Neighborhood Councils, and the Realty/Realtor community should not necessarily be expected to represent the opinions of others in those groups. This is a limitation that could only be overcome by producing an evaluation on a much larger scale and involving considerably more resources. However, as statistical
conclusions cannot be drawn from interviews and focus groups, the evaluation should only look to inform decision-making and offer qualitative insight into stakeholder beliefs and ideas.

Findings
Amongst all stakeholders, 83% would potentially support a policy that requires property owners to repair sidewalks at the point-of-sale; 78% would potentially support a bond measure to fund sidewalk repair; and only 22% would potentially support the City citing property owners and requiring them to fix damaged sidewalks. (See Figure 5) Across the groups of stakeholders, most of the potential support for the bond measure came from City Councilmembers, SEIU Local 347, and the Chamber of Commerce. Neighborhood Councils and BOSS were not as supportive of the policy. On the other hand, Realty/Realtors were the group that was the least supportive of the point-of-sale policy, and along with BOSS they expressed the most potential support for citing property owners. (See Figure 6)

Stakeholder Beliefs:
While 100% of stakeholders believe that the condition of sidewalks is a concern, something drastic needs to be done, and that the City bears some responsibility for the problem, stakeholders vary in their other beliefs. Less than a majority of stakeholders (42%) mentioned that they believed sidewalk repair had a positive effect on property value, among them were Councilmembers, BOSS and Realty/Realtors. This is an indication that only those stakeholders who are close to the process or involved in the business of assessing property value are aware of the positive impact of sidewalk repair on property value, and that the increase in property value might be another reason for the public to buy-in. It is also an indication of the importance of outreach and education for those not closely involved in the process. Only eight percent of stakeholders believed that the City should fund all repairs, represented by one Neighborhood Council, but they were unable to suggest where the funding should come from. (See Figure 9)

Recommendations for generating funding:
Overall, 83% of stakeholder groups recommended the use of public/private partnerships to fund sidewalk repair, with the Realty/Realtor stakeholder group as the only exception, (See Figure 10) and 58% of the stakeholder groups recommended the use of incentives, with SEIU Local 347 and Realty/Realtor groups as the exceptions (See Figure 13). These statistics suggest that partnerships
and incentives could be a powerful way to develop buy-in amongst stakeholder groups. One stakeholder mentioned that the City could use incentives already aligned with its strategic plans, such as fixing sidewalks for free for developers who provide a certain percentage inclusion of affordable housing or for businesses who commit to remaining in Los Angeles and hiring more employees.

Further 33% of stakeholder groups, Neighborhood Councils and Chamber of Commerce stakeholders, recommended that property owners and developers pay into a fund to be used for sidewalk repairs within a specified distance of their property or development (See Figure 16). This could motivate public support as it would directly impact the sidewalks used most frequently by those paying into the fund. However, this recommendation could negatively impact less affluent areas or those with less development. Additionally, 25% of stakeholder groups, also Neighborhood Councils and Chamber of Commerce stakeholders, recommended that neighborhood councils use some of the funding they receive from the Department of Neighborhood Empowerment to fund sidewalk repairs in their area (See Figure 17). This recommendation calls into light an inconsistency; though implementation may be illegal as public funds are not to be used for private benefit, the use of individual funds to repair sidewalks in front of homes is a current practice and it provides a definite benefit to the public. While the City should look at its policy, a compromise could involve the use of neighborhood funds to repair sidewalks in publicly used spaces.

Recommendations for developing buy-in:

Just over two-thirds of stakeholder groups (67%) recommended that property owners have the ability to fix their own sidewalks (See Figure 11) and the use of outreach and education to develop buy-in (See Figure 12). The Chamber of Commerce, Realty/Realtors, and Neighborhood Councils were the groups with the lowest support for recommending outreach and education and perhaps that is a sign that they are not even aware that they do not have the same information that administrators, elected officials and union leadership have. Furthermore, many stakeholders were not aware that property owners currently have the ability to fix their own sidewalks. This is another indication that outreach and education would be useful.

As well, 58% of stakeholder groups recommended implementing workforce training initiatives to provide labor for sidewalk repairs (see Figure 14), among them SEIU Local 347, Chamber of Commerce, BOSS, and Neighborhood Councils, and 58% of stakeholder groups recommended that
neighborhood councils help to map out priority fixes (see Figure 15), with the exception of SEIU Local 347 and Realty/Realtors. Stakeholders expressed a great deal of interest in the workforce training initiatives and even mentioned that the City had just allocated hundreds of thousands of dollars to gang prevention initiatives and that the two could potentially be intertwined. Furthermore, SEIU Local 347 has a workforce training plan that they are ready to roll out. Both ideas could be integrated into a chosen sidewalk repair policy to increase the potential for buy-in.

It should be noted that the biggest sources of innovation in recommendations are the Chamber of Commerce, Neighborhood Councils and BOSS. It is important then for the City to reach out and get ideas from the public as well as from those who are knowledgeable in the subject.

**Recommendations/Costs and Consequences**

After looking closely at the findings, which are based on background research and interviews with a broad range of stakeholders, it is recommended that the City of Los Angeles implement a point-of-sale policy. However, while the point-of-sale policy has the most potential to address the huge backlog of damaged sidewalks in a time-efficient manner, it is also necessary to gain as much buy-in as possible from everyone affected by the policy. In order to gain stakeholder support, the City will need to implement other measures in addition to the point-of-sale policy advocated by Dr. Donald C. Shoup. As well, the City may need to create separate policies for residential and commercial properties. It is critical to the City’s ability to generate support among Realty/Realtors that any point-of-sale policy adopted is specifically designed not to delay or overburden the escrow process. The City of Piedmont offers an excellent example of how this can be done as Piedmont has actually tied sidewalk certifications and inspections to the permit process.

Another key component to the success of this policy would be the implementation of a workforce development initiative. Currently the City has neither the funding nor the manpower to repair the backlog of damaged sidewalks. Youth and anti-gang job-training initiatives are a strong resource the City can tap into, that will serve multiple purposes. Participants would provide much of the labor needed to make the actual sidewalk repairs, but perhaps more importantly, the City would be assisting at-risk youth in learning a vocation that gets them off the streets and pays them a living wage. Other positives include that these initiatives are funded by sources outside the General Fund, and that the actual training can be implemented and maintained through partnerships with local
unions, such as SEIU Local 347. A vocational training component that benefits at-risk youth would also go a long way towards creating buy-in from the community at large.

Another key component to the implementation of a point-of-sale policy would be the use of neighborhood councils, business improvement districts and homeowner associations in assessing areas that are priority fixes. These groups are already familiar with their particular localities, and this insider knowledge would save the City from unnecessarily repeating sidewalk damage assessments. Involving community groups in the identification process is also another way to increase buy-in and good will towards City repair efforts. However, in order to gain citywide support beyond just neighborhood councils, business improvement districts and homeowners associations, broad public outreach and education strategies must also be implemented. Many of the neighborhood councils members interviewed were unaware that they were able to repair their own sidewalks with an independent contractor under the current policy, therefore it is integral to educate the public on any changes to the current sidewalk repair policy, as well as how they fit into the process.

It is also recommended that the City keep the 50/50 program in place for low-income residents, those not selling property, and for homeowners with repairs over a certain amount due to tree damage. The City has an estimated range for how much sidewalk repair generally costs, and anything outside of this range that has been caused by tree damage, should be repaired through the 50/50 program. After the initial upfront costs, the point-of-sale policy will begin to pay for itself, and if the City is able to hold onto its current level of funding for sidewalk repair, it could use those monies to continue the 50/50 program. This would make a strong statement that the City accepts responsibility for damage caused by the trees they planted, or the trees they allowed developers to plant, even if they do not have the level of funding available to pay for all the necessary repairs.

Other sources of funding could potentially come from neighborhood councils and developers. Neighborhood Councils are funded by the Department of Neighborhood Empowerment (DONE), and have expressed interest in utilizing some of their monetary resources for sidewalk repair in their local communities. However, the legality of this funding source must be investigated further to ensure that City money can legally be invested into what is essentially the repair of private residences. One way the City may be able to get around this is to make sure that the DONE money is used solely to repair sidewalks in community areas such as schools and parks. As long as the Neighborhood Councils are able to prove that the sidewalk being repaired is benefiting the
community at large, there should be no problem utilizing those funds.

It was also suggested in stakeholder interviews that developers could pay a 0.5% fee on new projects into a fund that would go towards sidewalk repair for that neighborhood. This is a small percentage of the total costs for most projects in Los Angeles, and would most likely not deter new business and development in the City. Many stakeholders also believe it is important to provide incentives for developers and businesses to come to Los Angeles. Incentives could include free sidewalk repair on all projects that incorporate a certain percentage of affordable housing units, meet all the guidelines for the Mayor’s Million Trees Initiative, or obtain commitments from businesses to remain in the City and hire more employees. These incentives would encourage development and the building of a healthy infrastructure in Los Angeles, while also increasing the quality of life for residents.

Communication of Findings

Our findings will be communicated to the primary client via an emailed version of our final PowerPoint presentation, in addition to a PDF version of our final report. We also gave an in-person presentation of our findings to the Los Angeles Bureau of Street Services and Council staff at City Hall on Friday, April 27th 2007, and will be distributing the final PDF version of our report to all of the stakeholders interviewed during the process of our evaluation.

Likely/Actual Uses of Evaluation

The purpose of this seminar project is to make policy recommendations based on our findings of the priorities and concerns of stakeholders, as well as through evaluation of the current 50/50 sidewalk repair policy of the Bureau of Street Services at the City of Los Angeles’ Department of Public Works. Our recommendations are based on a historical review of the issue and context of the new repair policy, a review of alternate repair policies (such as point-of-sale) in other large U.S. cities, identification of and interviews with stakeholders, and reported findings. This evaluation will primarily be used to identify areas of consensus and divergence amongst stakeholders and inform policy decisions.

Our findings were already utilized as early as the afternoon of Friday, April 27th in Council Budget
Hearings when the outreach and education recommendation was implemented immediately. In addition, a task force was convened to review the rest of our recommendations. It is expected that the evaluation will spawn a more extensive evaluation as well as movement on many of the recommendations, and that it will ultimately be used to inform policy decisions surrounding sidewalk repair for the City.

Primary client/Stakeholder Reactions
The primary client has expressed praise for and satisfaction with the evaluation. Stakeholders were heartened to see that the City is looking into policies to improve the quality of sidewalks within the City and have expressed interest in the reviewing the report of the evaluation conducted.

Limitations
Limitations of this project include the impossibility of interviews and focus groups reaching all of the millions of stakeholders. According to U.S. Census Bureau, as of 2003, the City of Los Angeles is estimated to have a population of 3,819,951 people (7). Although all of these people are not property owners, the majority of them utilize the City's sidewalks and hold a stake in the outcome of potential policy decisions.

Another limitation is that focus groups composed of only neighborhood council members will not necessarily have the advantages of typical focus groups. When groups of people are familiar with each other and have frequently worked together, they can become highly cohesive and it is possible for them to suffer from “groupthink.” Wikipedia encyclopedia defines groupthink as “a type of thought exhibited by group members who try to minimize conflict and reach consensus without critically testing, analyzing, and evaluating ideas.” Groupthink can be caused by isolation from outside experts or the presence of a particularly strong leader whose agenda and ideas can easily sway those around him/her.

Beyond groupthink, there is another difficulty; statistical conclusions cannot be drawn from interviews and focus groups. The data drawn from this methodology is qualitative, not quantitative, and is therefore open to interpretation. As a result, our research has primarily relied on small, focused samples, rather than large random samples.
While we have tried to include multiple people from all relevant stakeholder groups in our research, those who choose not to interview, had schedules that conflicted with ours, or were too far for us to interview may hold different opinions. This is a sheer numbers game. We cannot force people to participate, and we do not have the resources available to gather the large random samples necessary to offset this limitation.

Finally, interview selection was not random. The majority of the stakeholders interviewed already had a vested interest in the area of sidewalk repair, and were recommended for their demonstrated involvement in solving this issue. Due to a limited amount of time, interviewees were primarily selected based on their willingness to participate, which appeared to be connected to this knowledge of and interest in the area of sidewalk repair.

**Overcoming Limitations**

Even if a more extensive evaluation effort had been conducted, it would not have been possible to reach every single stakeholder in the City of Los Angeles. However, with more resources (i.e. time and money), the project certainly could have reached a larger number of people/groups, across a broader geographic spectrum. Statistical conclusions cannot be drawn from focus groups and interviews, though but with a large number of respondents, the data would hold a lot more weight. Furthermore, the City could consider conducting a survey in the future to obtain quantitative data.

If more time had allowed, the neighborhood council “groupthink” phenomena might have been overcome by bringing local property owners together for a community forum where sidewalk repair is discussed. Each meeting could have been held in an easily accessible area of the community during non-work hours, in order to appeal to the most stakeholders. With enough of these meetings in various geographic regions, some substantial data could have been collected on the opinions of homeowners. Also, with more time and resources, it might have been possible to get those who did not wish to participate involved in this project through the offering of incentives. Incentives could have included coupons to local restaurants, mileage reimbursement, or even a deal on sidewalk repair.

*This evaluation report was generated for the educational benefit of its student authors and the main purpose of the project was to learn evaluation techniques. The opinions and suggestions in this report are not generalizable and do not represent the views of the University of Southern California, the School of Policy, Planning, and Development, or its faculty.*
## Appendix A: Revised design matrix

<table>
<thead>
<tr>
<th>Evaluation Question</th>
<th>Focus Group/Interview Questions</th>
<th>Information Source</th>
<th>Data Collection Mode</th>
<th>Costs</th>
<th>Outputs</th>
<th>Purpose</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Sidewalk</td>
<td>What are viable alternatives to the current sidewalk repair policy?</td>
<td>A sampling of Councilmembers available for an interview</td>
<td>Historical Review</td>
<td>Time it takes for people to meet with us and for us to meet with them</td>
<td>Preliminary findings presentation Tuesday, March 29th</td>
<td>Identify areas of consensus and divergence amongst stakeholders</td>
</tr>
<tr>
<td>Repair Policy</td>
<td>What is your experience with the condition of sidewalks in LA?</td>
<td>A sampling of Chamber of Commerce board members available for an interview</td>
<td>Research of viable alternative sidewalk repair policies</td>
<td>Transportation costs</td>
<td>Final presentation Tuesday, April 24th</td>
<td>Inform sidewalk repair policy decisions</td>
</tr>
<tr>
<td></td>
<td>How does the need for sidewalk repairs affect you and/or your constituency?</td>
<td>A sampling of Board of Realtors members available for an interview</td>
<td>4 to 6 one-on-one interviews with Councilmembers, SEIU leadership, BOSS &amp; Realtors</td>
<td>Potential for political repercussions</td>
<td>Written report turned in Thursday, May 3rd</td>
<td></td>
</tr>
<tr>
<td></td>
<td>How should sidewalk repair be funded?</td>
<td>A sampling of Neighborhood Council board members available for interviews/focus groups</td>
<td>Interviews/Focus groups with the remaining stakeholder groups (at least one interview of 6-10 people per group)</td>
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<td></td>
<td>If the City does not have enough funding to pay for all the repairs, who should share in that cost?</td>
<td>A sampling of Union SEIU Local 347 leadership available for group interviews/focus groups</td>
<td>Proprietary data from the City of Los Angeles Bureau of Street Services</td>
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<td></td>
<td>The City is considering three competing policies:</td>
<td>Bureau of Street Services Representatives</td>
<td>Review of Dr. Donald Shoup's journal article</td>
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<td>one where the City cites property owners for damaged sidewalks and requires that they have them fixed, one that requires that property owners fix sidewalks upon the sale of their property, and one that provides for funding for the City to fix sidewalks through a bond measure.</td>
<td></td>
<td>Conversation with City of Piedmont Department of Public Works Director</td>
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<td></td>
<td>How would each of these policies affect you and/or your constituency? Would you support any of these policies? What would be the impact or cost of each?</td>
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<td>What, in your opinion, should ultimately be done?</td>
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Appendix B: Copies of Interview/Focus Group Questions

- What is your experience with the condition of sidewalks in Los Angeles?

- How does the need for sidewalk repairs affect you/your constituency?

- How do you feel that sidewalk repair should be funded? If the City does not have enough funding to pay for all the repairs, who should share in that cost?

- The City is considering three competing policies: one where the City cites property owners for damaged sidewalks and requires that they have them fixed, one that requires that property owners fix sidewalks upon the sale of their property, and one that provides for funding for the City to fix sidewalks through a bond measure.

  How would each of these policies affect you and/or your constituency? Would you support any of these policies? What would be the impact or cost of each?

- What should ultimately be done?

- Review of journal articles and news articles regarding alternative policies
Appendix C: References

(1) City of Piedmont Policy on Required Construction and Repair of City Sidewalks Article V. Sec. 18.26. - Sec 18.32.


(3) City of Los Angeles Public Works Bureau of Street Services Safe Sidewalks Repair Program, June 19, 2002.


(7) U.S. Census Bureau "Los Angeles City, California" retrieved on Thursday, April 5, 2007. http://quickfacts.census.gov/qfd/states/06/0644000.html

(8) Various Interdepartmental Correspondences within the City of Los Angeles regarding Sidewalk Repair Policy.


Appendix D: Examples of the data collected; where the data are stored

The data exists in the form of handwritten notes taken during interviews and focus groups, notes retyped onto computers, and data analysis of coding concepts in Excel spreadsheets. The handwritten notes have been destroyed by the student evaluators. The typed note and the data analysis is stored on the hard drives of the personal computers of the two student evaluators.
Appendix E: Written Agreement Detailing Project Conditions

Re: City of Los Angeles' Sidewalk Repair Policy Project

February 20, 2007

Am: William Robertson
General Manager, Bureau of Street Services
Department of Public Works
City of Los Angeles
Cc: Nazario Sauceda, Ron Olive

Dear Mr. Robertson:

The following letter shall serve as a written agreement detailing the project conditions for the Sidewalk Repair Policy Project for the Bureau of Street Services within the Department of Public Works for the City of Los Angeles.

Purpose of Project & Possible Uses of Evaluation:
The purpose of this seminar project is to make policy recommendations based on findings of the priorities and concerns of stakeholders, as well as thorough evaluation of the current sidewalk repair policy of the Bureau of Street Services at the City of Los Angeles' Department of Public Works and viable alternatives to that policy. The evaluation will include a historical review of the issue and context of the current repair policy, a review of alternative policies, identification of and interviews with stakeholders, reported findings, and recommendations for viable alternatives and next steps. This evaluation will primarily be used to identify areas of consensus and divergence amongst stakeholders and inform policy decisions.

Proposed Evaluation Questions:
What is your experience with sidewalks in Los Angeles? How does the need for sidewalk repairs affect you? How do you feel that sidewalk repair should be funded? If the City does not have enough funding to pay for all the repairs, who should share in that cost? How would any of the following policies affect you/your constituency: a policy that makes property owners responsible for fixing sidewalks upon the sale of their property? Upon the purchase of their property? At any time, regardless of whether they are buying or selling a property? Would you support any of the following policies: a policy that makes property owners responsible for fixing sidewalks upon the sale of their property? Upon the purchase of their property? At any time, regardless of whether they are buying or selling a property? How would a bond measure affect you/your constituency, and would you support a bond measure to fund sidewalk repairs?

Data Collection Plan:
After conducting the historical review, analysis of data provided by the Bureau of Street Services, and research of viable alternative policies, stakeholders will be identified and contacted to schedule interviews. Stakeholders include Councilmembers, the Board of Realtors, the Chamber of Commerce, community groups such as neighborhood councils, Union SEIU Local 347, and the Bureau of Street Services. Many of these stakeholders will have busy schedules; so individual interviews will be scheduled. However, it is possible that
Written Agreement of Project Conditions

group interviews/focus groups will be conducted in lieu of individual interviews for such stakeholders as neighborhood councils, since they will be approached when they are already convened for their regular meetings. After conducting the focus groups and one-on-one interviews we will code our notes and systematically analyze the responses. Costs for this project include time, the time it takes for people to meet with us, as well as our time in conducting the interviews, and transportation costs. There may also be political issues, especially when dealing with Unions and elected officials that need to be taken into account.

Confidentiality:
All of our findings and the information gleaned from the one-on-one interviews and focus groups will be kept in strict confidence, unless otherwise authorized by the Client. In addition, our findings will be divulged to our primary clients at the City of Los Angeles’ Bureau of Street Services and any stakeholders who participated in the evaluation, as well as Professor Susan Yackee and our classmates at the University of Southern California.

Deliverables:
There will be a presentation outlining the evaluation procedures and preliminary findings from our historical review, as well as an evaluation of the current sidewalk repair policy and alternative policies on Tuesday, March 6th at the University of Southern California. Our final presentation will discuss our findings from the historical review as well as the one-on-one and group interviews, and will take place on Tuesday, April 17th at the University of Southern California. Our findings will culminate in a written report that will be given to our professor on Tuesday, May 1st and to our primary clients at the Bureau of Street Services. The primary clients have the option of attending our final presentation, as well as opting for an additional presentation to be delivered at their offices at a later date.

Design Matrix:
*Please see Appendix A

I hereby agree to the above conditions set forth for this project and accept the terms herein:

______________________________
William Robertson, General Manager of the Department of Public Works’ Bureau of Street Services for the City of Los Angeles

______________________________
Julayne Austin, Student Evaluator, University of Southern California

______________________________
Kassandra Tribble, Student Evaluator, University of Southern California
Figure 1 - Sidewalk Repair Funding

Sidewalk Repair Funding FY 2001-07

Figure 2 - Sidewalk Miles Repaired

Sidewalk Repair in Miles FY 2001-07
Figure 3 – Trip and Fall Liability Claims

Though the overall number of trip & fall claims has fallen since FY 2001, the average annual trip & fall liability expenditure is $4.3 million.

Figure 4 – Trip and Fall Liability Expenditures
Figure 5 - Stakeholder Support of Policy Alternatives

Note: responses from stakeholders were weighted individually

Figure 6 - Stakeholder Consensus and Divergence Regarding Policy Alternatives

Note: responses from stakeholders were weighted by group
Figure 7 - Impact of Point-of-Sale Policy

Note: source of information for this graph is Shoup, Dr. Donald C., "Regulating Land Use at Sale: Public Improvement from Private Investment."

Figure 8 - Impact of Sidewalk Repair Bond

Note: Impact estimated using total bond funding proposed in 1998 and assuming funding to miles repaired ratios stay the same.
Figure 9 - Stakeholder Groups' Beliefs

Overall 100% of stakeholders share beliefs on the condition of the sidewalk repair situation, 42% believe repairs positively impact property value and 8% believe the City should fund all repairs.

Note: Responses from stakeholders were weighted by group

Figure 10 - Stakeholder Groups' Feedback on Public Private Partnerships

Overall 83% recommended public/private partnerships

Note: responses from stakeholders were weighted by group
Figure 11 - Stakeholder Groups’ Feedback on Property Owners Having the Ability to Fix Their Own Sidewalks

Overall 33% recommended that property owners and developers pay into a fund for repairs in a specific area.

Note: responses from stakeholders were weighted by group

Figure 12 - Stakeholder Groups’ Feedback on the Use of Outreach and Education

Overall 67% recommended the use of outreach and education to develop buy-in.

Note: responses from stakeholders were weighted by group
Figure 13 - Stakeholder Groups' Recommendation on the Use of Incentives

Overall 58% recommended the use of incentives

Note: responses from stakeholders were weighted by group

Figure 14 - Stakeholder Groups' Recommendation on Workforce Training Initiatives

Overall 58% recommended implementing workforce training initiatives to provide labor for sidewalk repairs

Note: responses from stakeholders were weighted by group
Figure 15 - Stakeholder Groups' Recommendation on Neighborhood Councils Helping to Map Out Priority Fixes

Overall 58% recommended that neighborhood councils help to map out priority fixes

Note: responses from stakeholders were weighted by group

Figure 16 - Stakeholder Groups' Recommendation of a Repair Fund by Area

Overall 33% recommended that property owners and developers pay into a fund for repairs in a specific area

Note: responses from stakeholders were weighted by group
Figure 17 - Stakeholder Groups' Recommendation that Neighborhood Councils Use Some of Their $50k from DONE to Repair Sidewalks in Their Area

Overall 25% recommended that neighborhood councils use some of their $50k from DONE to repair sidewalks in their area.

Note: responses from stakeholders were weighted by group
DATE: February 12, 2008

TO: Honorable Bill Rosendahl, Chair
Public Works Committee
Attn: Adam Lid, Legislative Assistant
Office of the City Clerk

FROM: William A. Robertson, Director
Bureau of Street Services

SUBJECT: POINT OF SALE SIDEWALK REPAIR PLAN (C.F. 05-1853)

In response to the motion (CF 05-1853) put forth by Councilmembers Smith, and Rosendahl, requesting the Bureau of Street Services to report back with recommendations from the sub-committees for a point of sale plan for fixing the City’s sidewalks including input from affected stakeholders.

On August 23, 2007, the Bureau held an orientation meeting with the various individuals from the Mayor’s Office, Council Districts and City Departments (DONE, CAO, CA, DBS, CLA and CDD), Local 721, and real estate/escrow industry. After which the four sub-committees were formed (Program Structure, Workforce Development/Training, Legal Issues/Ordinance Change and Community/Business Outreach) and met on a bi-weekly basis to consider issues related to a Point of Sale Sidewalk Repair Program. The attached report details their findings and recommendations.

If you have questions or if additional information is needed, please contact William A. Robertson, Director at (213) 847-3333.

Attachment
WAR:dfh
DATE: February 12, 2008

TO: Honorable Bill Rosendahl, Chair
    Public Works Committee
    Attn: Adam Lid, Legislative Assistant
    Office of the City Clerk

FROM: William A. Robertson, Director
    Bureau of Street Services

SUBJECT: POINT OF SALE SIDEWALK REPAIR PROGRAM (C.F. 05-1853)

BACKGROUND

In a report to your Committee dated June 1, 2007, the Bureau of Street Services (BSS) described the current situation with regard to sidewalk disrepair in the City of Los Angeles. BSS estimates that approximately 4,600 miles of City sidewalk currently requires some level of repair at a cost of $1.2 billion. In addition, the City pays out an average of $3 million per year as a result of trip and fall claims associated with sidewalk issues. Attachment 1 – Sidewalk Maintenance in the City of Los Angeles provides a brief history of how we’ve reached this point, along with some of the challenges that need to be overcome. More detailed historical information and support documentation is available from BSS in a separate report titled, “City of Los Angeles Point of Sale Task Force – Sidewalk Repair History and Relevant Laws”.

BSS presented an outline of how a Point of Sale Sidewalk Repair Program (POS) could make a substantial impact on reducing the problem. Such a program would require property owners to repair the sidewalk or pay for the cost of repairs when selling their property. On June 26, 2007, the City Council adopted the associated Public Works Committee Report, instructing BSS to further explore the viability of a POS.

DISCUSSION

On August 23, 2007, the Bureau of Street Services held an orientation meeting with several key Department representatives and outside stakeholders. Some of the participants included members of the real estate and escrow industries, other City departments and Public Works Bureaus, SEIU Local 721, and community activists. Also in attendance was Dr. Donald Shoup, Professor of Urban Planning at UCLA. Dr. Shoup has written articles regarding the success of a similar program in the City of Piedmont, California. Attendees were asked to participate in one or more sub-committees where their interest and expertise would be most beneficial: Program Structure, Workforce Development and Training, Legal Issues/Ordinance Change, and Community/Business Outreach. Each sub-committee was charged with working out specific issues involved with implementing a POS.

Attachment 2 - Subcommittees summarizes the various options discussed and presents the overall recommendations of the groups.
Attachment 3 – Recommended POS Flowchart presents additional detail and a process flowchart of the recommended POS.

Attachment 4 – Potential Volume of the Program presents a status of the City’s sidewalk system, along with an estimate of sidewalk repair mileage that could be realized each year though the recommended POS. The data was extrapolated from a sampling inspection of home sales in the City of Los Angeles in August – October of 2007 plus the average number of major building permits issued over the past ten years. Without any basis for estimating the percentage of repairs that would be made by City forces versus property owner’s contractors and knowing that the sample data was taken during a very slow home sales period, the total mileage demand is conservatively estimated to be 100 – 200 miles annually, with an estimated 30 percent being referred to City forces. Attachment 5 – Required Workforce and Other Resources details the resources that would be necessary to support the recommended program.

RECOMMENDATIONS

For the past 35 years, the City has struggled trying to fund sidewalk repair using only outside and regular City revenue. In all of those years, the sidewalks have continued to fall further and further into disrepair. Clearly if the City determines that sidewalks are a priority, the property owners need to be held responsible for their sidewalks on some level. While the most common approach would be to cite owners using the Street and Highway Code and then give the owners two weeks to make the repairs, the size of the problem would tax the current resources available. That is to say that if all of the property owners attempted to contract out the work at the same time, there is little reason to believe that there are enough trained contractors or Portland Cement Concrete available to complete the work. For this reason, any program would need to prioritize the inspection. By inspecting based on a “Point of Sale” and other triggers recommended in this report, the City can spread this requirement over time and require that repairs be made when the property owners are receiving funds from the sale of their property, when major renovations are being made, or when sidewalk hazards expose the City to an especially high level of potential liability.

It is therefore recommended that the City Council:

1. Adopt a “Point of Sale” sidewalk repair policy beginning July 1, 2008 as outlined under the in the “Recommendations” Section of Attachment 2 of this report.

2. Instruct the City Administrative Officer, BSS, and other affected departments to report back within sixty days on recommendations to support BSS with the necessary resources to implement the recommended POS, with respect to Attachments 4 and 5 of this report.

3. Instruct all affected City Departments to provide the required assistance necessary to implement the recommended POS, including training and development of the Vocational and City Workforce element, establishing the necessary account mechanisms and authority to allow BSS to properly manage and operate the program, and adding safe sidewalk certification sign-off requirements as a condition for issuance of major building permits.
4. Instruct the City Attorney to draft and present the necessary legislative amendments within thirty days to clear the way for implementation of the recommended POS.

If you have questions or if additional information is needed, please contact me or Dominique Shipp of my staff at (213) 847-3333.

Attachments
WAR:RO:DS
ATTACHMENT 1
SIDEWALK MAINTENANCE IN THE CITY OF LOS ANGELES

Sidewalk Development

There was a time in the City of Los Angeles when there were very few sidewalks and people would walk in the dirt and mud to get to their destination. In order to remedy the situation, the City began requiring property owners to construct sidewalks through the assessment process (originally through the Vrooman Act of 1885 and later through the Improvement Act of 1911) and required developers to make such improvements prior to the City accepting a street easement. While the City could have and has on occasion obtained streets through the process of eminent domain, it had been determined that the City would be best served by taking easements. This approach is the same as was used by most cities throughout the state and is supported by state law. In the same way that developers were required to construct sidewalks and streets during the permitting process, they were also often required to plant trees. The basic theory is that if property owners wish to share in the use of public easements to conveniently access their property, they should also be responsible for providing the same improvements for others on their property. This truth is evidenced by the fact that under the Vrooman Act the Council could not order the improvements if a majority of property owners protested. The residents of Los Angeles wanted to improve their streets and willingly made the decision to pay for the improvements so that they would enjoy the same citywide. The same assessment laws that allowed for new construction of sidewalks are still in effect today for use by residents wishing to place sidewalks on their streets.

State of California - Sidewalk Maintenance Legal Authority

In light of the foregoing, one might ask if the City does not own the streets and sidewalks but merely has an easement, then what rights and responsibilities does the City and property owner have with regard to streets and sidewalks. The starting point is that the City has an easement for the public use and convenience. As the steward of this easement, cities have the right to maintain and improve the easement for the valid purpose of public use. The State of California, Government Code states:

40401. In its discretion the legislative body may expend the ordinary annual city income to pay all or part of the cost of work to:

(a) Establish, build, and repair bridges.
(b) Acquire by purchase or otherwise land for squares, parks, playgrounds, and places within the city and improve, equip and maintain them.
(c) Establish, lay out, alter, keep open, improve, and repair streets, sidewalks, alleys, tunnels, and other public highways, and drain, sprinkle, oil, and light them.
(d) Remove all obstructions from them.
(e) Establish grades for them.
(f) Grade, pave, gravel, and curb all or part of them.
(g) Construct gutters, culverts, sidewalks, and crosswalks in all or on any part of them.
(h) Cause shade trees to be planted, set out, and cultivated in them.
(i) Generally manage and control all such highways, tunnels, and places.
In furtherance of Section 40401, the City passed the City Administrative Code, Section 247, which states:

"The City shall have power to provide for public improvements by contract or by the direct employment of labor and purchase of materials. The Council may cause the costs and expenses of the improvements, including any damages to private property caused thereby, to be paid from the General Fund or a special fund of the City, or may make those costs and expenses, including incidental expenses and damages, a lien upon the abutting property, or upon property in districts according to benefits. The Council may establish, by ordinance, an assessment process, the priority of the lien and the method for enforcement, and may levy and collect or cause to be levied and collected assessments upon property according to frontage or upon property in districts according to benefits, to pay the cost of the improvements. The City may cause to be issued and sold bonds, notes and other evidences of indebtedness, bearing interest, extending over a period not exceeding such time as may be permitted by state law, to represent any or all of the assessments in accordance with requirements and procedures to be established by ordinance."

In other words, the City Council may at its discretion construct or repair a wide variety of improvements and pay for the construction and/or repair with any funds at its disposal that it is not prohibited from using for this purpose. That having been, the City also has the choice of making the property owner pay for such improvements and repairs. In regards to sidewalk repairs Section 4502 of the Streets and Highway Codes provides a "separate and alternate procedure for performing the work specified herein..." The alternate methodology is the assessment process. Section 5610 of the Streets and Highway Code states:

"The owners of lots or portions of lots fronting on any portion of a public street or place when that street or place is improved or if and when the area between the property line of the adjacent property and the street line is maintained as a park or parking strip, shall maintain any sidewalk in such condition that the sidewalk will not endanger persons or property and maintain it in a condition which will not interfere with the public convenience in the use of those works or areas save and except as to those conditions created or maintained in, upon, along, or in connection with such sidewalk by any person other than the owner, under and by virtue of any permit or right granted to him by law or by the city authorities in charge thereof, and such persons shall be under a like duty in relation thereto."

History and Current Situation

Since the inception of the Improvement Act of 1911 until January 15, 1973, sidewalks in the City were held the responsibility of the property owner. It should be pointed out that while the terms "abutting property owner" or "adjacent property owner" are often used in discussing streets and sidewalks for common understanding, in fact it would be more accurate to say the underlying property owner as most deeds show the ownership right extending to the middle of the street. The common practice until 1973 was to inspect sidewalks, site the property owner and require that the repairs be made. When the repairs were not made in a timely manner, the City would then repair the sidewalk either by contract or through the use of City forces and the property owner would then be billed.

As the trees in the City grew, more and more sidewalks become uprooted and in need of repair. In the early 1970s a few groups of homeowners complained that did not believe they should be responsible for their sidewalk repair. For many of those complaining, they believed that the trees were the property of the City. In fact, a City Attorney Opinion dated August 11, 1939 and State law shows this to be a fallacy. In the City Attorney’s Opinion it is stated, “Whoever owns the fee title in the parking or parkway owns
the trees that grow thereon, which are a part of the realty, subject to the power to remove or regulate their
growth when necessary to the enjoyment of the street for purposes of travel.” The City Attorney then
addressed the question, “If the City furnishes, plants and maintains street trees, does it make any
difference in the ownership”. To which the answer was, “The ownership of the trees follows the
ownership of the realty upon which they are growing unless there is a contract providing otherwise”. In
other words, they may be “street trees” but they are not “City trees” and the property owner can be held
responsible for their trees when they endanger the public.

In response to the complaints from some property owners, the issue of sidewalk repair was sent to the
City Council’s Public Works Committee. At their meeting the Council members considered the
possibility of the City assuming all the costs for sidewalk repairs. In a letter from Chauncey B. Pruner,
Legislative Assistant to the Public Works Committee to Dr. C. Erwin Piper, City Administrative Officer
it was stated that, “At said meeting it was indicated that the processing of thousands of repair orders is
costly and that the actual net cost to the City of a sidewalk repair program might not be too great. There
was the concern, however, that there would be a substantial increase in complaints if the work were done
free of charge.” The City Administrative Officer’s report on the matter indicated the anticipated cost per
year for the City to do the work in 1973 was $3,500,000 and was expected to go up each year after as the
program became more known. It was the recommendation of Dr. Piper that, “The City continue to assess
adjacent property owners for the City’s actual costs for performing repair work on curbs, gutters and
Sidewalks under the provisions of the Streets and Highway Code”. In response to the City
Administrative Officer’s and the Bureau of Street Maintenance reports, the Public Works Committee
recommended that the assessment process remain City policy. A “minority report” was also submitted
which called for an end to assessments and for the City to take on the cost of sidewalk repair. The City
Council voted to replace the Public Works Committee report with the “minority report”. On January 15,
1973 the Council passed two different items that were incompatible and the City Attorney recommended
that the Council needed to pass additional rules to clarify the matters. In the end, the Council reaffirmed
their decision to make the City responsible for the repairs and requested the Bureau of Street
Maintenance to prepare a budget for the program. Due to the costs of taking on the responsibility for
sidewalk repair, on December 10, 1973 Mayor Tom Bradley requested the City Council to postpone the
Sidewalk Repair program indefinitely. The City Council chose to adopt the budget and the Mayor then
vetoed their decision. The City Council then appropriated approximately $2 million for sidewalk repair.
Within two years of instituting the new program, the City had a two and a half year backlog that was
growing annually. In 1976 the City stopped funding and making most needed sidewalk repairs and in
1981 it attempted to re-institute the assessment process and was meant by a class action suit to hold the
City responsible based upon the prior Council actions. Since that time there have been numerous
attempts to fund a sidewalk repair program that have all met with limited success. In the end, the issue is
the same as it was when the property owners built the sidewalks in the first place: who should pay for the
repairs and where will the funds come from?

The current sidewalk repair ordinance can be found in Section 62.104 of the Municipal Code. The
ordinance begins with a repair and notice requirement in furtherance of the Streets and Highways Code,
section 5600 et. Seq.; however, it then adds two items which cloud the issue. Firstly, section 62.104(d)
states that, “The Board is authorized to take preventative action such as root pruning or tree removal to
prevent damage to curbs, driveways or sidewalks”. Section 62.104(e) then states “Whenever the Board
determines that a curb, driveway or sidewalk is damaged as the result of negligence or violation of this
Code and the Board determines the responsible party, all costs incurred pursuant to this section shall be a
personal obligation of the responsible party, recoverable by the City in an action before any court of
competent jurisdiction. The costs shall include an amount equal to 40 percent of the cost to perform the
actual work, but not less than the sum of $100.00, to cover the City’s cost for administering any contract and supervising the work required. In addition to this personal obligation and all other remedies provided by law, if the Board determines that a curb, driveway or sidewalk is damaged to such an extent as to create a menace to the public health, welfare and safety, and to constitute a public nuisance, the City may collect any judgment, fee, cost, or charge, including any permit fees, fines, or late charges, or interest, incurred in relation to provisions of this section as provided in Los Angeles Administrative Code Sections 7.35.1 through 7.35.8.” It further states the exception that “Preventative measures and repairs or reconstruction to curbs, driveways or sidewalks required as the result of tree root growth shall be repaired by the Board at no cost to the adjoining property owner”.

It therefore appears that due to an incorrect belief that the City owned “street trees” and sidewalks, the City should therefore be responsible for the repair of the sidewalks where the tree roots had caused damage. It should be remembered that the City did not plant the overwhelming majority of “street trees” and that the choice of which trees was made by the developer. It should further be noted that under state law the City could still hold the property owner responsible for their trees and their sidewalks.

Having reviewed the history of sidewalk repairs in the City, we now turn to consider the current situation. There are approximately 10,750 miles of sidewalk in the City and it is estimated that of those roughly 4,600 miles of sidewalk are in need of repair at a current estimated cost of $1.2 billion dollars. With the extreme demand and high cost of Portland Cement Concrete, it is believed that this amount will continue to increase over the coming years.
ATTACHMENT 2
SUB-COMMITTEES

Participation

Following the City Council’s instruction to proceed in June of 2007, the Bureau of Street Services identified a series of issues to be worked out that required participation from various City Departments and outside stakeholders. Four key specialized areas were identified for sub-committee work. Participants in each of the subcommittees are listed below:

PROGRAM STRUCTURE

<table>
<thead>
<tr>
<th>Name</th>
<th>Affiliation</th>
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### WORKFORCE DEVELOPMENT AND TRAINING

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### LEGAL ISSUES AND REQUIRED ORDINANCE CHANGES

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COMMUNITY AND BUSINESS OUTREACH

This sub-committee will convene when the POS is approved.

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Issues

The Legal Issues/Ordinance Change Sub-Committee first developed the following list of sidewalk maintenance alternatives:

1. The City under Government Code Section 40401 may choose to pay for some or all of the costs using any funds at its disposal that it is not otherwise prohibited from using. An example of this would be the current 50/50 sidewalk repair program. While the City could pay for the sidewalks using General Fund monies this would mean that other programs would need to be reduced.

2. In accordance with the Streets and Highway Code the individual property owner could be cited and required to repair their sidewalk as was previously done.

3. The City could create assessment districts and spread the cost to property owners within an area. This may prove difficult, as a two-thirds majority of the property owners would have to be in agreement and vote on the assessment.

4. The City might obtain outside funding from the State or Federal Government. The City has been attempting to do this for 35 years with only limited availability and success.

5. The City could attempt to have a bond issue. The City has tried this for sidewalk repairs in the recent past and the voters chose not to support it.

6. The City may continue with the current limited program.

7. The City might choose to inform the public of their responsibility to repair their sidewalks and rely on self-compliance.

8. The City could do nothing and allow the sidewalks to continue to deteriorate.

This sub-committee then outlined inspection and enforcement options if it were recommended that property owners should be made responsible for the safe condition of their sidewalk, including:

1. The City may create an inspection program that covers the complete City by grids and cites property owners as they are inspected.
2. The City may create a program that prioritizes inspections by type of property. For instance, major streets first and eventually residential streets.

3. The City might inspect and enforce based upon complaints and/or accidents.

4. The City may continue to accept the liability for not inspecting and citing.

5. The City may inspect based upon a “trigger” such as a home sale or the issuance of a building permit.

The *Workforce Development and Training Sub-Committee* was charged with estimating the volume of various potential programs along with projecting the necessary resource needs. This group weighed issues including:

1. Should all property sales be included (residential only or include commercial and industrial)?
2. Should building permits with modifications valued over a certain amount (presumably including a structural component) also be included?
3. The property owner may be required to complete the work either by themselves or by using contractors.
4. The City may do the work using City forces, hiring hall or contractors.
5. The City may give the owner the option of doing the work themselves or using City forces or contractors.
6. When must repairs be made?

The *Program Structure Sub-Committee* refined the details of a comprehensive POS process, including the process itself, how the selected program should be financed, and answering questions such as:

1. What degree of damage will require repair?
2. What standards should the repairs be made to?
3. Should damaged curb, driveway approaches, tree replacement requirements be included along with sidewalk repair?
4. How should substandard conditions such as narrow sidewalk due to lack of City easement of encroachments, missing infrastructure, ADA non-compliant issues be handled?
5. How will specialized or custom sidewalk be handled?
6. Does it matter how the damage occurred?

The *Community/Business Outreach Sub-Committee* will convene to develop a comprehensive public outreach program once the City Council approves the specifics of a POS.

**Recommendations**

1. The majority of members in all three sub-committees agree that property owners should be held responsible to maintain safe sidewalk adjacent to their property. While inspecting and citing presents the greatest opportunity for making a substantial impact within an acceptable time frame, an approach is needed to achieve compliance in a systematic manner over time. The composite recommendation of the sub-committees is to implement a Program requiring safe sidewalk compliance when any of the following occurs: at Point of Sale for all property sales and transfers, when obtaining a Building Permit covering modifications valued at $5,000 or more, and when a claim is filed against the City related to an unsafe sidewalk situation for properties located in commercial and industrial zones. For the latter case, it is
recommended that the Los Angeles Municipal Code be amended to increase the current two week compliance period to ninety days. In residential areas, interim asphalt repairs will be completed when the BSS is notified.

2. The property owner will have the discretion whether they want to have the work done by their own contractor or pay the City to do so. If they select their own contractor, all work must be completed before the close of escrow and under required City permits and inspection. In addition, any associated tree work that BSS deems necessary to ensure a complete repair must be done under permit and inspection before the close of escrow or must be arranged to the satisfaction of BSS. If the property owner chooses to pay the City, it is recommended that BSS be given three years to complete the work given the anticipated volume and challenges of building up the required resources. This committed time period can be reviewed and amended by the City Council on an annual basis.

3. The recommended POS will only target damaged sidewalk at this time, along with any applicable tree replacements which the property owner will be responsible to pay for. Trained BSS inspectors will determine the required repairs on a case by case basis, including offsets of ¼-inch and greater, significantly cracked areas, and “floating sections”. Repair or replacement of substandard width sidewalk will be allowed in-kind, as long as the resulting condition is in compliance with the American with Disabilities Act (ADA). The property owner will not be required to install sidewalk in locations where none has ever existed. Any specialized or custom sidewalk work must be done by the property owner (their contractor) and accepted by BSS before the close of escrow. All work shall be in compliance with City Standards, including the “Standards Specifications for Public Works Construction (Green Book).
ATTACHMENT 3
PROCESS FLOWCHART

The recommended Point of Sale Program requires property owners to obtain a “Safe Sidewalk Certificate” from the Bureau of Street Services (BSS) before: (1) any property in the City is sold or transferred before the close of escrow, (2) before a substantial building permit is issued by the Department of Building and Safety, or (3) when an unsafe sidewalk-related claim is filed against the City in commercial or industrial zoned areas. The certificate is evidence that the sidewalk and street trees have been found to be in compliance with City standards.

To clear the condition for cases (1) and (2) above, the owner must request an inspection by BSS. If the sidewalk and/or street tree(s) are not in compliance, the following procedures will apply to obtain the compliance certificate.

1. The BSS supervisor or other qualified personnel (BSS supervisor) finds that the sidewalk is in good repair and that healthy street tree(s) are planted. The BSS supervisor then issues a compliance certificate.

2. The BSS supervisor finds that there is no sidewalk and that no street tree(s) are required (perhaps due to a lack of space or potential interference with overhead power lines). The BSS supervisor then issues a compliance certificate.

3. The BSS supervisor finds that the sidewalk is damaged but no street tree(s) are required. The BSS supervisor estimates what BSS would charge to repair the sidewalk.
   a. The owner requests BSS to repair the sidewalk and pays the cost. The BSS supervisor then issues a compliance certificate.
   b. The owner chooses to have a private contractor repair the sidewalk.
      i. The owner or contractor applies for a permit for the repairs from the Bureau of Engineering.
      ii. The repairs are made and are inspected by the Bureau of Contract Administration (BCA). If the repairs pass the inspection, the Contract Administration Inspector notifies BSS, who will issue a compliance certificate.

4. The BSS supervisor finds that the sidewalk is in good repair but that there are no street tree(s) and that it is appropriate to plant street tree(s). The owner applies for a street tree planting permit from BSS – Urban Forestry Division (UFD) who will determine the tree species, size, and location of the tree(s) to be planted, and will specify the City’s requirements for planting street trees. This inspector will also estimate what BSS would charge to plant the tree(s).
   a. The owner requests UFD to plant the tree(s) and pays the cost. The BSS supervisor then issues a compliance certificate.
   b. The owner chooses to have a private contractor plant the tree(s).
i. The UFD supervisor or other qualified personnel issues a City permit to plant the tree(s).

ii. The tree(s) are planted, and are inspected by the BCA Inspector. If the planting passes the inspection, the BSS supervisor issues a compliance certificate.

5. The BSS supervisor finds that the sidewalk is damaged and that it is appropriate to plant street tree(s). The procedure is a combination of 3 and 4 above.

The above process will also apply to Case (3) but will be triggered by citation with a 90-day compliance period. In every case, the records of the inspection and subsequent sidewalk repairs/tree planting will be entered into a geographic information system data base that will provide a record of the condition of sidewalks and street trees in the City.

The Program Structure Sub-Committee also explored the possibility of allowing property owners, who are not covered by the specified triggers, to participate in the Program at any time by means of a lien placed on their property. This option appears to be feasible, especially through third-party financing, but requires further development and is not included as a recommendation at this time.

The following page shows a flowchart for obtaining sidewalk and street-tree certificates of compliance.
Request Bureau of Street Services to Inspect Sidewalk and Street Trees

Pass

Certificate issued

Fail

BSS supervisor estimates cost of repair and/or planting by

Owner requests BOSS to make repairs and/or plant trees

Owner hires private contractor and requests City permits

Owner contracts with buyer to repair/plant after sale

Owner pays right away

Certificate issued

Repairs/planting completed

BCA inspects sidewalk/trees

Pass

Certificate issued

Fail

Certificate issued

Note: The lightened requires further development and is not a recommended option at this time.
# ATTACHMENT 4
## POTENTIAL VOLUME OF THE PROGRAM

### Sidewalk Condition in LA

<table>
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<tr>
<th>Sidewalk Condition in LA</th>
<th>Less than 1%</th>
<th>1% - 10%</th>
<th>11% - 25%</th>
<th>26% - 50%</th>
<th>Over 50%</th>
<th>Total</th>
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<td>Linear Feet of Sidewalk</td>
<td>54,229,809</td>
<td>6,145,987</td>
<td>4,338,344</td>
<td>7,953,631</td>
<td>2,892,229</td>
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<tr>
<td>Miles of Sidewalk</td>
<td>6,710</td>
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<td>822</td>
<td>1,506</td>
<td>548</td>
<td>10,750</td>
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<td>Linear Feet of Repair Needed</td>
<td>0</td>
<td>307,299</td>
<td>954,436</td>
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<td>181</td>
<td>618</td>
<td>466</td>
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<td>Linear Feet of Tree Damage</td>
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<td>55,314</td>
<td>63,472</td>
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<td>1,081,694</td>
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<td>Miles of Tree Damage</td>
<td>0</td>
<td>10</td>
<td>121</td>
<td>266</td>
<td>205</td>
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### Point of Sale

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<th>Point of Sale</th>
<th>Avg Sales</th>
<th>Avg Permits</th>
<th>Possible Properties Effected</th>
<th>Est Properties Needing Repair</th>
<th>Annual Number of Properties Needing Repair Based on Percentage of Sidewalk Damaged</th>
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<tr>
<td>POS and Permits over $10,000</td>
<td>51,412</td>
<td>N/A</td>
<td>51,412</td>
<td>19,537</td>
<td>5,666</td>
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<td>51,412</td>
<td>20,525</td>
<td>71,937</td>
<td>27,336</td>
<td>7,927</td>
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1. The sales figure is based on annual sales and does not deduct for properties sold twice in the same year.
2. The permit figure is based on total permits issued and does not deduct for multiple permits issued at the same location nor does it deduct for permits issued on properties sold in the same year.
3. Permits issued annually in the last 10 years has ranged from 22,549 to 36,670 for $5,000 and over.
4. Permit issued annually in the last 10 years has ranged from 15,306 to 26,880 for $10,000 and over.
5. Based on our survey, 36% of properties have some sidewalk damage.
6. 29% of properties needing repair had 1 to 10% damage
7. 20% of properties needing repair had 11% to 25% damage
8. 37% of properties needing repair had 26% to 50% damage
9. 14% of properties needing repair had over 50% damage

### LINEAR FEET OF REPAIR PER YEAR

<table>
<thead>
<tr>
<th>Point of Sale</th>
<th>1% - 10%</th>
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<td>19,819</td>
<td>60,139</td>
<td>207,344</td>
<td>182,650</td>
<td>449,952</td>
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1. For purposes of this report the average property is presumed to be 50 foot long.
2. The average percentage of repair needed between 1% to 10% was 5%
3. The average percentage of repair needed between 11% and 25% was 22%
4. The average percentage of repair needed between 26% and 50% was 41%
5. The average percentage of repair needed over 50% was 85%
### MILES OF REPAIR PER YEAR

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<td>43.6</td>
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**Estimate of amount of work to be done by City forces or Property Owners**

<table>
<thead>
<tr>
<th></th>
<th>1% - 10%</th>
<th>11% - 25%</th>
<th>26% - 50%</th>
<th>Over 50%</th>
<th>Total</th>
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<tr>
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<td>2.4</td>
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<tr>
<td>POS and Permits over 10,000</td>
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<tr>
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<td>13.1</td>
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<td>30.6</td>
<td>24.0</td>
<td>66.3</td>
</tr>
</tbody>
</table>

1. According to the Directors of Street Maintenance, Transportation and the Inspector of Public Works in a joint Council Report dated July 16, 1973 30% of the sidewalk repair was done by City forces and 70% was done by cited property owners.

**Damage done by trees**

<table>
<thead>
<tr>
<th></th>
<th>1% - 10%</th>
<th>11% - 25%</th>
<th>26% - 50%</th>
<th>Over 50%</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
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<td>18.8</td>
<td>15.1</td>
<td>43.1</td>
</tr>
</tbody>
</table>
ATTACHMENT 5
REQUIRED WORKFORCE AND OTHER RESOURCES

City Forces and Contracting – First Year

A construction crew configuration of approximately 50 employees (four crews) for every 26 miles of sidewalk reconstruction per year has been used as a guideline over the past several years for the general-funded sidewalk reconstruction program. The current cost for this program, which includes tree trimming, root pruning or tree removal, sprinkler repair, reconstructing affected driveway approaches and curb, and replacement of survey monuments averages about $15 per square foot. However, over the past three years with the advent of the 50/50 Sidewalk Reconstruction Program, the BSS has experienced a substantial increase in cost when reconstructing one property frontage at a time (double the cost). It is therefore projected that four (4) Special Projects Division, i.e. concrete crews, in addition to the necessary tree support crews and resources will be required to reconstruct 13 miles, or approximately 500 – 1,000 locations per year.

While contracting is an option, the City process would require more than a year to set up contracts for overflow work. At this time, it is not anticipated that contracting will lead to quicker or less expensive repairs during the first year or two of the Program. After the first year of the Program, BSS will have a better idea of how many property owners choose to hire their own contractor versus how many will pay the City to do the work. BSS can then better evaluate its capacity to reconstruct sidewalk based on what resources are provided. At that time, an assessment can be made with regard to what the need is, if any, for overflow contract work. The City Council can also reassess at that time whether BSS should be required to make repairs in three years or some other time frame, which will certainly affect the need for contracting out work.

While the Program is ramping up, it is envisioned that a maximum of 3-4 vocational workers can be accommodated for each 13-14 member concrete crew (a similar ratio is envisioned for the tree support crews). BSS will continue to work with the Community Development Department, SEIU Local 721 and trade unions to develop a training curriculum to ensure a constant stream of qualified and motivated entry level vocational workers to supplement the journeyman work force.

Special Projects Division Requirements

Four (4) of the unit modules outlined below will be required to reconstruct 13 miles of sidewalk per year (approximately 500 – 1,000 number of locations):

**Crew Complement**

- (1) Street Services (SS) Supervisor II
- (1) Equipment Operator
- (2) Heavy Duty Truck Operators
- (1) Carpenter
- (2) Cement Finishers
- (3) Cement Finisher Workers
- (3-4) Vocational Workers
*The purpose for a crew complement of 13-14 is to allow work to be performed at various locations within the grid, i.e. close vicinity, thereby maximizing productivity and providing the Vocational Workers on-going on-the-job training in every aspect of the process.

Crew Equipment

- (1) Backhoe
- (2) Heavy Duty Dump Trucks
- (1) Carpenter Truck
- (1) Stake bed Truck
- (1) Box Van
- (1) Concrete Saw
- (2) Generators
- (1) Vibratory Compactors
- (2) Skill Saws w/ Batteries
- (2) Hiltis
- (1) Sawsall

Office Support Staff (to support every 4-5 field crews)**

- (1) SS Superintendent I
- (1) Senior Clerk Typist
- (1) Clerk Typist
- (3) Personal Computers

** Office staff will be responsible for tracking the program, preparing reports, processing performance evaluations and other personnel matters, and coordinating training.

Urban Forestry Division Requirements

One typical tree crew module will be required to support each 4-5 concrete crews as follows:

Personnel

- (1) Tree Surgeon Supervisor (with salary adjustment (5.5 percent above EO)
- (1) Equipment Operator
- (1) Heavy Duty Truck Operator
- (3) Tree Surgeon
- (3) Tree Surgeon Assistant

Equipment

- (1) Crew Cab Pickup
- (1) Case Loader
- (1) Truck Tractor
- (1) 40' Trailer, push out
- (3) Aerial Tower
- (1) Vermeer Root Grinder (w/trailer)
• (1) Vermeer Stump Grinder
• (1) Laptop Computer (w/online services)

For every two tree crew modules:

Personnel

• (1) Tree Surgeon Supervisor II
• (1) Clerk Typist

Equipment

• (1) Pickup
• (2) Desktop Computers

For every four tree crew modules:

Personnel

• (1) Street Tree Superintendent I
• (1) Senior Clerk Typist

Equipment

• (2) Desktop Computers
DATE: April 8, 2010

TO: Public Works and Budget and Finance Committees of the Los Angeles City Council
Attn: Office of the City Clerk
       Room 395 City Hall

FROM: William A. Robertson, Director
       Bureau of Street Services

SUBJECT: Sidewalk Repair Options (C.F. 05-1853 and 05-1853-S1)

This report supersedes the previous Bureau of Street Services (BSS) report transmitted to the Public Works Committee, dated December 9, 2009. The recommendations and implementation plan have been adjusted in part due to the City’s financial challenges and BSS’ reduced workforce.

RECOMMENDATIONS

That the Public Works Committee:

1. Forward the attached City Attorney reports to the City Council, recommending adoption of the proposed Los Angeles Municipal Code change and associated California Environmental Quality Act finding.

2. Instruct the City Attorney’s Office to incorporate into the attached report, to be forwarded to City Council, a revision of section 62.104 of the Los Angeles Municipal Code to increase the time required for adjoining property owners to commence the work of repair and/or reconstruction of sidewalks from “two weeks” to ninety (90) days.

3. Instruct BSS to devise a public outreach plan to notify and inform the City’s property owners of this ordinance change.

4. Instruct BSS to implement a three-year Moratorium on its issuance of Notices to Repair Sidewalks to adjoining property owners. During this Moratorium, the Bureau will inform the public on how to respond to and comply with any subsequent Notices to Repair.

5. Instruct BSS to work with other City Departments, including the Planning Department and the Bureau of Engineering, to develop standards for sidewalk and parkway reconstruction and repair to ensure consistency and safety throughout the City’s network of sidewalks.
BACKGROUND

The City is at a crossroad with regard to sidewalk construction, reconstruction, and repair. Previous reports under this Council File describe the magnitude of the problem in detail: over 40% of the system is estimated to be in disrepair (4,600 miles out of a total of 10,750 miles), exceeding a cost of $1.2 billion. The City expended a total of nearly $95 million from the General Fund from fiscal year 2000-01 through 2008-09 to reconstruct an estimated 550 miles of damaged sidewalk; yet, the amount of sidewalk damaged during this period of time is believed to have exceeded the amount corrected.

A Council Motion (Parks-Smith) was introduced in September of 2005, instructing BSS to work with other City Departments and outside stakeholders to develop recommendations for implementing a point-of-sale plan for fixing sidewalk, whereby damaged sidewalk would be required to be certified as safe before escrow closed on a property transaction.

Following initial investigation and research, BSS partnered with the USC Graduate School of Policy – Planning and Development to help develop viable options and a recommended alternative (see report on file dated May 2007). This study reinforced the feasibility of a point-of-sale program. In July of 2007, the City Council formally supported the concept of a point-of-sale program and instructed BSS to proceed with task force work. BSS solicited participation from all known affected City agencies and interested parties and formed four sub-committees to work on details associated with the Program Details, Workforce Development and Training, Legal issues, and Community and Business Outreach (Attachment 2 of the February 12, 2008 report on file includes the rosters for each sub-committee).

A comprehensive Point-of-Sale Implementation Plan, dated February 12, 2008, was then presented in a report to the Public Works Committee. After consideration, the Committee instructed BSS to develop alternatives other than point-of-sale; in particular, bonding, third party financing, and a risk/legal-based program. BSS did subsequently have discussions with the City Administrative Officer (CAO) - Debt Management and Risk Management Offices, as well as with the City Attorney’s Office. BSS also reached out to a number of other Cities in an attempt to learn which policies may be working well and to find other policies that have not yet been assessed.

Momentum was re-ignited with the adopted City Budget for fiscal year 09-10, which calls for a point-of-sale program to be implemented. The four sub-committees were recently reorganized into two: a “Repair Policy Committee”, chaired by the City Attorney’s Office, and a “Finance Committee” chaired by the CAO. A list of eight potential options was narrowed down to five options. These all have broader support from the task force, particularly from the Real Estate Industry.

DISCUSSION

The Law and the City’s limited exception

State Law (Improvement Act of 1911, aka California Streets and Highways Code – Division 7) and City Code (Los Angeles Municipal Code Section 62.104) already place the responsibility for sidewalk construction, reconstruction and repair on the adjoining property owner. However, in 1974, because of available federal funding, the City accepted responsibility for repairs to curbs, driveways or sidewalks required as the result of tree root growth. This limited exception is still effective today, despite the absence of funding.
Options Considered

The Sidewalk Repair Task Force has studied the following five options, including various combinations thereof, for implementing an effective Sidewalk Management Program for the City of Los Angeles:

1. **“1911 Act” – Compliance**
   BSS investigators would be required to inspect sidewalk and cite property owners, directing that repairs be made in a prescribed period of time (LAMC 62.104 currently specifies two weeks; please see section below entitled Time For Repairs). The City would be required to make the necessary repairs (either through additional BSS construction resources and/or contractors) and assess the property owner in cases of non-compliance. The entire City would be covered in a time frame directly related to the resources allocated for the program.

2. **Point-of-Service (or Sale) and Building Permits**
   “Point-Of-Service” would require the buyer of a property to obtain a Safe Sidewalk Certificate from BSS prior to utility connection, versus “Point-Of-Sale”, which would require certification prior to the close of escrow. This effort would be combined with the requirement for a Safe Sidewalk Certificate to be obtained from BSS when any building permit is issued for repairs/improvements valued over $20,000 (or other specified value).

3. **Point-of-Service (or Sale) City-wide and “1911 Act” Compliance – Commercial Only**
   Although commercial property is primarily located in heavy pedestrian corridors, which should be a priority, commercial property is not transferred as often as residential property is transferred.

4. **Point-of-Service (or Sale) and 50-50 Voluntary Sidewalk Repair Program**
   Challenges would include the question of providing City funds to help facilitate repairs that are the responsibility of private property owners and reserving these 50/50 City funds for property not pending or being considered for transfer.

5. **“1911 Act” – Compliance Based on Liability Risks**
   The inspection and citation effort would be targeted at trip and fall claim locations and other known hazardous areas combined with a complaint driven effort.

Each of the five proposed options would require the adoption of an amending Ordinance, which would effectively place all sidewalk construction, reconstruction, and repair responsibility back on the adjoining property owners, regardless of the cause of the damage.

Please note that Benefit Assessment Districts, General Obligations Bonds and Third Party Financing were also assessed as options but were ultimately deemed infeasible due to lack of public support and/or logistical complexities.

Remove limited exception

In a report dated August 3, 2009 (City Attorney Report No. R09-0270), the City Attorney has transmitted a Draft Ordinance which would repeal the tree root growth exception, effectively eliminating City responsibility for repair of curbs, driveways and sidewalks damaged by any cause, including by tree root growth.

An accompanying City Attorney Report, dated August 14, 2009 (Report No. R09-0292), recommends
the adoption of a California Environmental Quality Act—Categorical Exemption Finding in conjunction with the LAMC amendment. Staff recommends that both City Attorney reports be forwarded for City Council and Mayor approval at this time. (See recommendation 1)

Time for repairs

Los Angeles Municipal Code Section 62.104 provides adjoining property owners, after being given a Notice to Repair, “two weeks” to commence the work of repair or reconstruction. BSS recommends that this provision be amended to provide adjoining property owners a more reasonable amount of time with which to commence the required repairs. Thus, staff recommends that the City Attorney’s Office be instructed to incorporate an additional revision of LAMC Section 62.104 to increase the time required for adjoining property owners to commence the work of repair and/or reconstruction of sidewalks from “two weeks” to ninety (90) days. (See recommendation 2)

Moratorium

For over 35 years, the City has had the responsibility for repair of sidewalk damaged by parkway tree root growth. As noted before, in 1974, the City assumed that responsibility in light of significant Federal funding. However, given that such funding no longer exists, proposals emerged to return that responsibility back to the adjoining property owners.

Because doing so would immediately shift a significant amount of responsibility back onto the adjoining property owners, staff recommends that Council couple the Ordinance Amendment with the implementation of a three-year Moratorium on the issuance of any Notices to Repair Sidewalks.

A moratorium on enforcement will allow for the following:
- Property owners to be notified of the change (See recommendation 3)
- Bureau of Street Services to inform the public on how to respond to and comply with Notices to Repair (See recommendation 4)
- Develop uniform standards for sidewalk and parkway reconstruction and repair (See recommendation 5)

BSS will report back to the appropriate City Council Committee after the first year with an update and additional recommendations including enforcement priorities and ideas for assisting property owners with compliance.

If you have any questions or if additional information is needed, please contact me or Assistant Director Ron Olive at (213) 847-3333.

Attachments
WAR:RRO:ro
Desktop: sidewalk repair options report rev2
TO THE COUNCIL OF THE CITY OF LOS ANGELES

Your BUDGET AND FINANCE and PUBLIC WORKS Committees reports as follows:

BUDGET AND FINANCE and PUBLIC WORKS COMMITTEES' REPORT relative to amending the Los Angeles Municipal Code (LAMC) in connection with a point of sale plan for sidewalk repair.

Recommendations for Council action:

1. INSTRUCT the Bureau of Street Services (BSS), upon approval by the Council and Mayor of an ordinance amending the LAMC to repeal the “exception” within Section 62.104 that established City liability for repair of curbs, driveways and sidewalks due to tree root damage (Council file 05-1853-S1), to devise a public outreach plan to notify and inform the City’s property owners of the ordinance change.

2. INSTRUCT the BSS to implement a one-year Moratorium on its issuance of Notices to Repair Sidewalks to adjoining property owners.

3. INSTRUCT the BSS to report back to the Council on a quarterly basis during the one-year Moratorium on the status of development of the details of a sidewalk repair program which addresses the following issues:

   a. Development of a notification system by the City of sidewalks in need of repair, to provide constructive notification to the affected property owners;
   b. An inspection program which addresses both identification of locations where sidewalks are damaged due to tree roots, and inspection of the completed repair work;
   c. Less City staff involvement in the program, with the bulk of the responsibility for repair being on the property owner and private contractors thus creating jobs and reducing the impact on the City’s General Fund;
   d. Development of a list of accepted private contractors that would be vetted and available to property owners;
   e. Expeditious completion of sidewalk repairs by the City at locations of abandoned buildings and/or hazardous locations, with a lien subsequently being placed on the property;
   f. A system to notify the City when a property is in escrow for a point-of-sale system, when all other notifications have not resulted in repair of the sidewalk;
   g. A financing model whereby the City may borrow funds through a revenue anticipation bond with the property owner paying for sidewalk repairs through their annual property taxes;
4. INSTRUCT the BSS, during the one-year Moratorium, to work with other City Departments, including the Planning Department and the Bureau of Engineering, to develop standards for sidewalk and parkway reconstruction and repair to ensure consistency and safety throughout the City’s network of sidewalks.

5. RECEIVE and FILE the BSS reports dated February 12, 2008 and December 9, 2009, inasmuch as updated information has been provided in the report dated April 8, 2010 and no Council action is necessary.

Fiscal Impact Statement: None submitted by the BSS. Neither the City Administrative Officer nor the Chief Legislative Analyst has completed a financial analysis of this report.

Community Impact Statement: Yes

Against Proposal: Harbor Gateway North Neighborhood Council,
Coastal San Pedro Neighborhood Council
Granada Hills South Neighborhood Council

SUMMARY

At a special joint meeting of the Budget and Finance and Public Works Committees on April 19, 2010, the Committees considered BSS reports relative to sidewalk repair options. The BSS reports have been submitted in response to Motion (Parks-Smith), introduced on September 6, 2005. The Motion instructed the BSS, with the assistance of the City Administrative Officer (CAO) and the City Attorney, and in consultation with affected stake-holders, to report with recommendations relative to a point-of-sale plan for fixing the City’s sidewalks whereby property sellers would be assessed the cost of fixing the sidewalks in front of their property. In February 2008, the BSS presented a comprehensive Point-of-Sale Implementation Plan to the Public Works Committee. After consideration, the Committee instructed the BSS to develop alternatives other than point-of-sale. Following adoption of the FY 2009-10 Budget, which called for a point-of-sale program to be implemented, two sub-committees (reduced from four previous sub-committees) were reorganized into a Repair Policy Committee chaired by the City Attorney’s Office, and a Finance Committee chaired by the CAO. A list of eight potential sidewalk repair options was narrowed down to five options which all have broader support from the task force, primarily from the Real Estate industry, and are detailed in the BSS report dated April 8, 2010 (attached to the Council file).

The BSS reports that the Improvement Act of 1911 and LAMC Section 62.104 already places the responsibility for sidewalk construction, reconstruction and repair on the adjoining property owner. However, in 1974, because of available federal funding, the City accepted responsibility for repairs to curbs, driveways or sidewalks required as the result of tree root growth. This limited exception is still effective today, despite the absence of funding. Under Council file 05-1853-S1, the City Attorney has submitted a draft Ordinance which would repeal the tree root growth exception, effectively eliminating City responsibility for repair of curbs, driveways and sidewalks damaged by any cause, including by tree root growth.

Following a lengthy discussion which included discussion of the proposed draft ordinance, the Budget and Finance and Public Works Committee recommended approval of the draft ordinance amending the LAMC to repeal the “exception” within Section 62.104 that established City liability for repair of curbs, driveways and sidewalks due to tree root damage (Council file 05-1853-S1). The Committees requested the City Attorney to prepare and present an amended ordinance which
increases the time required for adjoining property owners to commence the work of repair and/or
reconstruction of sidewalks from two weeks to ninety days. The BSS was instructed to: (1) devise a
public outreach plan to notify and inform the City’s property owners of the ordinance change; and,
(2) to implement a one-year Moratorium on its issuance of Notices to Repair Sidewalks to adjoining
property owners. During the Moratorium, the BSS was instructed to provide quarterly status reports on
development of the details of the sidewalk repair program. The Committees provided the BSS
with a list of issues to consider in developing the program. This matter is now forwarded to the
Council for its consideration.

Respectfully submitted,

BUDGET AND FINANCE COMMITTEE   PUBLIC WORKS COMMITTEE

MEMBER        VOTE  MEMBER        VOTE
PARKS:        YES  HUIZAR:        YES
SMITH:         SMITH ALARON:       ABSENT
ROSENDAHL:     YES  SMITH:         YES
HUIZAR:        YES
KORETZ:        YES

LB
05-1853_rpt_bfc_04-27-10

-NOT OFFICIAL UNTIL COUNCIL ACTS-
Office of the City Clerk, City of Los Angeles

This report was generated by the Council File Management System on 06/14/2010

Council File Number
05-1853

Title
POINT OF SALE PLAN / FIXING SIDEWALKS

Subject
Motion - The City should explore creative approaches to solving the backlog of our sidewalk repair needs. While many and varied approaches are helping, miles and miles of sidewalks have and buckle. Tree roots must be pruned. Root barriers must be installed to protect new sidewalks, and more trees - species appropriate to planting next to new sidewalks - must line our City's streets. The Bureau of Street Services is budgeted to replace 52 miles of the 6500 miles of sidewalks this year. A customer calling in for sidewalk service today can expect the work to be done in 83 years. The City's 2005-06 budget did expand the successful pilot 50/50 sidewalk repair program, but this still leaves 98% of the sidewalks in need of repair yet unfixed. Urban planners have long advocated a point-of-sale plan similar to what is done in other cities and what is done currently to ensure the safety of water heaters and the water efficiency of toilets. This approach acknowledges that it is the property owner who is responsible for the repair of their sidewalk and then offers a simple and efficient way of getting sidewalks fixed: before real estate is sold, the City inspects the sidewalk fronting the property. If the sidewalk is in good condition, the owner is not required to do anything. If the sidewalk is damaged, the owner is required to repair it before the property is sold. City workers will fix sidewalks, affordably, and homeowners can pay for these repairs when they sell their homes. Beyond improving sidewalks, the point-of-sale strategy has several advantages. Owners don't have to do anything until they sell their property. The sale provides the cash to pay for required repairs. Owners fix only the sidewalk on their own property. Improved sidewalks increase the value of property and this may persuade owners to make repairs early. Half of all properties in Los Angeles are sold at least once every decade. Because the turnover rate is about the same all over the city, sidewalks will be repaired at about the same rate. These repairs would cost the City nothing. In fact, the City would save money because better sidewalks reduce the number of trip-and-fall lawsuits. Half of what the City will spend this year paying for trip-and-fall lawsuits can serve as seed money to start this program. Given the rate at which houses change hands in Los Angeles, a revolving fund could build quickly. In addition, there is a clear economic development benefit to this proposal. It is estimated that in the first year of a point-of-sale program, 460 miles of sidewalks would be repaired, total local wages would increase $102 million, and 2,600 new jobs would be created with average annual wages and benefits of $39,000. Los Angeles City workers strive to provide high quality cost effective services. This approach could provide benefits to all sectors. This pay-as-you go proposal promises to fix an unfixable sidewalk problem, to create many good jobs which would in turn pump millions into the local economy, enhance individual property values and neighborhood beauty and safety - and with no expense of public funds. THEREFORE MOVE that the Bureau of Street Services, with the assistance of the City Administrative Officer and the City Attorney and in consultation with affected stake-holders such as realtors associations, apartment associations, homeowner groups, and others, be directed to report with recommendations relative to a point-of-sale plan for fixing the City's sidewalks whereby property sellers would be assessed the cost of fixing the sidewalks in front of their property, as further described in the text of this Motion.

Last Change Date
05/11/2010

Expiration Date
04/19/2012

Reference Numbers
City Attorney R09-0270

Pending in committee
Public Works Committee
Budget and Finance Committee

Mover
BERNARD PARKS

Second
GREIG SMITH

Action History for Council File 05-1853

Date Activity
04/19/2010 Budget and Finance Committee approved as amended.
04/15/2010 Budget and Finance Committee; Public Works Committee scheduled item for committee meeting on April 19, 2010. This will be a joint Budget and Finance and Public Works Committee meeting to consider this item.
04/12/2010 Public Works: Street Services document(s) referred to Budget and Finance Committee; Public Works Committee.
04/12/2010 City Clerk transmitted Council File to Budget and Finance Committee.
04/09/2010 Document(s) submitted by Public Works: Street Services, as follows:

   Bureau of Street Services report, dated April 8, 2010, relative to the Sidewalk Repair Options.
04/06/2010 Public Works Committee transmitted Council File to Budget and Finance Committee.
04/06/2010 Public Works: Street Lighting document(s) referred to Budget and Finance Committee; Public Works Committee.
04/06/2010 Document(s) submitted by Public Works: Street Services, as follows:

   Corrected Referral per Council President - Bureau of Street Services report, dated December 9, 2009, relative to Sidewalk Repair Options with attached City Attorney reports, relative to a draft ordinance amending Subsection (e) of Section 62.104 of the Los Angeles Municipal Code and Revised CEQA Finding - to include Budget and Finance Committee.
12/11/2009 Public Works: Street Services document(s) referred to Public Works Committee.
12/10/2009 Document(s) submitted by Public Works: Street Services, as follows:

   Bureau of Street Services report, dated December 9, 2009, relative to Sidewalk Repair Options with attached City Attorney reports, relative to a draft ordinance amending Subsection (e) of Section 62.104 of the Los Angeles Municipal Code and Revised CEQA Finding.
07/15/2009 Public Works Committee continued item to/for to a date to be determined.
07/09/2009 Public Works Committee scheduled item for committee meeting on July 15, 2009.
05/20/2009 Public Works Committee continued item to/for to a date to be determined.
02/20/2008 Public Works Committee continued item to/for date to be determined.
02/13/2008 Public Works: Street Services document(s) referred to Public Works Committee.
07/11/2007 File closed by City Clerk.
06/26/2007 Council Approved recommendations as contained in the 6/1/08 Bureau of Street Services report.
06/19/2007 Budget and Finance Committee approved item(s).
06/06/2007 City Clerk transmitted Council File to Budget and Finance Committee.
06/06/2007 Public Works Committee approved item(s).
05/16/2007 Public Works Committee continued item to/for date to be determined.
03/07/2007 Public Works Committee continued item to/for date to be determined.
01/13/2006 Public Works Committee continued item to/for date to be determined.
11/04/2005 Public Works Committee continued item to/for date to be determined.
09/06/2005 City Clerk transmitted Council File to Public Works Committee.
09/06/2005 Council referred to Budget and Finance Committee; Public Works Committee.

**Archive History**

9-6-05 - This day's Council session
9-6-05 - Ref to Public Works and Budget and Finance Committees
9-6-05 - File to Public Works Committee Clerk
5-8-07 - For ref - Communication from the Bureau of Street Services, dated May 4, 2007, relative to the recommendations for a point of sale plan for fixing the City's sidewalks including input from affected stakeholders.
5-9-07 - Ref to Public Works and Budget and Finance Committees - to Public Works Committee Clerk
6-5-07 - For ref - Communication from the Bureau of Street Services, dated June 1, 2007, relative to recommendations for implementing a point-of-sale plan for repairing City sidewalks.
6-6-07 - Ref to Public Works and Budget and Finance Committees - to Public Works Committee Clerk
6-6-07 - File to Budget and Finance Committee Clerk
6-26-07 - Council Action - Public Works and Budget and Finance Committees report ADOPTED to:
1. AFFIRM and SUPPORT the concept of a point-of-sale program for repairing City sidewalks as a viable policy for the City of Los Angeles.
2. INSTRUCT the Bureau of Street Services (BOSS) to conduct orientation meetings with all sub-committee participants within 30 days of Council's approval of the recommendations as detailed in Recommendation Nos. 1, 3 and 4.
3. INSTRUCT the Chief Legislative Analyst (CLA), City Administrative Officer (CAO), Department of Building and Safety, Community Development Department, Department of Neighborhood Empowerment and REQUEST the City Attorney to appoint their most knowledgeable Manager(s) to participate in the applicable sub-committees with the BOSS and representatives of the Mayor's Office, City Council Offices, real estate/escrow industry, chambers of commerce, neighborhood councils and Service Employees International Union (SEIU) Local 721 as detailed in the June 1, 2007 BOSS report and attached to the Committee report.
4. INSTRUCT the BOSS to present status reports to the Public Works Committee on a quarterly basis.
7-10-07 - File to Public Works and Budget and Finance Committee Clerks OK
7-11-07 - File in files
2-12-08 - For ref - Communication from the Bureau of Street Services, dated February 12, 2008, relative to the Point of Sale Sidewalk Repair Plan.
2-13-08 - Ref to Public Works Committee
2-13-08 - File to Public Works Committee Clerk
2-21-08 - Speaker cards submitted in Public Works Committee, dated February 20, 2008 - is attached to Council file.