

CITY OF OAKLAND

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OFFICE OF THE CITY CLERK
OAKLAND

2015 MAY 28 AM 9:57

AGENDA REPORT

TO: JOHN A. FLORES
INTERIM CITY ADMINISTRATOR

FROM: Brooke A. Levin

SUBJECT: ADA Transition Plan Update
And Implementation FY 2015-17

DATE: April 30, 2015

City Administrator

Date

5/27/15

Approval

COUNCIL DISTRICT: City-Wide

RECOMMENDATIONS

Staff recommends that the City Council adopt the following resolution:

A Resolution Awarding A Professional Services Contract In The Amount Of One Hundred Thousand Dollars (\$100,000) To RBF Consulting For A Needs Assessment And Americans With Disabilities Act Transition Plan Update (Project Number P444960), With The Option Of Increasing The Contract To An Amount Not To Exceed Six Hundred Thousand Dollars (\$600,000) In Fiscal Year 2015-2016 To Update The Citywide Asset Inventory And Provide A Cost Estimate And Priorities For Barrier Removal (Project Number C483110).

OUTCOME

Approval of this resolution will authorize the City Administrator, or designee, to execute a professional services contract in the amount of \$100,000 to RBF Consulting to conduct an ADA Transition Plan Needs Assessment and Transition Plan Update. The resolution also provides for, in conjunction with the adopted Fiscal Year 2015-2017 Budget, the option of increasing the contract to an amount not to exceed \$600,000 in Fiscal Year 2015-16 to conduct a survey updating the Citywide buildings, facilities, and right of way asset inventories, to assist in assessing current ADA compliance, and to prioritize and provide cost analysis for barrier removal activities under the updated ADA Transition Plan.

EXECUTIVE SUMMARY

The Oakland Public Works Department seeks authorization to update the Citywide ADA Transition Plan for removing physical barriers preventing persons from disabilities from having full and equal access to the City's programs and services. Updating the Citywide Americans

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with Disabilities Act (ADA) Transition Plan and asset inventory to identify features that do not conform to current Standards for Accessible Design and the proposed Right of Way Accessibility Guidelines is critical in helping the City avoid ADA-related litigation or Department of Justice investigation. An investment in an aggressive and proactive ADA implementation keeps the discretion to allocate funds towards removing barriers that the community identifies as a priority.

The last inventory of the City's buildings and facilities for compliance with the ADA was completed in 1994 and was the basis of the City's federally mandated 1996 Buildings and Facilities Transition Plan. Full implementation of that Plan was estimated cost up to \$20 million but just under \$10 million has been allocated for its implementation to date.

The most recent inventory of the City's right of way assets for ADA compliance was completed in 2002 and updated in 2007, and was the basis of the City's mandated 2009 Curb Ramp Transition Plan and Sidewalk Repair prioritization. The ADA Standards for Accessible Design were amended in 2010, and proposed right of way access guidelines are expected to be adopted by the U.S. Department of Justice by the end of 2015.

All of these inventories are now outdated because they were based on old standards and different program uses, and the conditions at the time. With the original ADA Transition Plan not fully implemented, 25 years after the ADA became law, the City must continue to invest in fulfilling the requirements of Title II of the ADA by implementing policies, practices, and procedures to prevent discrimination against persons with disabilities in the City's programs and services, and the removal of physical barriers when program modifications are insufficient to provide full and equal access.

BACKGROUND/LEGISLATIVE HISTORY

Oakland's ADA Transition Plan Implementation Status

Twenty-five years ago, on July 26, 1990, the Americans with Disabilities Act of 1990 (ADA) became the most comprehensive civil rights law to prohibit discrimination against persons with disabilities in employment, access to public services, telecommunications, public transit, and commercial services. This law built upon the Rehabilitation Act of 1973 which prohibited discrimination against persons with disabilities by federally funded entities.

Both laws recognized that discrimination against persons with disabilities was systemic, and marginalization the result not of disability itself, but of societal attitudes and an inaccessible physical environment. To eliminate these barriers to full community participation, the ADA requires state and local entities to provide full and equal access to their programs and services, by reasonably modifying policies and procedures, and by removing physical barriers where program modification is insufficient. Additionally, any new construction or alteration of a state

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or local building or facility must be fully accessible, as measured by the most current federal and state standards for accessible design.

To eliminate barriers to program access, the ADA required that public entities conduct a self-evaluation of its programs and services. Where physical modifications were required to provide full and equal access, these were to be removed based on the timeline and methods set forth in the state or local entity's Transition Plan. Municipalities were required to complete their Transition Plans by July 26, 1992, and the structural changes identified therein were to be completed by January 26, 1995.

Oakland adopted its Buildings and Facilities Transition Plan in 1996, based on a 1994 inventory. Since then the City has developed additional plans and programs for construction and remediation of curb ramps and sidewalks, based on a 2007 inventory (Resolution Nos. 81954 and 81751 C.M.S.), for installing or improving on-street disabled parking zones, and for responding to requests from residents with disabilities for the installation of residential disabled parking zones.

The original 1996 Transition Plan was intended to be completed within three years, with an estimated cost for full implementation of up to \$20 million. From Fiscal Year 1996-97 through Fiscal Year 2014-15, \$10,342,300 was allocated for Transition Plan implementation, as-needed ADA capital improvements, and other ADA accommodations, in addition to annual allocations for making curb ramp and sidewalk repairs. Finally, other capital programs such as street resurfacing and Measure DD (for primarily park-related projects) have contributed to making the ADA improvements required under the Transition Plan. Nevertheless, the City has not completed all the barrier removal activities scheduled under the 1996 Plan.

Since 2010, municipalities have been updating their ADA Transition Plans in response to the U.S. Department of Justice's adoption of the 2010 ADA Standards for Accessible Design, and the anticipated adoption of the U.S. Access Board's 2011 Proposed Right of Way Access Guidance at the end of this year.

ADA Litigation since 2006 and Impact on Oakland's Transition Plan Implementation

Several ADA lawsuits against the City since 2006 have significantly impacted staff's ability to implement stated Transition Plan priorities and our ability to respond to individual requests for barrier removal. Figure 1 below lists the cases since 2006 and the ADA capital improvement budget allocations that have been made to facilitate their resolution, along with a comparison to the annual allocation for ADA capital improvements.

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Figure 1. ADA CAPITAL PROGRAM ALLOCATIONS TO ADA SETTLEMENTS FY 2006-2014

Fiscal Year	Fund	Budget Allocation	Amount Allocated to Settlements	Facility
2006-07	5510	245,575	230,000	Museum Sculpture Garden
2006-07	5200	522,500	105,229	Lake Merritt Bandstand
2007-08	5200	321,075	250,000	Lake Merritt Bandstand
2008-09	5200	768,075	0	None
2009-10	5200	310,000	0	None
2010-11	5200	119,079	90,000	Woodminster Amphitheater
2011-12	1010	252,000	0	None
2012-13	1010	252,000	252,000	Woodminster Amphitheater
2013-14	1010	252,000	90,000	Bellevue Ave (Fairylane)
	Totals	\$3,042,304	\$1,017,229	

From 2006 to 2014, the ADA capital improvement budget was reduced by approximately one-third as a result of litigation.

Recent ADA in the Right of Way Litigation

A recently announced settlement, *Willits v. City of Los Angeles*, requires Los Angeles to commit \$1.4 billion over the next 30 years towards sidewalk and curb ramp improvements (without regard to available tax revenue or availability of other funding) to address deficiencies at 108,000 curb ramp locations. This settlement requires annual funding to start at \$31 million in Fiscal Year 2015-16, with annual increases and adjusted for inflation. This is the latest and largest lawsuit settlement against a municipality for inadequately implementing the ADA in the public right of way. **Attachments A and B** contain the press release and an article describing details of the settlement.

At least two other similar lawsuits were filed last year by Disability Rights Advocates, an Oakland-based national disability civil rights firm, against New York City and Long Beach.

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ANALYSIS

Transition Plan Needs Assessment, Plan Update and Next Steps

In response to the Council's direction to revitalize the City's ADA Transition Plan implementation efforts, and with the approval of the Mayor's Commission on Persons with Disabilities at its December 8, 2014 regular meeting, the ADA Programs Division retained \$117,000 of its \$252,000 FY 2013-14 On-Call ADA Capital Improvement budget for a new project to assist with Phase I of the ADA Transition Plan update.

Phase I will consist of a needs assessment of the various plans and activities that comprise the City's program for ADA compliance, and a proposal for updating the City's Transition Plan so that it conforms to current ADA standards, and to provide a framework for improved coordination among the various stakeholders involved in carrying out the ADA's mandate in the City's buildings and facilities. The ADA Programs Division received two responses to its Request for Proposals for ADA Buildings and Facilities Transition Plan Update Consulting on February 24, 2015. RBF Consulting responded as a prime. A certified local business, RBF was deemed most responsive and qualified based on its demonstrated ability, based on firm experience and the specific experience of the project manager and proposed interdisciplinary team to perform the activities required in the Request for Proposals. The City Administrator's Contract Compliance Analysis can be found here as ***Attachment C***.

As part of its Fiscal Year 2015-17 budget proposal, Public Works submitted two capital improvement project requests to support Phase II of the Transition Plan Update and its eventual implementation, based on a three-year timeline: 1) \$500,000 in Fiscal Year 2015-16 to update the City's buildings, facilities, and right of way asset inventories, which is the subject of the resolution before you; and 2) \$1 million annually in Fiscal Years 2017-20 to commence major buildings and facilities barrier removal activities based on the findings of the asset surveys and according to the priorities set forth in the updated Transition Plan. The Division also requested the continuance of the \$252,000 annual allocation for responding to individual barrier removal requests, including those that are the subject of ADA grievances and qualified requests for accommodations, as these minor capital improvements may not be captured in a timely manner as part of the planned Transition Plan activities for that year. These requests are not intended to supplant the capital funds required for other projects that are not specific to ADA Transition Plan implementation or ADA grievances/accommodations; any City alterations or new construction projects must comply with ADA requirements.

The proposed budget currently includes the \$500,000 in funding that was requested to conduct the updated asset inventory, and funding in the amount of \$252,000 annually in fiscal years 2015-2017 for On-Call ADA Capital Improvements. In Fiscal Years 2017-2020, an additional \$1 million is recommended for Council consideration for On-Call ADA Capital Improvements. This \$1 million placeholder for these first three years following the Transition Plan update

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should be revisited after completion of the asset survey update that is scheduled to commence in Fiscal Year 2015-2016. The results of the survey will provide a more accurate picture of what funding will be necessary in order to remove priority barriers within a reasonable timeframe, while maintaining the City's ability to address as-needed improvements that result from grievances or emergency maintenance needs.

Public Works is now seeking authorization to award a professional services contract in the amount of \$100,000 to RBF Consulting to conduct the ADA needs assessment and Transition Plan update, with the option to increase the contract amount to \$600,000 to conduct the asset inventory update that is required to identify, provide cost analysis, and prioritize current physical barriers preventing access to City programs and services.

As described and as illustrated in Figure 1 above, the ADA Programs Division has allocated a substantial portion of its capital budget—more than \$1 million dollars, or approximately one-third of the ADA capital improvement budget since 2006—to resolve ADA litigation settlements. This diversion of resources has greatly compromised the City's ability to timely respond to on-call ADA capital improvement requests that come about as the result of grievances, and to implement or revisit the outdated Transition Plan and associated plans and programs.

Although the Mayor's Commission on Persons with Disabilities has already approved the \$117,000 allocation to support Phase I of the Transition Plan update, this effort alone would not fulfill the need for a revamped inventory of ADA barriers. Without an accurate inventory of current building, facility, and right of way assets and their conditions, the City will be unable to identify those physical barriers that are currently preventing full and equal access to its programs and services. Once these conditions are ascertained, the City will then need to be prepared to remove these barriers at a reasonable pace, or risk further litigation.

The City of Los Angeles is now under a 30 year/\$1.4 billion settlement to address right of way accessibility. Oakland already has a 30 year Curb Ramp Transition Plan, with 24 years remaining. With 18,133 curb ramp locations, and 1100 miles of associated sidewalk repairs, Oakland would require a one-time allocation of \$115 million, or an annual allocation of \$4.8 million, with annual increases to account for inflation, to complete curb ramp and sidewalk remediation activities by FY 2039-40. Funding for implementation of the Curb Ramp Transition Plan has historically been set at \$660,000 per year, (Fund 2211), and the City is currently approximately one year behind in meeting the goal of an average of 650 new or reconstructed ramps per year. The Fiscal Year 2015-2017 budget proposes to raise this annual allocation to \$900,000 per annum. The current sidewalk and curb ramp inventory is outdated, however, and the asset inventory update planned for Fiscal Year 2015-16 is intended to capture current conditions in the City's right of way, to aid in improved planning and budgeting.

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While 20-30 years appears to be regarded as a reasonable timeframe for bringing municipal public rights of way into full ADA compliance based on a review of two decades of ADA right of way lawsuit settlement terms, the ADA itself required completion of its Transition Plan requirements by January 1995. Municipalities that have failed to meet this timeline are subject to Department of Justice enforcement actions. The City's continued efforts to meet the goals of the 30 year Curb Ramp Transition Plan should be coupled with a more proactive and accelerated program for barrier removal in its buildings and facilities under the updated Transition Plan to avoid potential liability for the delay in its initial implementation.

PUBLIC OUTREACH/INTEREST

The U.S. Department of Justice requires that cities establish a public advisory body to oversee ADA transition plan activities. The MCPD acts as the City's designated advisory body for ADA compliance. All ADA capital improvement projects expenditures are subject to MCPD approval, except those arising from the settlement (resolution) of disability discrimination complaints. The ADA Programs Division provides annual reports to the MCPD on the ADA Transition Plan and ADA Accommodations projects and the MCPD is regularly informed about complaint resolution activities and on-call ADA CIP activities. The MCPD annual report to the City Council Life Enrichment Committee includes a summary of authorized ADA capital improvement expenditures.

The MCPD has expressed concern over the pace of the City's barrier removal activities, a perceived lack of coordination among projects and programs responsible for carrying out ADA capital improvements, and the diversion of ADA program funds to resolve litigation.

At its December 8, 2014 regular meeting, the MCPD received a report on the status of ADA ongoing and recommended capital improvement projects, including a recommendation to allocate the remaining \$117,000 of Fiscal Year 2013-14 rollover ADA capital improvement funds to a new project to retain a consultant to assist with a needs assessment and Transition Plan update. The report and its recommendations were unanimously approved.

The table below provides a listing of Fiscal Year 2013-2015 ADA capital improvement projects approved by the MCPD to date.

Figure 2. ADA CAPITAL IMPROVEMENT PROJECTS APPROVED BY THE MAYOR'S COMMISSION ON PERSONS WITH DISABILITIES TO DATE, FISCAL YEARS 2013-2015

Project	Description	Funding Source	Allocated
P444950	Burckhalter ADA Improvements	FY 2013-14 On-Call CIP (P444940)	135,000

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Project	Description	Funding Source	Allocated
P444960	ADA Transition Plan Update 2014-15	FY 2013-14 On-Call CIP (P444940)	117,000
C479410	Bellevue Avenue/Garden Center Entrance ADA Improvements	FY 2014-15 On-Call CIP (P444940)	90,000
P444940	Library Door Replacement (Eastmont, Dimond, West Oakland, Cesar Chavez, Asian)	FY 2014-15 On-Call CIP (P444940)	35,673
P444940	Senior Center Door Maintenance (East Oakland, West Oakland)	FY 2014-15 On-Call CIP (P444940)	30,288
P444940	Mosswood Recreation Center Path of Travel & Parking Improvements	FY 2014-15 On-Call CIP (P444940)	21,447

COORDINATION

In addition to conferring with the MCPD, the ADA Programs Division worked with Oakland Public Works Fiscal Services and the Budget Office in submitting the Fiscal Year 2015-17 budget requests; Right of Way Management and Transportation Services to confirm the need for an updated inventory of public right of way assets; and with Facilities Services to confirm the need for an updated survey of buildings and facilities based on their current program uses and to assess compliance with the 2010 Standards for Accessible Design.

The Office of the City Attorney and Controller's Bureau also reviewed this report and resolution.

COST SUMMARY/IMPLICATIONS

The table below lists the sources of funding for the proposed \$100,000 professional services contract with RBF Consulting to conduct the ADA Transition Plan Needs Assessment and the proposed additional \$500,000 requested in the Fiscal Year 2015-2017 budget for an updated asset survey, cost estimate, and prioritization for ADA barrier removal.

Figure 3. Proposed ADA Transition Plan Update and Barrier Identification Budget

Fund	Project Number	Amount	Purpose	Budget
1010	P444960	117,000	ADA Transition Plan Needs Assessment/Plan Update	FY 2014-2015 Adopted
4400	C483110	500,000	ADA Asset Inventory Update	FY 2015-2017 Proposed

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SUSTAINABLE OPPORTUNITIES

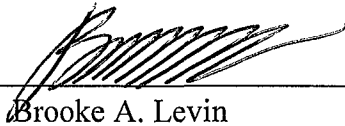
Economic: Updating the Citywide ADA Transition Plan and asset inventory to identify features that do not conform to the 2010 Standards for Accessible Design and the proposed Right of Way Accessibility Guidelines will potentially help the City avoid ADA-related litigation or Department of Justice investigation. An investment in more aggressive ADA implementation places the discretion back in the City's hands to allocate funds towards removing barriers that the community identifies as a priority, rather than being forced to react to lawsuit and settlement demands.

Environmental: This resolution presents no ascertainable environmental impact.

Social Equity: More timely and robust ADA Transition Plan funding and programming would demonstrate Oakland's continuing commitment to realizing the promise of the ADA: an Oakland where persons with disabilities have the opportunity to participate in all that life in our community has to offer.

For questions regarding this report, please contact Sherri Rita, Acting ADA Projects Coordinator, at 510-283-6919.

Respectfully submitted,



Brooke A. Levin
Director, Oakland Public Works

Reviewed by:
Mike Neary, P.E., Assistant Director
Bureau of Engineering and Construction

Reviewed by:
Christine Calabrese, PMP
ADA Programs Division Manager

Prepared by:
Sherri Rita, Acting ADA Projects Coordinator
ADA Programs Division

Attachments (3)

Attachment A: *Willits v. City of Los Angeles* Press Release (<https://las-elc.org/media/releases/willits-v-city-los-angeles-sidewalk-settlement-announced>)

Attachment B: Why L.A.'s \$1.4 Billion Sidewalk Repair Case is Such a Big Deal", Atlantic Citylab, April 7, 2015. (<http://www.citylab.com/commute/2015/04/why-las-14-billion-sidewalk-repair-case-is-such-a-big-deal/389793/>)

Attachment C: Compliance Analysis

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Attachment A

Willits v. City of Los Angeles Sidewalk Settlement Announced

Contact:

Yusef Robb

Office of Mayor Eric Garcetti

323-384-1789

yusef.robby@lacity.org

April 1, 2015

Los Angeles, CA

An agreement to resolve the Willits v. City of Los Angeles case was reached today that will result in a more than \$1 billion investment in city sidewalk repairs and other pedestrian improvements.

The class action sought to ensure better access for persons with mobility disabilities to the city's sidewalks, curb ramps, crosswalks, pedestrian crossings and other walkways.

Plaintiffs included Mark Willits, Judy Griffin, Brent Pilgreen, and Communities Actively Living Independent and Free ("CALIF"). They were represented by a team of lawyers led by Guy Wallace of Schneider Wallace Cottrell Konecky Wotkyns, LLP, Linda M. Dardarian of Goldstein, Borgen, Dardarian and Ho, Jinny Kim of the Legal Aid Society-Employment Law Center, and Anna Rivera of Disability Rights Legal Center.

The City of Los Angeles was represented by City Attorney Mike Feuer and Chief Deputy City Attorney Jim Clark, Assistant City Attorney Laurie Rittenberg, and the City's outside Counsel Kevin Gilbert of Lozano Smith, and Christopher Wong and David Raizman of Ogletree, Deakins.

In addition, the Mayor's Office, City Council President Herb Wesson, City Council Members Paul Krekorian and Joe Buscaino, and City Administrative Officer Miguel Santana all played key roles in the shaping of the agreement.

Plaintiffs' lead counsel Guy Wallace said, "This \$1.4 billion settlement is the largest disability access class action settlement in U.S. history. It will make the City's sidewalk system accessible to persons with mobility disabilities. It will install curb ramps throughout the City, fix sidewalks that are broken and torn up by tree roots, install accessible sidewalks where they do not exist, and remove many other barriers. By making the City's sidewalks and crosswalks accessible, this settlement will make it much easier for persons with mobility disabilities to get to and use government facilities, to find or get to jobs and workplaces, to go shopping, to go to the doctor, to participate in community life, and to be with their friends and families.

"Under the settlement, people with disabilities will also be able to make requests for access fixes in their own neighborhoods, such as for curb ramp installation, or tree root repairs. Over the course of the settlement, the City's sidewalks will be transformed. And the lives of persons with mobility disabilities will be made a lot better. We are very thankful to Mayor Eric Garcetti, City Attorney Mike Feuer, Chief Deputy City Attorney Jim Clark, City Administrative Officer Miguel Santana and all of the City officials who have made this outstanding and historic result possible."

Lillibeth Navarro, Executive Director of CALIF, said, "This settlement vindicates the central purposes of the ADA: access, independence and equality. In Los Angeles, for too long, wheelchair users and people with other types of mobility disabilities have been forced to struggle with curbs that don't have curb ramps, sidewalks that are broken and torn up, and crosswalks that are filled with potholes and cracks. We are pleased that the City has finally made a real commitment to making its public sidewalk system accessible. Now people with mobility disabilities will be able to go where they need to go, and also where they want to go. That is what the ADA is all about."

Linda Dardarian, said "This historic agreement shows what can be accomplished when the City and its residents work together to solve chronic, systemic, seemingly intractable problems. The City's sidewalks have been deteriorating for decades, but due to the dedication and commitment of the City and the community of people with mobility disabilities, this trend is being reversed, to the benefit of everyone who lives in or visits Los Angeles."

"This agreement shows how we are changing the way we do business at City Hall and are getting back to basics," said Mayor Eric Garcetti. "Instead of fighting against fixing our sidewalks, we came to the table to reach an agreement to invest more than a billion dollars in our sidewalk infrastructure – which will improve access and safety, and boost property values and neighborhood pride."

"Today we make an ironclad long-term commitment to repair L.A.'s broken sidewalks," said City Attorney Mike Feuer. "It's so much better to prevent residents from being injured in the first place than to react after the fact. This settlement directs taxpayer dollars to where they belong: solving one of our City's most longstanding problems."

"This historic settlement is good news. After five years of litigation, we can now look to the future and what will be achieved to enhance the quality of life for everyone in the City of Los Angeles," said Council President Herb Wesson.

"This settlement is an enormous step forward for the City of Los Angeles and its residents," said Councilmember Paul Krekorian, chair of the Budget and Finance Committee. "For decades, buckled sidewalks have plagued neighborhoods from the San Fernando Valley to the South Bay. All of that is going to change starting today with the city's historic commitment to fix our sidewalks and make them accessible to everyone. I have been intimately involved in this case from day one and will continue to work with the Mayor, the City Attorney and my colleagues on the City Council to achieve our goal of implementing a comprehensive sidewalk repair program that improves every community in this great city."

"As chairman of the Public Works committee, I have been committed to finding solutions to fixing our streets and sidewalks since my first day on the Los Angeles City Council," said Councilmember Joe Buscaino. "The settlement of this lawsuit is a win for not only the mobility impaired, but for all Angelenos as it finally requires the city to fix its broken sidewalks. There are no losers here. I look forward to hearing from the public as we develop the details in the Public Works Committee on how residents can submit repair requests, which locations to prioritize and how quickly we can start the work."

The agreement calls for a \$1.4 billion investment in the city's sidewalks and other walkways over the next 30 fiscal years, starting at the beginning of FY 15-16. Annual investments will range from \$31 million during the next five years to more than \$63 million in years 26 to 30. The amounts increase over time to ensure value is not lost due to inflation.

The settlement proposal will now go to the supervising court for approval and ultimate implementation.

Attachment B

\$1.4 Billion Sidewalk Repair Case Is Such a Big Deal

Los Angeles isn't the only jurisdiction that's been forced to confront its sidewalk problems by disability-rights advocates, and it won't be the last.

- Sarah Goodyear
- @buttermilk1
- Apr 7, 2015
- 33 Comments



A cracked and damaged sidewalk in the Beverly Glen neighborhood of Los Angeles.
(SeeClickFix)

In the city where “everybody drives,” sidewalks and other accommodations for people who aren’t in cars have often seemed an afterthought. But with a landmark settlement to fix its badly broken sidewalks announced last week, Los Angeles is moving toward a future in which its infrastructure for non-drivers will get some long-needed attention.

The settlement comes in response to a class-action lawsuit filed under the Americans with Disabilities Act, which alleged the city did not maintain its sidewalks “in a condition that is useable by class members who rely on wheelchairs, scooters, and other assistive devices to get around.” The agreement (still pending a judge’s approval) means L.A. could commit a stunning \$1.4 billion over the next 30 years to repairing and upgrading sidewalks, installing curb cuts, and ensuring access to crosswalks.

According to Linda Dardarian, one of the lawyers for the plaintiffs, the settlement comes after five years of sometimes bruising litigation. She says that the city’s attitude toward the suit changed abruptly when the pedestrian-friendly administration of Mayor Eric Garcetti, elected in 2013, came into office.

“People have gotten hurt tipping over in their wheelchairs.”

“Before that, it had been a scorched-earth battle,” says Dardarian. “[Members of the previous administration] weren’t seeing this as an opportunity to resolve a chronic, systemic, intractable problem that had been weighing on the city for decades. It took the new administration—with more of an attitude of positivity and what can be done instead of what can’t be done—to resolve an issue that affects the whole city.”

The change in tone and practice, says Dardarian, reflects the city’s evolving attitude toward its streets as something more than just conduits for personal motor vehicles. “As we shift our focus as a society from cars and onto pedestrians and transit and bikes,” she says, “that’s when the people at the top realize our sidewalks need attention.”

Los Angeles has a particularly fraught legal relationship with its sidewalks, Dardarian explains. At one time, property owners were responsible for maintaining sidewalks adjacent to their homes and businesses, as is the case in many other cities. But back in the 1970s, L.A. took control of sidewalk maintenance in order to qualify for a federal grant program aimed at assisting cities with street repairs. That federal money quickly ran out, however, leading the city to fall behind on even routine repairs. A decision to plant thousands of ficus trees, which have shallow root systems that can destroy concrete as they grow, made the situation even worse. One survey estimated that some 40 percent of L.A. sidewalks need repair.

Broken sidewalks are an inconvenience for many residents, but for those with mobility disabilities, they can be a life-altering barrier. “A lot of our people are already isolated

socially,” says Lillibeth Navarro of Communities Actively Living Independent and Free (CALIF), one of the plaintiffs in the suit. “On the one hand there’s the ADA, promising opportunities to jobs and all the facilities that society has, and you want so much to be a part of that. But of course the first step into the world is the street outside your door. So we have been struggling in traversing the miles and miles of sidewalks. People have gotten hurt tipping over in their wheelchairs.”

The settlement will not only commit about \$30 million per year to repairs in areas prioritized under the ADA—government buildings, transit hubs, medical facilities, and the like—but it will also allow L.A. residents to request specific repairs to trouble spots. Dardarian says that means residential neighborhoods, which are at the bottom of the ADA priority list, will get targeted help as well.

Los Angeles isn’t the only jurisdiction that has been compelled to face its sidewalk problems because of lawsuits filed by disability-rights advocates, and the ADA has forced street enhancements for non-car users that might never have happened otherwise. In 2010, California transportation agency Caltrans agreed to a \$1.1 billion settlement to repair or upgrade 2,500 miles of sidewalks, curb cuts, wheelchair ramps, and other accommodations at that agency’s facilities around the state. In Jackson, Mississippi, advocates who were struggling to use public transportation filed an ADA suit that resulted in a 2009 consent decree requiring the city to provide access to bus stops and other accommodations. Improvements there are ongoing. Suits are pending in New York City and Long Beach, California, as well.

Advocates say that ADA-compliant infrastructure isn’t only good for those with mobility issues. “It’s beneficial to not only people with disabilities but to the whole human family,” says CALIF’s Navarro. “Seniors, mothers with strollers, even the young people on their skateboards.”

“Another implication of any big systemic disability case is that it benefits the whole community,” says Dardarian. “It brings everyone into the public sphere.”

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INTER OFFICE MEMORANDUM

TO: Sherri Rita, Acting ADA
Projects Coordinator

FROM: Deborah Barnes, Director
Contracts and Compliance

Deborah Barnes

SUBJECT: Compliance Analysis

DATE: May 22, 2015

RFP ADA Transition Plan Needs Assessment

City Administrator's Office, Contracts and Compliance Unit conducted compliance review for two (2) proposals in response to the above referenced project. Below is the outcome of the compliance evaluation for the minimum 50% Local and Small Local Business Enterprise (L/SLBE) participation requirement. In addition, firms are reviewed for compliance with the Equal Benefits Ordinance (EBO).

Compliant to L/SLBE EBO Policies		Proposed Participation					Earned Credits and Discounts		Oakland Workforce Preference Points	EBO Compliant? Y/N
Company Name Certified Firms	Original Bid Amount	Total LBE/SLBE	LBE	SLBE	*VSLBE	Total Credited participation	L/SLBE Participation Preference Points	Years in Oakland Preference Points		
RBF Consulting	NA	51%	0%	0%	0%	51%	2 points	NA	NA	Y

Comments: As noted above, RBF Consulting met the minimum 50% L/SLBE program requirements. The firm is EBO compliant.

Non-Compliant to L/SLBE EBO Policies		Proposed Participation					Earned Credits and Discounts		Oakland Workforce Preference Points	EBO Compliant? Y/N
Company Name Certified Firms	Original Bid Amount	Total LBE/SLBE	LBE	SLBE	*VSLBE	Total Credited participation	L/SLBE Participation Preference Points	Years in Oakland Preference Points		
ADAAG Consulting Services	NA	0%	0%	0%	0%	0%	0 points	NA	NA	N

Comments: As noted above ADAAG Consulting Services failed to meet the minimum 50% L/SLBE program requirements. The firm is not EBO compliant. They will have to come into compliance prior to contract execution.

Should you have questions or need additional information, please contact Vivian Inman, Contract Compliance Officer at ext. 6261.



Contracts and Compliance Project Evaluation Report

Project No:

Project Name: ADA Transition Plan Needs Assessment

Contractor: ADAAG Consulting Services

1. Did the 50% Local/Small Local requirement apply? Yes

2. Did the contractor meet the 50% requirement? No

a) % of LBE participation 0.00%

b) % of SLBE participation 0.00%

c) % of VSLBE/LPG participation 0.00% 0.00% (double counted value)

3. Did the Contractor receive any preference points? No

(if yes, list the points received)

4. Additional Comments Firm failed to meet the minimum 50% L/SLBE participation requirement, therefore the firm is deemed non-responsive at this stage. However, since this is a negotiated process the firm may revise its team and meet the L/SLBE requirement.

5. Date evaluation completed and returned to initiating department. 5/22/2015

Reviewing Officer: Vivian Inman

Reviewing Officer Date: 5/22/2015

Approved By: Steeley Darenburg

Approved By Date: 5/22/15

Friday, May 22, 2015

ADAAG Consulting Services

LBE/SLBE/VSLBE/LPG PARTICIPATION

Project Name: ADA Transition Plan Needs Assessment

Project No:

Engineers Estimate:

Under/Over Engineers Estimate:

No.	Discipline	Contractor	Location	Cert. Status	LBE	SLBE	*VSLBE/LPG (2x value)	UB %	For Tracking Only		
									Ethn	MBE	WBE
1	Prime Consultant	ADAAG Consulting Services	Los Angeles	UB	0.00%	0.00%	0.00%	100.00%	H		100.00%
Project Totals:					0.00%	0.00%	0.00%	100.00%			100.00%

REQUIREMENTS: The 50% Requirements, is a combination of 25% LBE and 25% SLBE participation. An SLBE firm can be counted 100% towards achieving the 50% requirements and a VSLBE/LPG firm can be counted double towards achieving the 50% requirements.

LBE = Local Business Enterprise
SLBE = Small Local Business Enterprise
VSLBE = Very Small Local Business Enterprise
LPG = Locally Produced Goods
NPSLBE = NonProfit Small Local Business Enterprise
NPLBE = NonProfit Local Business Enterprise

UB = Uncertified Business
CB = Certified Business
MBE = Minority Business Enterprise
WBE = Women Business Enterprise

Total LBE \ SLBE Dollars and Percents:

0.00%

Total VSLBE \ LPG Dollars and Percents:
(This value is counted double)

0.00%

Total Percentages: 100.00%

Total Participation of
VSLBE / SLBE / LBE / LPG: 0 . 0 0 %

ETHNICITY:

AA = African American
AI = Asian Indian
AP = Asian Pacific
C = Caucasian
H = Hispanic
NA = Native American
O = Other
NL = Not Listed
MO = Multiple Ownership

*** Notes:**



Contracts and Compliance Project Evaluation Report

Project No:

Project Name: ADA Transition Plan Needs Assessment

Contractor: RBF Consulting

1. Did the 50% Local/Small Local requirement apply? Yes

2. Did the contractor meet the 50% requirement? Yes

a) % of LBE participation 51.00%

b) % of SLBE participation 0.00%

c) % of VSLBE/LPG participation 0.00% 0.00% (double counted value)

3. Did the Contractor receive any preference points? No

(if yes, list the points received) 2

4. Additional Comments

5. Date evaluation completed and returned to initiating department. 5/22/2015

Reviewing Officer: Vivian Inman

Reviewing Officer Date: 5/22/2015

Approved By: Shelley Darenburg

Approved By Date: 5/22/15

Friday, May 22, 2015

RBF Consulting

LBE/SLBE/VSLBE/LPG PARTICIPATION

Project Name: ADA Transition Plan Needs Assessment

Project No:

Engineers Estimate:

Under/Over Engineers Estimate:

No.	Discipline	Contractor	Location	Cert. Status	LBE	SLBE	*VSLBE/LPG (2x value)	UB %	For Tracking Only		
									Ethn	MBE	WBE
1	Prime Consultant	RBF Consulting	Okaland	CB	51.00%	0.00%	0.00%	0.00%	O		
2	Architecture	Sally Swanson Architects, Inc.	San Francisco	UB	0.00%	0.00%	0.00%	49.00%	NL		49.00%
Project Totals:					51.00%	0.00%	0.00%	49.00%			49.00%

REQUIREMENTS: The 50% Requirements, is a combination of 25% LBE and 25% SLBE participation. An SLBE firm can be counted 100% towards achieving the 50% requirements and a VSLBE/LPG firm can be counted double towards achieving the 50% requirements.

LBE = Local Business Enterprise
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NPSLBE = NonProfit Small Local Business Enterprise
NPLBE = NonProfit Local Business Enterprise

UB = Uncertified Business
CB = Certified Business
MBE = Minority Business Enterprise
WBE = Women Business Enterprise

Total LBE \ SLBE Dollars and Percents:

51.00%

Total VSLBE \ LPG Dollars and Percents:
(This value is counted double)

0.00%

Total Percentages: 100.00%

**Total Participation of
VSLBE / SLBE / LBE / LPG: 51.00%**

ETHNICITY:

AA = African American
AI = Asian Indian
AP = Asian Pacific
C = Caucasian
H = Hispanic
NA = Native American
O = Other
NL = Not Listed
MO = Multiple Ownership

*** Notes:**

FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

City Attorney

2015 MAY 28 AM 9:57

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

A RESOLUTION AWARDING A PROFESSIONAL SERVICES CONTRACT IN THE AMOUNT OF ONE HUNDRED THOUSAND DOLLARS (\$100,000) TO RBF CONSULTING FOR A NEEDS ASSESSMENT AND AMERICANS WITH DISABILITIES ACT TRANSITION PLAN UPDATE (PROJECT NUMBER P444960), WITH THE OPTION OF INCREASING THE CONTRACT TO AN AMOUNT NOT TO EXCEED SIX HUNDRED THOUSAND DOLLARS (\$600,000) IN FISCAL YEAR 2015-2016 TO UPDATE THE CITYWIDE ASSET INVENTORY AND PROVIDE A COST ESTIMATE AND PRIORITIES FOR BARRIER REMOVAL (PROJECT NUMBER C483110)

WHEREAS, the City of Oakland is considered a leader in implementing the requirements of the Americans with Disabilities Act (ADA) and related disability civil rights laws; and

WHEREAS, the City of Oakland responded to the requirements of the ADA by creating a Transition Plan in 1996 based on a 1994 asset inventory; and

WHEREAS, the City Of Oakland adopted an ADA sidewalk repair prioritization plan in 2008 based on a 2007 sidewalk inventory; and

WHEREAS, the City of Oakland subsequently adopted a Curb Ramp Transition Plan in 2009 based on an original 2002 curb ramp inventory, updated in 2007; and

WHEREAS, the City of Oakland has based its ADA Transition Plan and related plans on the facility uses, conditions, and accessibility standards at the time; and

WHEREAS, in 1996 the City of Oakland estimated a cost of up to \$20 million dollars to fully implement its ADA Transition Plan; and

WHEREAS, from 1996 to 2015, the City of Oakland has allocated a total of \$10,342,300 towards implementation of the 1996 Transition Plan; and

WHEREAS, the ADA Standards for Accessible Design were amended in 2010; and

WHEREAS, the Proposed Right of Way Accessibility Guidelines promulgated by the United States Access Board are pending immediate formal adoption by the United States Department of Justice as enforceable standards; and

WHEREAS, an updated asset inventory is required in order to determine what physical barriers if any prevent persons from disabilities from accessing the City's programs and services, based on current building and facility inventories and uses and current accessibility requirements; and

WHEREAS, the adopted Fiscal Year 2013-2014 City Capital Improvement Project budget provided \$252,000 from General Fund 1010, ADA Programs Organization 92214, for the ADA On-Call Capital Improvement Project P444940, ADA Program YS10; and

WHEREAS, at its regular meeting on December 8, 2014, the Mayor's Commission on Persons with Disabilities approved a \$117,000 allocation from General Fund 1010, ADA Programs Organization 92214, ADA On-Call Capital Improvement Project P444940, ADA Program YS10, to the ADA Transition Plan Survey Project P444960, to conduct a needs assessment and update for the ADA Transition Plan and its related programs in Fiscal Year 2014-2015; and

WHEREAS, on February 24, 2015, two proposals were received by Oakland Public Works Department in response to a Request for Proposals for ADA Buildings and Facilities Transition Plan Update Consulting Project P444960; and

WHEREAS, RBF Consulting, a certified Local Business Enterprise, submitted a proposal as a prime and was deemed the most qualified; and

WHEREAS, the contract with RBF Consulting for the initial needs assessment and Transition Plan update will not exceed the amount of \$100,000; and

WHEREAS, the anticipated additional costs for updating the Citywide asset inventory to identify physical access barriers preventing persons from disabilities from enjoying full and equal access to City programs and services is estimated to be \$500,000; now, therefore be it

RESOLVED, that Oakland Public Works is authorized to award a professional services contract in the amount of \$100,000 to RBF Consulting from General Fund 1010, ADA Programs Organization 92214, ADA Transition Plan Survey Project P444960, ADA Program YS10, to conduct an ADA Transition Plan needs assessment and Transition Plan update; and be it

RESOLVED, that Oakland Public Works is authorized to increase the contract to an amount not to exceed \$600,000 in Fiscal Year 2015-2016, contingent upon the availability of funding, for a survey of City buildings, facilities, and right of way assets to identify, prioritize, and provide cost analysis of the physical barriers that are preventing persons with disabilities full and equal access to the City's programs and services based on the most current ADA standards and guidelines, ADA Transition Plan Survey Project C483110.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES – BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, and PRESIDENT GIBSON MCELHANEY

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California