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MEMORANDUM

TO: HONORABLE MAYOR &
CITY COUNCIL

FROM: Ryan Russo
Director, Oakland Department
of Transportation

SUBJECT: Annual Sidewalks Program
Update (July 2020 to June 2021)

DATE: January 26, 2022

City Administrator
Approval

Date: Jan 26, 2022

INFORMATION

This memo provides the Oakland City Council, the Mayor's Office, City staff and the community with a report on sidewalk repair activity between July 1, 2020 to June 30, 2021.

GENERAL OVERVIEW

The Oakland Department of Transportation (OakDOT) receives and investigates sidewalk repair requests through OAK311, performs temporary make-safe repairs, performs permanent sidewalk replacement, facilitates private owner sidewalk repair, issues sidewalk compliance certifications and maintains citywide sidewalk data.

During Fiscal Year 2020-2021 (FY21), 104,287 square feet of sidewalk repairs were performed by OakDOT staff or OakDOT contractors and private property owners. OakDOT received 508 service requests for sidewalk repair.

Key program activities for the upcoming Fiscal Year 2021-2022 (FY22) include completing the first citywide comprehensive sidewalk damage inventory since 2007 and development of a citywide sidewalk repair prioritization plan.

BACKGROUND

Sidewalks require repair when there is a defect, such as a crack, depression, or vertical offset, of more than ¼ inch. In Oakland, per state law, adjacent property owners are responsible for repairing damaged sidewalks.¹ This means that while the City is responsible to maintain sidewalks adjacent to City properties and official street trees, private property owners are responsible to maintain all other sidewalks in Oakland. Past citywide sidewalk surveys have estimated that approximately 85% of sidewalk damage in Oakland is "private damage," or damage that is the responsibility of the adjacent private property owner. The remaining 15% of

¹ California Streets and Highways Code § 5610; Oakland Municipal Code Chapter 12.22

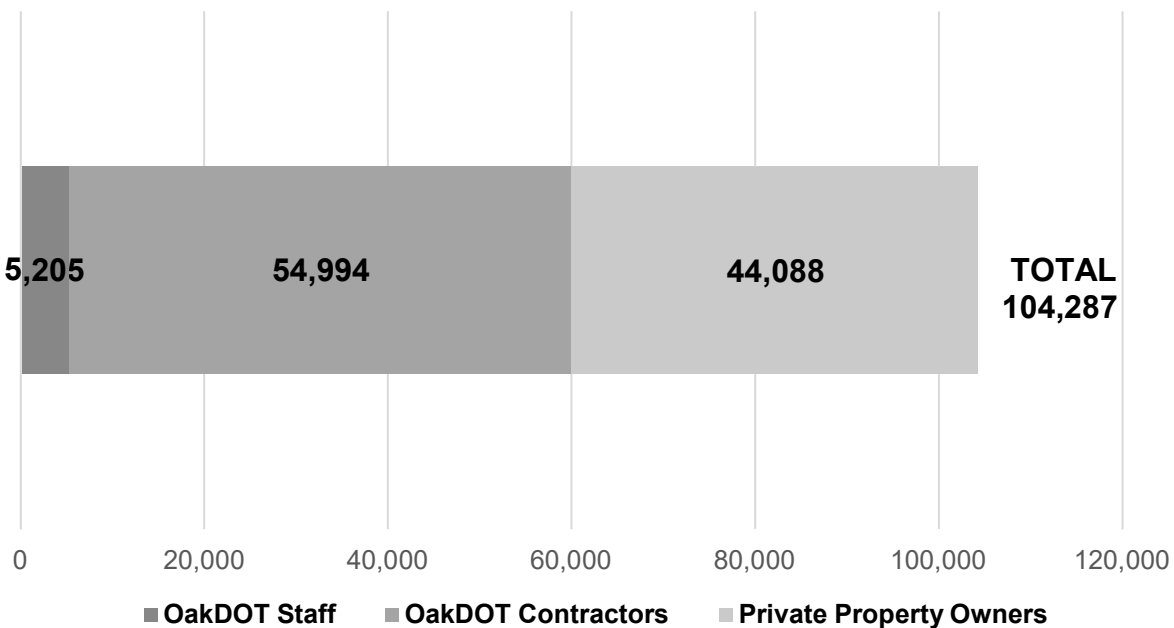
sidewalk damage in Oakland is “public damage,” or sidewalk damage at or within a public facility, or sidewalk damage that is caused by an official street tree.

As directed in the adopted FY2019-21 and FY2021-23 Capital Improvement Plan, the City’s \$2M annual sidewalk repair program is dedicated to repairing public damage. The program is funded primarily by Measure KK and prioritizes repairing official tree damaged sidewalks, addressing sidewalk damage at City facilities, and facilitating private property sidewalk repairs.

SUMMARY

This report summarizes the amount and types of sidewalk repairs recorded in FY21. This includes repairs by OakDOT staff, OakDOT contractors, and private property owners. This summary also provides the number of sidewalk inspections and Notices to Repair issued by sidewalk inspectors performed in the past year, and sidewalk repairs and certifications completed under the 2019 title transfer ordinance also known as the Buy-Sell-Repair ordinance Oakland Municipal Code (OMC 12.04.380). **Figure 1** below shows the square footage of sidewalks repaired in FY21.

Figure 1: Sidewalks Repaired in FY21 (Square Feet)



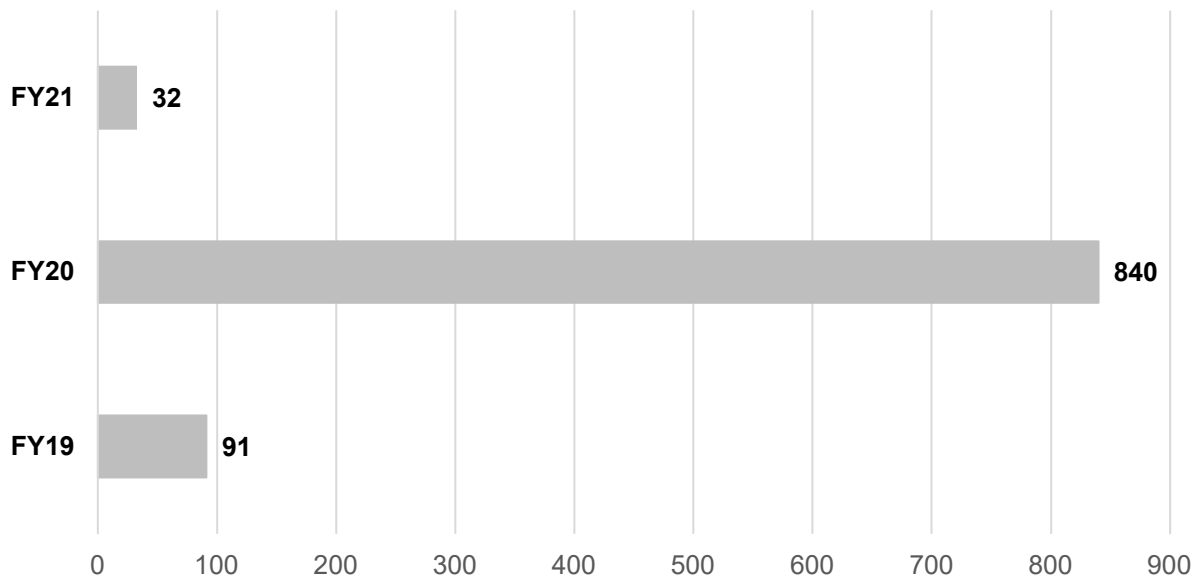
In the period of July 1, 2020 to July 30, 2021, a total of 104,287 square feet of sidewalk was repaired, including repairs by OakDOT staff, OakDOT contractors, and private property owners. In the past year, OakDOT received 508 service requests for sidewalk damage.

Repairs by City Staff

OakDOT staff complete both temporary and permanent repairs. Temporary repairs, or “make-safe” repairs, typically involve placing hot asphalt on a section of sidewalk to create a temporary

ramp over an uplifted section, or to otherwise reduce a tripping hazard. Temporary repairs can also include grinding, shaving, or horizontal sawcutting of existing sidewalk sections. By distinction, permanent repairs include full removal of damaged concrete sidewalk sections and replacement with new concrete. In the past fiscal year, OakDOT staff addressed 32 locations of sidewalk damage, performing 9 temporary repairs and 23 permanent repairs on sidewalks in Oakland (Figure 2). The permanent repairs comprised a total of 5,205 square feet of repaired. This significant decrease from prior year totals was due to multiple and sustained staff vacancies within OakDOT’s concrete crews. These vacancies included retirements of long-time supervisors and separations of other staff critical to the formation of a complete concrete repair crew, such as concrete finishers. Without a complete crew, concrete repairs cannot be performed. Recruitment efforts to restore full staffing are underway. **Figure 2** reflects the number of locations repaired by staff.

Figure 2: Number of Locations Repaired by OakDOT Crews (FY19 – FY21)



Repairs by Contractors

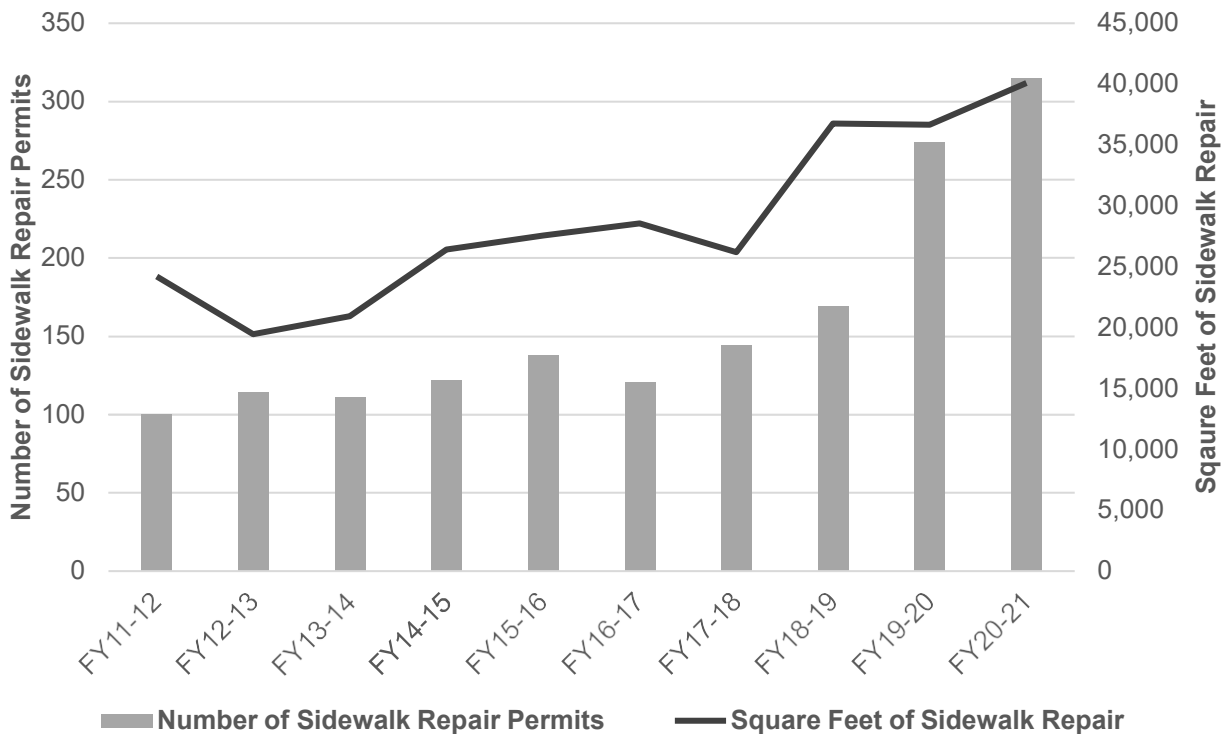
OakDOT staff also maintain sidewalk repair contracts to perform sidewalk replacement. In the past year, OakDOT-managed contractors repaired 54,994 square feet of sidewalk replacement in Oakland.

In FY21, staff also began work under a new contract providing horizontal shaving that addressed 8,484 locations. Horizontal concrete shaving is a technique that provides an effective, environmentally-friendly alternative to full sidewalk replacement and typically costs half as much as full replacement. It smooths uplifts without damaging the rest of the sidewalk. Through this project, OakDOT is working through a backlog of more than 1,500 reports of sidewalk damage related to recorded official street trees. If the damage is not a candidate for horizontal shaving, OakDOT queues the location for a permanent replacement.

Repairs by Private Property Owners

The majority of sidewalks abut private property and the adjacent property owner is responsible to maintain these sidewalks. Accordingly, the largest number of sidewalk repairs are those performed by private property owners. In the past year, OakDOT issued 315 permits for sidewalk repair, totaling 44,088 square feet. **Figure 3** provides the number of sidewalk repair permits and associated square feet of sidewalk repair since 2011.

Figure 3: Private Sidewalk Repairs (2011-2021)



The total sidewalk repair permits issued in the past year represents an increase of 14% from the prior fiscal year (274 permits to 315 permits), and an increase in the ten-year rolling average.

Service Requests for Sidewalk Damage and Notices to Repair

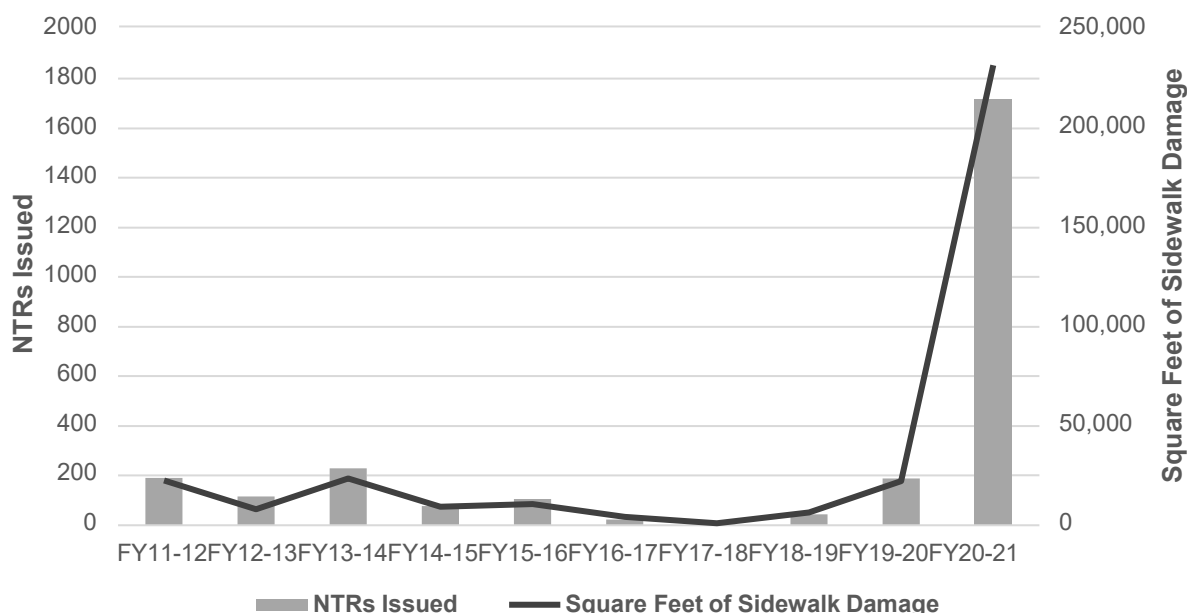
OakDOT processes requests for sidewalk repairs that are received by OAK311, Oakland’s call center for city services. OakDOT responds to each sidewalk repair service request with an inspection and determination of whether the damage is City responsibility or property owner responsibility to repair. If the damage is a City responsibility, the service request is placed in queue with OakDOT’s sidewalks maintenance team for repair. If the damage is property owner responsibility, the inspector issues a Notice to Repair directing the property owner to address the damage.

In the past fiscal year, OakDOT received 508 new service requests for sidewalk repair and issued 1,718 Notices to Repair to private parties comprising at least 231,747 square feet of assessed

damage. The greater ratio of Notices to Repair to service requests reflects both a proactive approach to surveying sidewalk corridors for damage and a standalone effort to revisit older sidewalk service requests, described in the following section.

Figure 4 shows the number of Notices to Repair the City has issued over the past ten years and the accompanying square feet of damage associated with the Notices to Repair.

Figure 4: Number of Notices to Repair and Accompanying Sidewalk Damage (2011-2021)



Low-Income Property Owner Repair Program

In July 2019, City Council approved a resolution (Resolution No. 87746 C.M.S.) authorizing the Department of Transportation to perform sidewalk repairs at no cost on behalf of low-income property owners, with an initial fund of \$50,000. Subsequently, OakDOT began including information about this option when issuing Notices to Repair. To receive this waiver, a property owner residing in Oakland must present proof of participation in a means-tested program. This program has received 36 applications in FY21, and 34 application locations have been assessed and/or had repairs completed. The online application form is available in English, Spanish, and Chinese. Staff anticipate seeking additional funding authority for the program in the upcoming fiscal year.

American Disability Act (ADA) Sidewalk Repair Request Program

The ADA Sidewalk Repair Program expedites necessary repairs of sidewalks damaged by City street trees upon request for qualified individuals with disabilities as defined by the Americans with Disabilities Act of 1990 and as amended. The program is not intended to address community concerns other than access for people with disabilities and does not make repairs that are the responsibility of private property owners. In FY21, OakDOT received 9 applications

through the ADA Sidewalk Repair Program and 9 application locations have been assessed and/or had repairs completed. This is an increase over the past ten-year history of the program.

ANALYSIS OF PROJECTS AND PROGRAMS

This section provides analysis of key projects and programs within the sidewalks program, including two projects to reduce the backlog of sidewalk repair service requests, and the implementation of the 2019 Buy-Sell-Repair Ordinance.

Private Sidewalk Damage Backlog Project

Backlogs of service requests are frustrating for members of the public and staff alike. Significant backlogs create prioritization challenges for staff wrestling with addressing new issues as they arise but needing to simultaneously make progress on requests that are several years old. Oaklanders are likewise frustrated by slow responses times as a result of the backlog.

In FY21, staff further advanced a project to address private sidewalk damage, targeting the approximately 1,500 locations with an open service request that did not have a tree associated with the damage and had not yet received a Notice to Repair. The City of Oakland consultant first removed duplicate requests resulting in approximately 1,200 locations that the consultant inspectors then visited to verify and measure the damage. At approximately 400 locations, the sidewalk damage was gone on arrival often due to already completed repairs. Damage at other locations were reassigned to different city departments or outside agencies, such as damage caused by broken PGE utility lids. In total, 577 Notices to Repair were sent to property owners. In FY22, staff will visit and reinspect the approximately 50 remaining locations and issue Notices to Repair as needed.

Official Street Tree Sidewalk Damage Backlog Project

A second project addresses location where an official street tree is causing sidewalk damage. Tree-related sidewalk damage means an otherwise simple repair can become a very complicated effort. There are more than 1,400 reported locations citywide where an official tree has caused sidewalk damage, and each of these 1,400 locations presents a unique problem: at each location, the sidewalk will need to be demolished and the tree roots exposed. Then the tree roots must be evaluated to determine whether any can be pruned in order to provide a compliant sidewalk, or whether the sidewalk should be re-routed around or ramped up over the roots. At times, there are easy choices; in other instances, there are no good options. Then, the sidewalk section is replaced.

In FY21, staff assigned the 1,400 locations to a horizontal concrete shaving contractor. Horizontal concrete shaving can provide an immediate fix to some tree-damaged sidewalks without damaging the sidewalk as with traditional concrete grinding and in a fraction of the time compared to the traditional remove and replace effort described above. By end of FY21, the contractor had evaluated approximately 1,150 of the 1,400 locations, and either performed a trip hazard mitigation by shaving the uplifted sidewalk or performed an assessment of the remaining damage. By end of FY21, trip hazards were mitigated at 449 locations. Status updates on this

project were provided on an online map² that was updated weekly. Additionally, at 709 locations, sidewalk uplifts caused by trees were not candidates for horizontal shaving and instead the contractor provided estimated quantities for a future remove and replace operation. Following the completion of this phase of trip hazard mitigation and assessment, staff will use the estimated quantities to prepare a second contract for full sidewalk replacement at all locations that were not addressable by concrete shaving. This contract is anticipated to be initiated in FY22.

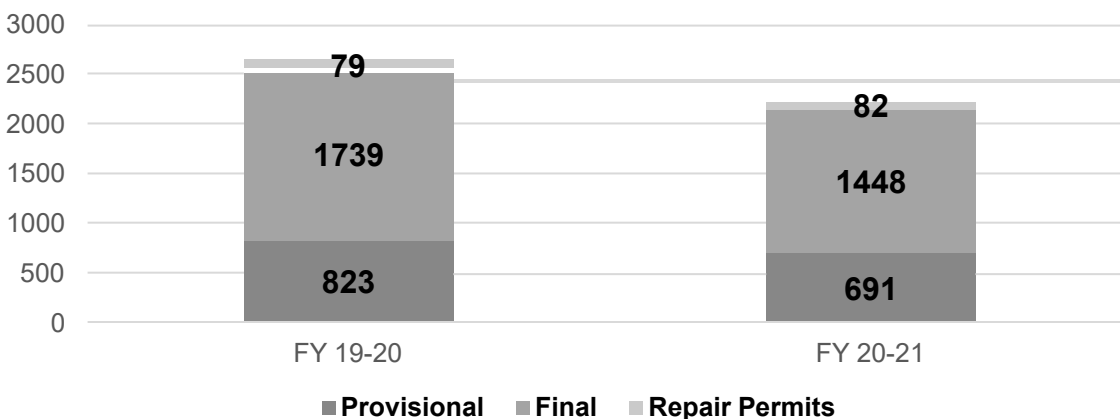
Buy-Sell-Repair Ordinance

In July 2019, the Oakland City Council adopted a Buy-Sell-Repair Ordinance, Oakland Municipal Code (OMC 12.04.380) which requires that sidewalks must be in compliant condition³ upon title transfer of real property. Under the ordinance, property owners must repair their sidewalks and/or certify it is compliant when buying or selling a property, and when performing a renovation valued at more than \$100,000.

To implement this ordinance, OakDOT developed a sidewalk compliance certificate. A compliance certificate certifies that the sidewalk adjacent to a property is compliant with the ordinance. For property owners who cannot repair and/or certify their sidewalk before title transfer, OakDOT also created a provisional certificate category. The provisional certificate is valid for a period of 120⁴ days, beginning the date the provisional certificate is issued. Within those 120 days, the property owner must repair and then certify their sidewalk.

During the second year of the ordinance, OakDOT issued 2,139 compliance certificates (provisional and final certificates) and 82 sidewalk repair permits (**Figure 5** below) related to property transfers.

Figure 5: Number of Sidewalk Compliance Certificates and Related Repair Permits



² "OakDOT Tree-Related Trip Hazard Repair 2021,"

<https://oakgis.maps.arcgis.com/apps/webappviewer/index.html?id=0488c3cc219a4cc1bcbaf34d43a40790>

³ Compliant sidewalks must be free from any crack or vertical offset of more than ¼ inch, according to the Federal Americans with Disabilities Act (ADA) Guidelines.

⁴ In FY21, the provisional period was increased from 90 to 120 days to better support compliance.

Staff estimate that during FY21, 5,271 property transfers were subject to the ordinance. These title transfer records matched 1,474 properties that had a final or provisional sidewalk compliance certificate on file certifying that the sidewalk was compliant with 82 locations also having a final permit for sidewalk repair performed (**Table 1**). All locations that do not have a compliance certificate on file will receive a written notice.

Table 1: Total Property Transfers and Sidewalk Certifications or Permits (FY20 – FY21)

	FY20 ⁵	FY21
Number of Properties Sold in Oakland	3,450	5,271
Properties Sold with Final or Provisional Compliance Certificate on File	1,686	1,474
Properties Sold with Final CGS Permit for Sidewalk Repair	79	82

In addition, staff reviewed renovation permits from the Planning & Building Department for properties where renovations greater than \$100,000 were completed. Under the Buy-Sell-Repair Ordinance, renovations valued at greater than \$100,000 also trigger sidewalk certification. Staff found 504 properties in Oakland that completed renovations greater than \$100,000. Of these, 47 locations have a valid sidewalk certification.

In FY22, staff will implement a number of goals toward increased compliance with the ordinance, short of fines and fees. Implementation of an update to the City’s online permit portal will enable property owners to easily file for provisional and final certifications, as well as exemptions. This process was initiated in FY21. Once the update is implemented in FY22, staff will complete the following actions:

- Send courtesy notices to the addresses where a provisional certification has been filed but no final certificate is on file.
- Send courtesy notice to addresses which completed repairs greater than \$100,000 but did not also complete compliance certificates for their sidewalks.
- Send courtesy notices to the addresses where title transfers occurred in the past two fiscal years, but no compliance certificate is on file.

In the past year, staff provided courtesy notices to title agencies in Oakland reminding them of their obligations to review the compliance certificate on all title transfers. Additionally, staff identified a process improvement related to the permitting of renovations and is working with the Planning & Building Department’s Building Bureau to implement this improvement which will ensure property owners completing renovations are made aware of the certification requirement.

Impacts of Covid-19

City staff continued to meet the sidewalks program’s goals amid the continued Covid-19 pandemic. Flexible telecommute arrangements have enabled design staff to continue to prepare


⁵ Total for FY20 reflect updated numbers from more accurate data provided to the City in 2021 by title transfer data company.

engineering plans, while masking and social distancing practices prevented City staff and contract crews from Covid-19 outbreaks.

PUBLIC INFORMATION

Information and reports related to the sidewalks program are maintained on the City's website.⁶ These include frequently asked questions regarding sidewalk damage, sidewalk certificates, and hiring a contractor.

Respectfully submitted,


Ryan Russo (Jan 26, 2022 09:12 PST)

RYAN RUSSO
Director, Oakland Department of Transportation

Reviewed by:
Fred Kelley
Assistant Director
Department of Transportation

Amit Salwan, P.E.
Division Manager
Great Streets Delivery Division

Sarah Fine, M.C.P.
Complete Streets Paving & Sidewalks Manager
Department of Transportation

Prepared by:
Josie Ahrens, M.C.P.
Transportation Planner
Department of Transportation

For questions, please contact Sarah Fine, Complete Streets Paving & Sidewalks Program Manager at (510) 238-6241.

⁶ "City of Oakland | Sidewalks" <http://www.oaklandca.gov/topics/sidewalks>

