



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Scott P. Johnson

**SUBJECT: RECORDING LIENS ON  
PROPERTY FOR THE  
REIMBURSEMENT OF COST  
FOR SIDEWALK REPAIRS**

**DATE:** December 10, 2007

Approved

*Deanna Fisher*

Date

*12/19/07*

**COUNCIL DISTRICT:** Citywide

## **RECOMMENDATION**

Adoption of a resolution approving the Report of the Director of Finance on the Reimbursement of Cost for Sidewalk Repairs, confirming the assessments contained in the Report and directing the recording of liens on the property tax roll for the cost of sidewalk repairs.

## **OUTCOME**

To recover funds spent on sidewalk repairs from property owners.

## **BACKGROUND**

On November 6, 2007, the City Council set a hearing for January 15, 2008 at 1:30 p.m. for public protest and approval of the Report of the Director of Finance to record liens on the property tax roll for the cost of sidewalk repairs the City made on behalf of property owners.

As discussed in the Council Memo that accompanied the recommendation to set the public hearing, State law and the San Jose Municipal Code make it the duty of each property owner to maintain the sidewalk fronting their property in a safe condition. Sidewalk repair in the City of San Jose is a request-driven program. Residents who contact the Department of Transportation (DOT) regarding a sidewalk in need of repair may request an inspection of the property from DOT staff. If it is determined that the sidewalk needs repair, DOT sends a repair notice to the property owner. DOT works with property owners to facilitate the repairs. In some cases, DOT completes the repairs and attempts to recover the cost of the repairs from the property owner. These repairs are currently funded by the City's General Fund.

The Finance Department invoices property owners for sidewalk repairs undertaken by DOT. Finance staffs work diligently to recover expended funds; however, in some cases, property owners neglect to pay the outstanding obligations. To recover the costs of these unpaid invoices, the City Council can levy assessments against the defaulting properties at the conclusion of a public hearing process.

### **ANALYSIS**

A report from the Director of Finance will be issued for the cost of sidewalk repairs (Director's Report). The Director's Report will include properties currently in default in which the City incurred costs for the sidewalk repairs on behalf of the property owners. The report identifies 31 properties with a proposed total assessment of \$40,784.56. The cost of the repairs (funded by the General Fund) and individual assessments vary from \$409.50 to \$4,230.00. An \$11.00 lien-release fee is charged by the County Recorder's Office for each assessment. These amounts have been paid by the City to concrete contractors to complete sidewalk repairs at the various properties listed on the report.

#### **Sidewalk Repair Collection Process**

The City makes every attempt at collecting delinquent sidewalk repair invoices. Since the inception of this program, over 95% of the sidewalk repair invoices were paid by either collection efforts or placing a lien on the property, which is done through the County Recorder Office. The City ultimately received 99% of the amount due through the County property tax roll. These efforts have brought in over \$3,537,206. Following is a summary of the billing and collection process as it relates to recovery of City costs for sidewalk repairs:

- Initial invoices for sidewalk repairs are issued by the Department of Transportation (DOT).
- Payments are due within 30 days of the initial mailing.
- The Finance Department sends delinquency notices once an initial invoice is at least 60 days past due.
- The Finance Department may call the property owner, if telephone contact information is available, to further attempt the collection of delinquent obligations.
- Two Notices of Intent to Lien are sent to each delinquent property owner.
- Administrative conferences are held by the Department of Transportation to provide property owners an opportunity to resolve any issues prior to a public hearing.

- City Council holds a public hearing and authorizes the placement of liens on delinquent properties.
- County Recorder places liens on delinquent properties.
- County Tax Collector assesses and collects delinquent amounts.
- The full amount assessed (less a .3% County administrative collection fee) is remitted to the City.

Notification Process

DOT notified delinquent property owners listed in the report in two separate mailings sent on November 7, 2007 and November 14, 2007 respectively. These notifications indicated the time and place of the public hearing while affording property owners an opportunity to schedule an administrative conference as an effort to resolve potential protests prior to the public hearing. Administrative conferences will be held on November 27 - 29, 2007 in the offices of DOT. These administrative conferences do not affect the property owners' right to protest the proposed assessment at the City Council public hearing.

Results of the administrative conferences and staff recommendations will be presented to the City Council in a supplemental memorandum along with a final Report from the Director of Finance on the cost of sidewalk repairs. After hearing any protests and considering the updated information presented in the supplemental memorandum, the City Council may confirm the Director's Report and the full amounts contained therein or reduce any of the amounts due. In addition, Council may approve the following action for each assessment:

- Place a lien against the property for the unpaid amount, to be paid with the next annual property tax bill.

**EVALUATION AND FOLLOW-UP**

Staff in the Revenue Management Division of the Finance Department will continue its collection efforts in order to reduce the number of delinquent accounts that require a lien hearing. Furthermore, Finance staff will continue to monitor accounts forwarded to the County for collection on the tax roll for full compliance with the sidewalk lien program.

**PUBLIC OUTREACH/INTEREST**

This item does not meet any of the criteria listed below.

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- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

### **COORDINATION**

This memorandum has been coordinated with the Department of Transportation, Department of Finance and the City Attorney's Office.

### **COST IMPLICATIONS**

The funds (\$40,784.56) used to repair the sidewalks currently listed in the report were advanced from the General Fund.

### **CEQA:**

Not a project.

  
SCOTT P. JOHNSON  
Director, Finance

For questions, please contact David McPherson, Deputy Director of Finance at (408) 535-7091.

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City of San Jose  
 Department of Finance  
 Report of the Director's of Finance to the City Council on the Cost of Sidewalk Repairs  
 Public Hearing January 15, 2008

ACCT#	ASSIGN	NAME	MAILING ADDRESS	SITUS	APN	AMOUNT	FEE	TOTAL
130221	6/14/2007	Pamela D Orlandi-Maurer	650 E William St San Jose CA 95112	650 E William St	472-30-003	\$ 398.50	\$ 11.00	\$ 409.50
130513	7/11/2007	Johnny Y & Mary E Estrada	Po Box 53416 San Jose CA 95153	591 Glenburry Way	464-44-053	\$ 398.50	\$ 11.00	\$ 409.50
130503	7/11/2007	Derek Fitzpatrick	1924 Lincoln Ave San Jose CA 95125	1924 Lincoln Ave	439-14-072	\$ 445.00	\$ 11.00	\$ 456.00
130640	7/24/2007	Juan & Nancy Portillo	10140 Elder Dr Grass Valley CA 95949	5832 Chesbro Ave	687-04-039	\$ 452.75	\$ 11.00	\$ 463.75
130540	7/11/2007	Jackson Galvin Trust	Po Box 730064 San Jose CA 95173	722 Willis Ave	264-22-110	\$ 483.88	\$ 11.00	\$ 494.88
130637	7/24/2007	Eli & Pnina Engelman Trustee	3724 Thousand Oaks Dr San Jose CA 95136	3724 Thousand Oaks Dr	459-32-023	\$ 577.00	\$ 11.00	\$ 588.00
130812	8/7/2007	David P Oustad Trustee	3118 Valmaine Ct San Jose CA 95135	3118 Valmaine Ct	660-28-013	\$ 631.00	\$ 11.00	\$ 642.00
130496	7/11/2007	Joseph K & Reena Spurrier	1806 Michon Dr San Jose CA 95124	1806 Michon Dr	419-46-097	\$ 677.50	\$ 11.00	\$ 688.50
129704	4/24/2007	Jaime Goyes	1607 Hillsdale Ave San Jose CA 95118	1607 Hillsdale Ave	447-04-107	\$ 848.00	\$ 11.00	\$ 859.00
130504	7/11/2007	Debra A Paris Trustee	Po Box 8196 San Jose CA 95155	1185 Husted Ave	439-35-010	\$ 866.00	\$ 11.00	\$ 877.00
130508	7/11/2007	Ignacio & Norma Villegas	3190 Ross Ave San Jose CA 95124	3190 Ross Ave	447-10-002	\$ 956.50	\$ 11.00	\$ 967.50
130158	6/12/2007	Richard A & Mary M Hinnenkamp Trustee	2880 Holiday Ct Morgan Hill CA 95037	1787 Cardel Way	419-46-067	\$ 1,019.25	\$ 11.00	\$ 1,030.25
123161	6/14/2007	Robert J & Susan A Coen Trustee	1101 Macon Ave San Jose CA 95117	125 Richfield Dr	296-22-004	\$ 1,095.85	\$ 11.00	\$ 1,106.85
129706	4/24/2007	Norman L McElroy	621 S 12th St San Jose CA 95112	621 S 12th St	472-22-040	\$ 1,111.50	\$ 11.00	\$ 1,122.50
129702	4/24/2007	Jean M & Barbara A Wate Hare	1755 Conrad Ave San Jose CA 95124	1755 Conrad Ave	419-17-051	\$ 1,146.75	\$ 11.00	\$ 1,157.75
130813	8/7/2007	Juan C Garcia & Silvia Suarez	2633 Aida Ave San Jose CA 95122	2633 Aida Ave	670-21-024	\$ 1,181.25	\$ 11.00	\$ 1,192.25
130510	7/11/2007	Kyoung Min Kim	9159 Rose Parade Way Sacramento CA 95826	397 Bluefield Dr	462-41-014	\$ 1,181.25	\$ 11.00	\$ 1,192.25
130491	7/11/2007	Evangelical Baptist Church	397 E Empire St San Jose CA 95112	397 E Empire St	249-36-028	\$ 1,211.00	\$ 11.00	\$ 1,222.00
130152	6/12/2007	Daniel M & Erendira Alves	8457 Cortese Ct San Jose CA 95127	151 N 26th St	467-06-046	\$ 1,231.50	\$ 11.00	\$ 1,242.50
129703	4/24/2007	Mary E Jenecke	1180 Dean Ave San Jose CA 95125	1180 Dean Ave	429-27-030	\$ 1,251.00	\$ 11.00	\$ 1,262.00
130219	6/14/2007	Mayra Oseguera	545 S 8th St San Jose CA 95112	545 S 8th St	472-28-058	\$ 1,463.50	\$ 11.00	\$ 1,474.50
128887	1/25/2007	Isabella Gomez Et Al	2098 Swenson Ct San Jose CA 95131	1023 S 10th St	472-13-029	\$ 1,495.00	\$ 11.00	\$ 1,506.00
130198	6/14/2007	Maria a Padilla	945 Jackson St San Jose CA 95112	945 Jackson St	249-25-033	\$ 1,530.00	\$ 11.00	\$ 1,541.00
130638	7/24/2007	Terrie Villegas	5604 Doorn Lane San Jose CA 95118	5604 Doorn Ln	567-41-026	\$ 1,636.25	\$ 11.00	\$ 1,647.25
130807	8/7/2007	Jason Silva	453 S 3rd St San Jose CA 95112	453 S 3rd St	467-47-027	\$ 1,644.75	\$ 11.00	\$ 1,655.75
130634	7/24/2007	Claudia Kenyon	3969 Mahaila Ave 305 San Diego CA 95122	2895 Joseph Ave	414-05-034	\$ 1,859.75	\$ 11.00	\$ 1,870.75
130153	6/12/2007	Jung J & Hyun B Kim	1595 Sierraville Ave San Jose CA 95132	1595 Sierraville Ave	587-21-037	\$ 1,883.50	\$ 11.00	\$ 1,894.50

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129709	4/24/2007	Elaine A Fonseca & Hugo Avala	465 Tovar Dr San Jose CA 95123	465 Tovar Dr	689-38-104	\$ 1,926.00	\$ 11.00	\$ 1,937.00
130518	7/11/2007	Sally Stanley Trustee	2045 Donovan Ct San Jose CA 95125	5602 Meridian Ave	567-40-043	\$ 2,770.25	\$ 11.00	\$ 2,781.25
129641	4/17/2007	JT Acquistin Corp	Po Box 711, Loc 0274 Dallas TX 75521	550 Keyes St	477-04-034	\$ 2,851.58	\$ 11.00	\$ 2,862.58
129641		The Southland Corp				\$ -		\$ -
130509	7/11/2007	Meridian Plaza One LLC & Two LLC	1122 Willow St 200 San Jose CA 95125	4650 Meridian Ave	451-46-048	\$ 4,219.00	\$ 11.00	\$ 4,230.00
						\$ 40,443.56		\$ 40,784.56