



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: June 13, 2008

Approved

Date

6/13/08

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 May 13, 2008, the City Council set a hearing for June 24, 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.

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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 43 properties with a proposed total assessment of \$114,825.02. The cost of the repairs (funded by the General Fund) and individual assessments vary from \$309.00 to \$8,160.00. A \$13.00 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 directly by the property owners or thru the City's collection efforts. Furthermore, when the City places a lien on the property, with the County Recorders Office through the property tax roll, the City ultimately receives 99% of the amount due. 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.

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- 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 May 14, 2008 and May 21, 2008 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 May 29, 2008 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 (\$114,825.02) 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.

City of San Jose
Department of Finance
Report of the Director of Finance to the City Council on the Cost of Sidewalk Repairs
Public Hearing June 24, 2008

ACCT#	ASSIGN	NAME	MAILING ADDRESS	SITUS	APN	AMOUNT	FEE	TOTAL
132517	2/27/2008	Haralambos (Bob) & Katerina Vlahopoulos	2970 Daylight Way San Jose CA 95111	640 Minnesota Ave	434-14-003	\$ 296.00	\$ 13.00	\$ 309.00
132517		Chris & Maria Vlahopoulos						
132529	2/27/2008	Rodrigo H Rios	2671 Ophelia Ave San Jose CA 95122	2671 Ophelia Ave	670-22-033	\$ 296.00	\$ 13.00	\$ 309.00
131621	11/8/2007	Hector J Villegas Trustee	848 E Gish Rd 3.San Jose CA 95112	1166 Lick Ave	434-05-081	\$ 333.00	\$ 13.00	\$ 346.00
132500	2/26/2008	Robert & Marissa Fernandez	1015 woodvale Ct San Jose CA 95116	6096 Loma Prieta Dr	687-12-015	\$ 445.68	\$ 13.00	\$ 458.68
132525	2/27/2008	Allan Zmyslowski	6192 Calle Del Conejo San Jose CA 95120	6192 Calle Del Conejo	575-30-060	\$ 525.50	\$ 13.00	\$ 538.50
132412	2/20/2008	Ernest & Rachel Molina	2005 Wizard Ct San Jose CA 95131	2005 Wizard Ct	245-17-031	\$ 680.48	\$ 13.00	\$ 693.48
132498	2/26/2008	Manuel Salazar Trustee	545 Minnesota Ave San Jose CA 95125	545 Minnesota Ave	434-15-035	\$ 684.87	\$ 13.00	\$ 697.87
132523	2/27/2008	Rudolph & Rachel A Savedra Trustee	747 Aremosa Ln Ben Lomond CA 95005	270 Oakland Rd	481-25-044	\$ 690.87	\$ 13.00	\$ 703.87
132522	2/27/2008	Estela C Perez	286 Oakland Ave San Jose CA 95116	286 Oakland Ave	481-25-043	\$ 888.97	\$ 13.00	\$ 901.97
132613	2/29/2008	Tung T & Hong T Phan	2801 Agua Vista Dr San Jose CA 95132	1891 Camargo Dr	589-04-003	\$ 891.00	\$ 13.00	\$ 904.00
132608	2/29/2008	Joseph H & Alicia G Silva Trustee	15945 Oakridge Rd Morgan Hill CA 95037	940 Jackson Ave	484-35-030	\$ 923.70	\$ 13.00	\$ 936.70
132288	1/23/2008	Arselia Dominguez	2942 Driftwood Dr San Jose CA 95128	2942 Driftwood Dr	279-26-028	\$ 956.77	\$ 13.00	\$ 969.77
132298	1/23/2008	Minna C Yang & Arlene J Baldwin	5152 Oxbow Ct San Jose CA 95124	5152 Oxbow Ct	421-20-021	\$ 1,055.15	\$ 13.00	\$ 1,068.15
132298		Lisa Freese & Teresa Sohn						
132505	2/27/2008	Van Dinh Nguyen	3260 Cropley Ave San Jose CA 95132	3260 Cropley Ave	586-02-008	\$ 1,062.35	\$ 13.00	\$ 1,075.35
123161	6/14/2005	Robert J & Susan A Coen Trustee	1101 Macon Ave San Jose CA 95117	125 Richfield Dr	296-22-004	\$ 1,095.85	\$ 13.00	\$ 1,108.85
132497	2/26/2008	Estela C Perez	1021 Pepitone Ave San Jose CA 95110	1021 Pepitone Ave	434-04-029	\$ 1,202.12	\$ 13.00	\$ 1,215.12
132524	2/27/2008	Mario J Ramirez	3827 Kauai Dr San Jose CA 95111	3827 Kauai Dr	494-18-037	\$ 1,629.85	\$ 13.00	\$ 1,642.85
132267	1/23/2008	Kurt Sisley	1369 Rodney Dr San Jose CA 95118	165 N 5th St	467-20-030	\$ 1,748.25	\$ 13.00	\$ 1,761.25
132267		5th Street Promenade Invest LLC						
132519	2/27/2008	Mostafa & Nadieh Akbari	3736 Ross Ave San Jose CA 95124	3736 Ross Ave	447-12-024	\$ 1,869.33	\$ 13.00	\$ 1,882.33
132272	1/23/2008	Nelly Amas	Po Box 51655 San Jose CA 95151	27 S 11th St	467-25-077	\$ 1,886.60	\$ 13.00	\$ 1,899.60
132489	2/26/2008	Deutsche Bank National Trust Co	500 Enterprise Rd 150 Horsham PA 19044	1557 Meadow Glen Ct	676-60-026	\$ 1,981.70	\$ 13.00	\$ 1,994.70
132489		C/O GMAC Mortgage LLC						
132275	1/23/2008	Roseanna Mayhew	729 Mairwood Ct San Jose CA 95120	12 S 11th St	467-26-034	\$ 2,154.30	\$ 13.00	\$ 2,167.30
132499	2/26/2008	Sara K & Richard Vaules II	1198 Fairview Ave San Jose CA 95125	1198 Fairveiw Ave	439-12-001	\$ 2,235.44	\$ 13.00	\$ 2,248.44
132281	1/23/2008	Stephen T & Jeffrey M Lopes	1790 S 10th St San Jose CA 95112	245 Keyes St	472-14-060	\$ 2,286.20	\$ 13.00	\$ 2,299.20
132278	1/23/2008	Dennis S Spielbauer	Po Box 90117 San Jose CA 95109	225 William St	467-48-014	\$ 2,445.70	\$ 13.00	\$ 2,458.70
132290	1/23/2008	Alberto Sevilla & Lynn Welge	14142 Dorene Ct Saratoga CA 95070	757 Concord Ave 3224 Rocky Mountain Dr	282-46-026	\$ 2,456.05	\$ 13.00	\$ 2,469.05
132713	3/12/2008	Julius R & Madonna Dumantay	3224 Rocky Mountain Dr San Jose CA 95127		647-32-003	\$ 2,724.35	\$ 13.00	\$ 2,737.35
132510	2/27/2008	Deanne C Iracheta & Alfonso C Aguiar	115 E Taylor St San Jose CA 95112	115 E Taylor St	249-03-052	\$ 2,797.71	\$ 13.00	\$ 2,810.71
131622	11/8/2007	Elizabeth Ann Williams	Po Box 1436 San Martin CA 95046	48 S 22nd St	467-32-005	\$ 2,979.00	\$ 13.00	\$ 2,992.00
132493	2/26/2008	Gary R Olivieri	Po Box 66427 Santa Cruz CA 95067	709 Harrison St	264-43-035	\$ 3,432.39	\$ 13.00	\$ 3,445.39

132274	1/23/2008	Roseanna Mayhew	729 Mairwood Ct San Jose CA 95120	18 S 11th St	467-26-033	\$ 3,583.05	\$ 13.00	\$ 3,596.05
132491	2/26/2008	Carmen J Frost	1482 Lundy Ave San Jose CA 95131	701 Harrison St	264-43-033	\$ 3,673.95	\$ 13.00	\$ 3,686.95
132280	1/23/2008	Dennis S Spielbauer	Po Box 90117 San Jose CA 95109	486 S 5th St	467-48-016	\$ 4,102.40	\$ 13.00	\$ 4,115.40
132284	1/23/2008	Ralph J & Margaret Reeder	Po Box 1807 Medord OR 97501	555 S 8th St	472-28-059	\$ 4,183.04	\$ 13.00	\$ 4,196.04
132285	1/23/2008	Richard M Cohen Trustee	15012 Sperry Ln Saratoga CA 95070	529 N 7th St	249-38-042	\$ 4,262.25	\$ 13.00	\$ 4,275.25
132270	1/23/2008	Green Valley Corporation	777 N 1st St 5 San Jose CA 95112	747 Miller St	259-05-040	\$ 4,398.00	\$ 13.00	\$ 4,411.00
131615	11/8/2007	George, Ralph & Agob Mersho	1681 Lucca Pl San Jose CA 95138	1712 Berryessa Rd	254-14-108	\$ 4,587.00	\$ 13.00	\$ 4,600.00
131618	11/8/2007	Leonard & Company Inc	2001 Tarob Ct Milpitas CA 95035	332 Josefa St	264-20-110	\$ 5,307.00	\$ 13.00	\$ 5,320.00
132279	1/23/2008	Candida E Spielbauer	498 S 5th St San Jose CA 95112	498 S 5th St	467-48-015	\$ 6,012.55	\$ 13.00	\$ 6,025.55
131619	11/8/2007	Leonard & Company Inc	2001 Tarob Ct Milpitas CA 95035	498 W San Carlos St	264-20-128	\$ 6,543.00	\$ 13.00	\$ 6,556.00
132276	1/23/2008	KPA Inc	503 Whipple Ave Redwood Ctiy CA 94063	510 E Santa Clara St	467-26-109	\$ 7,394.15	\$ 13.00	\$ 7,407.15
132294	1/23/2008	Jozo & Maria Ivankovic	3762 Trina Way San Jose CA 95117	3762 Trina Way	303-27-028	\$ 7,417.45	\$ 13.00	\$ 7,430.45
131613	11/8/2007	Helen M & Herbert E Crawford Trustee	1485 Calaveras Ave San Jose CA 95126	949 Ruff Dr	230-38-078	\$ 8,147.00	\$ 13.00	\$ 8,160.00
							\$ 559.00	\$ 114,825.02