



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: January 20, 2009

Approved

Date

1/26/09

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 January 13, 2009, the City Council set a hearing for February 10, 2009 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 driven by requests from property owners or an inquiry or complaint from a member of the public. Residents or a member of the public may contact (DOT) regarding a sidewalk in need of repair and request an inspection of the property. In both cases, if it is determined by DOT inspectors that the sidewalk needs repair, the property owner receives a letter from DOT informing them of the repairs needed to be made to their sidewalk. The owner has the option of

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repairing the damage or having a contractor hired by DOT to perform the repairs. These repairs are currently funded by the City's General Fund.

The Finance Department invoices property owners for sidewalk repairs undertaken by DOT. Finance staff 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 which highlights the costs of sidewalk repairs (Director's Report), is attached to this Memorandum. The Director's Report includes properties currently in default in which the City incurred costs for the sidewalk repairs on behalf of the property owners. The report identifies 32 properties with a proposed total assessment of \$79,979.03. The cost of the repairs (funded by the General Fund) and individual assessments vary from \$239.00 to \$25,979.00. 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 by either collection efforts or placing a lien on the property, which is done through the County Recorder's 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.
- The Finance Department reviews and considers payment plans proposed by the property owners who want to avoid the lien process.

- 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.

On January 6, 2009 the City Council directed staff to review the lien process in order to work with property owners who are facing financial difficulties. Currently the Finance Director determines when it is appropriate to lien the property. Staff works with property owners who are attempting to sell or refinance their property throughout the invoice and lien notice process. For those property owners who report difficulty repaying the City the cost of sidewalk repairs, staff will work with them on a repayment plan agreement, which includes repayment to the City in full with interest over a period of time acceptable to both the City and the property owner.

If the property owner does not comply with the condition of the repayment plan agreement, the property may be subject to lien. In addition, the property owner may be subject to penalties, interest, and all appropriate fees.

Notification Process

DOT notified delinquent property owners listed in the report in two separate mailings sent on January 14, 2009 and January 21, 2009 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 January 29, 2009 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.

- 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 and the City Attorney's Office.

COST IMPLICATIONS

The funds (\$79,563.03) used to repair the sidewalks currently listed in the report were advanced from the General Fund.

HONORABLE MAYOR AND CITY COUNCIL

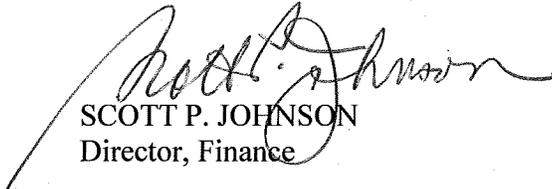
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CEQA:

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 of Finance to the City Council on the Cost of Sidewalk Repairs

Public Hearing February 10, 2009

| ACCT# | ASSIGN | NAME | MAILING ADDRESS | SITUS | APN | AMOUNT | FEE | TOTAL |
|--------|-----------|---|--|--------------------|------------|-------------|----------|-------------|
| 134451 | 8/15/2008 | Mary Anne Foley | 2272 Bailey Ave San Jose CA 95128 | 415 Madison Dr | 689-27-043 | \$ 239.00 | \$ 13.00 | \$ 252.00 |
| 134448 | 8/15/2008 | Theresa E Beatrez | 2689 Leigh Ave San Jose CA 95124 | 2689 Leigh Ave | 442-32-060 | \$ 239.00 | \$ 13.00 | \$ 252.00 |
| 134531 | 8/21/2008 | Sarou Sun & Daniel L Radler Jr | 2303 Lava Dr San Jose CA 95133 | 2303 Lava Dr | 254-24-010 | \$ 294.69 | \$ 13.00 | \$ 307.69 |
| 134447 | 8/15/2008 | Jordi Levant | 1672 Arbor Dr San Jose CA 95125 | 1672 Arbor Dr | 434-29-042 | \$ 335.00 | \$ 13.00 | \$ 348.00 |
| 134737 | 9/11/2008 | Myung Jong Kim | 4188 Rosenbaum Ave San Jose CA 95136 | 4188 Rosenbaum | 462-32-007 | \$ 467.00 | \$ 13.00 | \$ 480.00 |
| 133636 | 5/27/2008 | Samuel S & Julie Y Vaiz | 1766 Hallmark Ln San Jose CA 95124 | 1766 Hallmark Ln | 447-30-005 | \$ 585.00 | \$ 13.00 | \$ 598.00 |
| 133597 | 5/22/2008 | Southern Pacific Transportation | Po Box 11215 Spokane WA 99211 | 5th St | | \$ 693.00 | \$ 13.00 | \$ 706.00 |
| 134728 | 9/10/2008 | Geronimo P Naanep Jr | 4347 Partridge Dr San Jose CA 95121 | 3894 forester Ct | 676-27-027 | \$ 728.00 | \$ 13.00 | \$ 741.00 |
| 134828 | 9/19/2008 | Aurelio & Godinez P Morfin | 2026 Tampa Way San Jose CA 95122 | 2026 Tampa Way | 491-21-014 | \$ 731.00 | \$ 13.00 | \$ 744.00 |
| 132999 | 4/7/2008 | Sinath Prom | 2666 Flory Dr San Jose CA 95121 | 2666 Flory Dr | 499-11-040 | \$ 733.59 | \$ 13.00 | \$ 746.59 |
| 134529 | 8/21/2008 | Laura L Chocker | 2954 Postwood Dr San Jose CA 95132 | 2954 Postwood Dr | 092-11-012 | \$ 875.00 | \$ 13.00 | \$ 888.00 |
| 134720 | 9/10/2008 | Tien & Ha Nguyen | 4172 Rosenbaum Ave San Jose CA 95136 | 4172 Rosenbaum Ave | 462-32-010 | \$ 936.00 | \$ 13.00 | \$ 949.00 |
| 133609 | 5/22/2008 | Albert J Gomez | 40 Cinnamon Ct Hillsborough CA 94010 | 617 S 9th St | 472-24-013 | \$ 1,212.95 | \$ 13.00 | \$ 1,225.95 |
| 133632 | 5/27/2008 | Chumming Yu & Wenjin Zhuang | 1057 Windsor St San Jose CA 95129 | 1057 Windsor St | 372-06-001 | \$ 1,222.20 | \$ 13.00 | \$ 1,235.20 |
| 134729 | 9/11/2008 | Claudia Benetiz | 12991 Berryessa Rd San Jose CA 95133 | 12991 Berryessa Rd | 245-08-067 | \$ 1,235.00 | \$ 13.00 | \$ 1,248.00 |
| 134719 | 9/10/2008 | Magneto Corporation Agent of Service: Francis B Doyle | 1550 S Bascom Ave 330 Campbell CA 95008 | 1328 Whitegate Ave | 439-44-081 | \$ 1,323.60 | \$ 13.00 | \$ 1,336.60 |
| 132865 | 3/26/2008 | Green Valley Corp C/O Agent for Service: Lee Ann Woodard | 777 N 1st St 5 San Jose CA 95112 | 99 N 1st St | 259-34-010 | \$ 1,340.99 | \$ 13.00 | \$ 1,353.99 |
| 132892 | 3/28/2008 | Maria Solorio Devilla | 1382 San Marcos Dr San Jose CA 95132 | 1382 San Marcos Dr | 589-16-016 | \$ 1,385.16 | \$ 13.00 | \$ 1,398.16 |
| 134536 | 8/21/2008 | Property Assesment Management Inc C/O America's Servicing Co | 3476 Stateview Bl 7801-013 FT Mills SC 29715 | 3002 Arroba Way | 447-03-097 | \$ 1,439.00 | \$ 13.00 | \$ 1,452.00 |
| 133896 | 6/19/2008 | Christopher M & Jill R Lowe | 602 S Monroe St San Jose CA 95128 | 602 S Monroe St | 279-04-054 | \$ 1,935.50 | \$ 13.00 | \$ 1,948.50 |
| 132979 | 4/7/2008 | Dennis S Speilbauer C/O Royal Pacific Properties | 486 S 5th St San Jose CA 95112 | 424 N 8th St | 249-49-044 | \$ 2,049.80 | \$ 13.00 | \$ 2,062.80 |
| 132987 | 4/7/2008 | Helen M Stouky Trustee | 202 San Pedro Ct San Jose CA 95110 | 1724 Creek Dr | 434-29-023 | \$ 2,093.30 | \$ 13.00 | \$ 2,106.30 |
| 134724 | 9/10/2008 | Chase Home Fin LLC & Finance LLC | 3415 Vision Dr Columbus OH 43219 | 1518 Mt Lassen Dr | 647-20-023 | \$ 2,107.30 | \$ 13.00 | \$ 2,120.30 |
| 133127 | 4/17/2008 | Comfort D Kaye & Chris Hensel | 869 S 9th St San Jose CA 95112 | 869 S 9th St | 472-19-078 | \$ 2,327.48 | \$ 13.00 | \$ 2,340.48 |
| 133480 | 5/16/2008 | Magdaleno & Margarita Ibarra | 1741 King Ct San Jose CA 95122 | 1108 Whirlow Pl | 245-38-007 | \$ 2,333.55 | \$ 13.00 | \$ 2,346.55 |
| 133616 | 5/22/2008 | Emilio Roldan | 2617 Ophelia Ave San Jose CA 95122 | 2617 Ophelia Ave | 670-22-022 | \$ 2,862.00 | \$ 13.00 | \$ 2,875.00 |
| 132878 | 3/28/2008 | Zenida Stanton | 3170 Mattos Ave San Jose CA 95132 | 2386 Niemeyer Ct | 245-03-050 | \$ 3,722.52 | \$ 13.00 | \$ 3,735.52 |

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|--------------|-----------|--|--|------------------------|------------|---------------------|------------------|---------------------|
| 121862 | 2/3/2005 | PG & E | 308 Stockton Ave San Jose CA 95126 | Branham | | \$ 3,860.84 | \$ 13.00 | \$ 3,873.84 |
| 133602 | 5/22/2008 | Bum Jin Kim | 4454 Junipero Serra Ln San Jose CA 95129 | 4454 Junipero Serra Ln | 381-56-026 | \$ 4,266.62 | \$ 13.00 | \$ 4,279.62 |
| 133910 | 6/19/2008 | Realty Assoc Fund VII LP C/O Scott W Amling/TA Assoc Realty | 1301 Dove St #860 Newport Beach CA 92660 | 2290 N 1st St | 237-17-142 | \$ 4,752.96 | \$ 13.00 | \$ 4,765.96 |
| 132886 | 3/28/2008 | Shadman Properties LLC C/O Agent for Service: Michael Shadman | 100 E Sabta Clara St San Jose CA 95113 | 100 E Santa Clara St | 467-23-089 | \$ 5,256.98 | \$ 13.00 | \$ 5,269.98 |
| 134945 | 9/30/2008 | Pivotal 650 California St LLC C/O Weingarten Realty Investors | Po Box 924133 Houston TX 95122 | 1972 Tully Rd | 670-28-035 | \$ 25,979.00 | \$ 13.00 | \$ 25,992.00 |
| Total | | | | | | \$ 79,563.03 | \$ 416.00 | \$ 79,979.03 |