



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Julia H. Cooper

**SUBJECT:** SEE BELOW

**DATE:** May 30, 2012

Approved

Date 5/31/12

**SUBJECT: CONDUCT A PUBLIC HEARING ON RECORDING LIENS ON  
PROPERTY FOR THE REIMBURSEMENT OF COST FOR SIDEWALK  
REPAIRS**

## RECOMMENDATION

Hold a public hearing on recording liens on property for the reimbursement of cost for sidewalk repairs and adopt a resolution to approve the report from 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 City funds spent on sidewalk repairs from property owners.

## BACKGROUND

On May 8, 2012, the City Council set a hearing for June 12, 2012, 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.

State law and the San José Municipal Code make it the duty of each property owner to maintain the sidewalk fronting their property in a safe condition. When sidewalks need repairs, the Department of Transportation (DOT) inspects the property and obtains an estimate from City approved contractors if repairs are needed. DOT sends a repair notice to the property owner informing the owner of needed repairs and includes a cost estimate if a contractor hired by DOT performs the repairs. Within seven weeks after the repair notice was sent, DOT will mail an additional notice to the property owner stating repairs will be made by the contractor hired by DOT if the owner does not repair the sidewalk. A final notice will be mailed to the owner one

May 30, 2012

**Subject: Conduct a Public Hearing on Recording Liens on Property for the Reimbursement of Cost for Sidewalk Repairs**

Page 2

week later if the repairs still have not been made by the owner. Approximately one week after the final notice, a door hanger will be placed by DOT at the property address stating a contractor hired by the City will be assigned to make the necessary sidewalk repairs. Then, the repairs are performed by the contractor hired by DOT. After the repairs are performed by the contractor hired by DOT, the property owner will be invoiced for the cost of sidewalk repairs. In the analysis section more detail is provided regarding the invoice collection process.

To recover the costs of unpaid invoices, the City Council, upon confirming the amounts owed subsequent to a public hearing, can approve the filing of liens against the defaulting properties with the Santa Clara County (SCC) Office of the Clerk-Recorder. Property owners who are affected by this process may satisfy the lien recorded against their property at any time prior to July 13, 2012, by making full payment to the City. Any unpaid lien amounts after this date will be added to the property owners' annual property tax bill. Recording liens against delinquent property owners for outstanding sidewalk repair costs will help ensure eventual collection of the past due amounts if the property is sold, transferred or refinanced. This process will be conducted periodically to help protect the City from these types of events.

### **ANALYSIS**

A Report from the Director of Finance for the cost of sidewalk repairs (Director's Report) is attached. 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 25 properties that are subject to a potential lien for a total lien amount (and potential assessment), including administrative fees, of \$52,531.29. Individual lien amounts vary from \$816.72 to \$6,149.94. These amounts have been paid by the City to concrete contractors to complete sidewalk repairs at the affected properties listed in the attached Director's Report.

### **Sidewalk Repair Collection Process**

Finance staff work diligently to collect delinquent sidewalk repair invoices in order to recover expended funds; however, in some cases, property owners neglect to pay the outstanding obligations. Since the inception of this program, over 86% of the sidewalk repair invoices were paid by either collection efforts or placing a lien on the property, which is done through the SCC Office of the Clerk-Recorder. The City ultimately receives 99% of the amount due through the County property tax roll. Following is a summary of the billing and collection process as it relates to recovery of City costs for sidewalk repairs:

- DOT issues initial invoices for sidewalk repairs.
- Payments are due within 30 days of the initial mailing.
- Finance Department sends delinquency notices once an initial invoice is at least 30 days past due.

May 30, 2012

**Subject: Conduct a Public Hearing on Recording Liens on Property for the Reimbursement of Cost for Sidewalk Repairs**

Page 3

- Finance Department may call the property owner, if telephone contact information is available, to further attempt the collection of delinquent obligations.
- Finance Department sends 60-day and 90-day final notices if the invoice remains unpaid.
- Two Notices of Intent to Lien are sent to each delinquent property owner.
- Administrative conferences are held by DOT 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.
- SCC Office of the Clerk-Recorder places liens on delinquent properties.
- SCC Tax Collector assesses and collects delinquent amounts.
- The full amount assessed (less a 1.0% County administrative collection fee) is remitted to the City.

### **Notification Process**

DOT notified delinquent property owners listed in the attached report in two separate mailings sent on May 10, 2012 and May 17, 2012. These mailings were necessary to properly notify potential lien candidates of the date, time and place of the public hearing and the impending lien on their property while affording property owners an opportunity to schedule an Administrative Conference with DOT staff as an effort to resolve potential protests prior to the public hearing. Administrative conferences were held on May 24, 2012, in the DOT offices. 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**

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

The memorandum for the May 8, 2012, Council meeting included 32 properties that were subject to a potential lien for a total lien amount, including administrative fees, of \$71,351.44. Since the submission of that Council memo, the following has occurred:

May 30, 2012

**Subject: Conduct a Public Hearing on Recording Liens on Property for the Reimbursement of Cost for Sidewalk Repairs**

Page 4

- Two accounts have been paid for a total of \$2,757.37.
- Two property owners entered into payment plan arrangements. The balances of the two accounts total 4,046.88.
- Three accounts were removed from the process after the administrative hearing pending further review from DOT staff for a total of \$11,690.90.

### **Summary**

The attached Director's Report identifies 25 properties that are subject to a potential lien for a total lien amount (and potential assessment), including administrative fees, of \$52,531.29.

### **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 will be forwarded to the County for collection on the tax roll. 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**

- 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)**

Although this item does not meet any of the above criteria, this memorandum will be posted on the City's website for the June 12, 2012 City Council meeting.

### **COORDINATION**

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

HONORABLE MAYOR AND CITY COUNCIL

May 30, 2012

**Subject: Conduct a Public Hearing on Recording Liens on Property for the Reimbursement of Cost for Sidewalk Repairs**

Page 5

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

**COST IMPLICATIONS**

The funds used to repair the sidewalks (\$37,450.64) and pay for administrative costs (\$1,350) were advanced from the General Fund and the SCC Lien Fees (\$325) will be advanced from the General Fund. The attached Director's Report includes the total amount due from the property owners which also includes penalties and interest (\$13,730.65) for total unpaid balances of \$52,531.29. The total balance in the attached Director's Report including the SCC Lien Fees is \$52,856.29.

**CEQA:**

Exempt, File No. PP11-090.

/s/  
JULIA H. COOPER  
Acting Director, Finance

For questions, please contact Wendy Sollazzi, Revenue Management Division Manager at (408) 535-7005.

City of San José - Finance Department								
Report from the Director of Finance for the Cost of Sidewalk Repairs								
Public Hearing: June 12, 2012								
ACCOUNT#	DATE ASSIGNED	MAILING ADDRESS	CITY, STATE, ZIP	PROPERTY ADDRESS	APN #	CURRENT BALANCE	LIEN FEE	TOTAL BALANCE
178787	5/17/2011	537 MCCOLLAM DR	SAN JOSE, CA 95127	537 MCCOLLAM DR	599-43-025	\$ 816.72	\$ 13.00	\$ 829.72
178428	5/2/2011	1405 DENTWOOD DR	SAN JOSE, CA 95118	1405 DENTWOOD DR	569-08-028	830.99	13.00	843.99
172057	1/6/2011	PO BOX 9217	SAN JOSE, CA 95157	4825 GRIMSBY DR	403-30-070	1,038.79	13.00	1,051.79
183755	11/15/2011	16690 OAK VIEW CIR	MORGAN HILL, CA 95037	1354 ESSEX WY	305-07-012	1,119.78	13.00	1,132.78
177993	4/26/2011	3318 CARDIN AV	SAN JOSE, CA 95118	3318 CARDIN AV	447-22-023	1,146.47	13.00	1,159.47
178045	4/28/2011	105 S 15TH ST	SAN JOSE, CA 95112	105 S 15TH ST	467-27-066	1,171.89	13.00	1,184.89
178737	5/16/2011	5 MORNING WOOD DR	LAGUNA NIGUEL, CA 92677	898 TULLY RD	499-20-026	1,246.17	13.00	1,259.17
178579	5/9/2011	6448 BERWICKSHIRE WAY	SAN JOSE, CA 95120	6448 BERWICKSHIRE WAY	577-36-046	1,299.91	13.00	1,312.91
175278	3/1/2011	1554 CLAYTON RD	SAN JOSE, CA 95127	1554 CLAYTON RD	612-58-007	1,490.02	13.00	1,503.02
177456	4/19/2011	PO BOX 2564	SAN JOSE, CA 95109	661 14TH ST	249-31-069	1,529.95	13.00	1,542.95
184042	11/29/2011	995 PARK AV	SAN JOSE, CA 95126	995 PARK AV	261-31-060	1,642.00	13.00	1,655.00
178052	4/28/2011	475 S 14TH ST	SAN JOSE, CA 95112	475 S 14TH ST	467-50-009	1,642.95	13.00	1,655.95
175270	3/1/2011	2491 ALFRED WY	SAN JOSE CA 95122	2491 ALFRED WY	486-30-026	1,797.17	13.00	1,810.17
184483	12/21/2011	4430 NORWICH WY	SAN JOSE, CA 95130	4430 NORWICH WY	403-04-049	1,898.91	13.00	1,911.91
176639	3/24/2011	875 N 13TH ST	SAN JOSE, CA 95112	875 N 13TH ST	249-10-052	1,923.53	13.00	1,936.53
178776	5/17/2011	1547 PIEDMONT RD	SAN JOSE, CA 95132	1547 PIEDMONT RD	586-17-007	2,227.28	13.00	2,240.28
178778	5/17/2011	3160 KNIGHTS BRIDGE RD	SAN JOSE, CA 95132	3160 KNIGHTS BRIDGE RD	586-21-054	2,238.67	13.00	2,251.67
183751	11/15/2011	16690 OAK VIEW CIR	MORGAN HILL, CA 95037	1368 ESSEX WY	305-07-010	2,260.00	13.00	2,273.00
178425	5/2/2011	5604 SEIFERT AV	SAN JOSE, CA 95118	5604 SEIFERT AV	567-46-019	2,283.06	13.00	2,296.06
181494	8/3/2011	882 A DELMAS AV	SAN JOSE CA 95125	882 DELMAS AV	264-47-070	2,527.24	13.00	2,540.24
178498	5/3/2011	448 COLFAX DR	SAN JOSE, CA 95123	448 COLFAX DR	692-25-038	2,592.93	13.00	2,605.93
175271	3/1/2011	705 DAKOTA DR	SAN JOSE, CA 95111	705 DAKOTA DR	497-52-091	3,112.33	13.00	3,125.33
178053	4/28/2011	1075 S 12TH ST	SAN JOSE, CA 95112	1075 S 12TH ST	472-12-023	3,989.72	13.00	4,002.72
173647	2/2/2011	15275 CLYDELLE AV	SAN JOSE, CA 95124	15275 CLYDELLE AV	421-16-046	4,554.87	13.00	4,567.87
178732	5/16/2011	1195 CLAYBURN LN	SAN JOSE, CA 95121	1195 CLAYBURN LN	494-60-059	6,149.94	13.00	6,162.94
						\$ 52,531.29	\$ 325.00	\$ 52,856.29