



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Scott P. Johnson
James R. Helmer

SUBJECT: SEE BELOW

DATE: June 13, 2005

Approved

Date

6/14/05

SUBJECT: ADOPTION OF A RESOLUTION SETTING A PUBLIC HEARING FOR THE COST OF SIDEWALK REPAIRS FOR AUGUST 9, 2005

RECOMMENDATION

Adoption of a resolution setting a public hearing for August 9, 2005 at 1:30 p.m. for the approval of the report of the Directors of Finance and Transportation on the cost of sidewalk repairs.

BACKGROUND

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) sends a repair notice to the property owner.

The Finance Department invoices property owners for sidewalk repairs undertaken by DOT. 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 Recorder.

Property owners who are affected by this process may satisfy the lien recorded against their property at any time prior to the end of the fiscal year (June 30) by making full payment to the City, in addition to an \$11.00 lien-release fee charged by the County Recorder's Office. Unpaid lien amounts at the end of the fiscal year 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 semiannually to help protect the City from these types of events.

ANALYSIS

The Report of the Directors of Finance and Transportation on the cost of sidewalk repairs ("Directors' Report") will list commercial and rental properties (those not qualifying for a

sidewalk repair grant) currently in default and the costs incurred by the City for the sidewalk repairs. In August 1999, DOT began a 100% sidewalk repair grant program for owner-occupied residential property owners to offset the cost of maintaining their sidewalks. Commercial and rental property owners are not eligible for grants and may either make the repairs themselves or have DOT contract for the repairs. At the present time, there are 33 properties with a proposed total lien amount, including administrative fees, of \$59,341.43. Individual lien amounts vary from \$129.50 to \$10,021.95. These amounts have been paid by the City to concrete contractors to complete sidewalk repairs at the affected properties.

In an effort to resolve potential protests prior to the public hearing, DOT invites property owners to attend administrative conferences. These conferences do not affect the property owners' right to protest the proposed lien at the City Council public hearing.

Results of the administrative conferences and staff recommendations will be included in the Directors' Report submitted to the Council for consideration and approval on August 9, 2005. After hearing any protest, the City Council may confirm the Directors' Report and the full amounts contained therein or reduce any of the amounts due. After the Directors' Report is confirmed, the amounts owed shall constitute a special assessment against the property and shall become a lien on the property for the balance of the outstanding amount owed, until discharged. Any unpaid lien amount at the end of the fiscal year shall be added to the property owner's annual property tax bill.

The schedule to file liens on defaulting properties for sidewalk repairs made by the City is as follows:

Event	Date
1. City Council – Sets the public hearing	June 28, 2005
2. Department of Transportation – Mails first notices giving notice of the administrative conferences and the public hearing date	June 29, 2005
3. Department of Transportation – Mails second notices giving notice of the administrative conferences and the public hearing date	July 6, 2005
4. Department of Transportation – Conducts the administrative conferences	July 12 - 14, 2005
5. City Council – Conducts the public hearing and adopts the Resolution Confirming the Directors' Report containing the proposed liens	August 9, 2005 1:30 P.M.
6. Department of Finance – Submits lien information to the County Recorder's Office	August 2005

OUTCOME

Set a public hearing to allow for public input and to give property owner's an opportunity to protest the proposed liens.

Following is a summary of the billing and collection process for the Sidewalk Repair Program:

Sidewalk Repair Collection Process

- 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, in further attempts to collect delinquent obligations.

Payment and Collection History – Past Three Fiscal Years

Over the course of the last three fiscal years ending June 30, 2003, the City has billed an annual average of 409 accounts for \$579,000 in costs related to the sidewalk repair program. Following is a break-down of payment collection history:

- Approximately 42% are paid before they become delinquent (more than 30 days past due)
- 44% of the property owners settle the outstanding obligations upon notification of delinquency of account
- 14% of accounts lead to the placement of a lien on the subject property (100% is subsequently received by the City through the county tax roll, less a 1% County administrative fee)

It should be noted that the City makes every attempt at collecting delinquent invoices. Prior to holding a public hearing and obtaining City Council approval for the placement of liens for delinquent sidewalk repair invoices in default, the Departments of Finance and Transportation coordinate to send two separate notices of intent to lien to affected property owners. Additionally, the Department of Transportation offers an internal administrative hearing process prior to the scheduled public hearing, providing the affected property owner an opportunity to discuss issues regarding the account and/or enter into payment arrangements. Delinquent accounts which remain unpaid just prior to the scheduled public hearing become part of the *Report of the Directors of Finance and Transportation on the cost of sidewalk repairs*, which becomes the basis for recording liens upon City Council approval. Unpaid lien amounts at the end of the fiscal year are added to the affected property owner's annual property tax bill as an assessment, and paid to the City with scheduled distributions of property tax during the subsequent fiscal year. Because the City participates in the County's "Teeter Plan", the full amount assessed for sidewalk repair invoices less a one percent administrative collection fee is remitted to the City.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office.

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COST IMPLICATIONS

The funds (\$59,341.43) used to repair the sidewalks on those properties currently being considered for the filing of a special assessment secured by a lien were advanced from the General Fund.

CEQA

Not a project.



SCOTT P. JOHNSON
Director, Finance Department



JAMES R. HELMER
Director, Transportation Department

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City of San Jose

Department of Finance and Transportation

Report of the Director's of Finance and Transportation to the City Council on the Cost of Sidewalk Repairs

9-Aug-05

ACCT#	ASSIGN	NAME	MAILING ADDRESS	SITUS	APN	AMOUNT	FEE	TOTAL
100312	7/22/1999	Quy My Vuong & Thanh Chung Phung ET AL	7066 Morecambe Dr San Jose CA 95120	1238 Flora Ave	299-11-025	\$ 993.50	\$ 11.00	\$ 1,004.50
114685	4/7/2003	Equilon Enterprises LLC	910 Louisiana Houston TX 77002	1299 Piedmont Rd				\$ -
		Agent for Service: CT Corp System						\$ -
114996	4/22/2003	Cal Trans c/o Don Esprogerakas	Po Box 23440 MS 11 Oakland CA 94623	1224 Keoncrest Ave	230-35-033	\$ 129.50	\$ 11.00	\$ 140.50
115507	5/27/2003	Arleen Avila	10 Jackson St 202 Los Gatos CA 95030	687 S 10th St	472-23-050	\$ 1,634.75	\$ 11.00	\$ 1,645.75
117331	10/24/2003	Urone LLC	1213 Cabrillo Dr Tulare CA 93274	1101 S 1st St	434-08-080	\$ 3,763.00	\$ 11.00	\$ 3,774.00
		Agent for Service: Shirley Anne Briggs						\$ -
117427	10/30/2003	Boaz M Kagan	Po Box 51311 Palo Alto CA 94303	5597 Shadowcrest Way	464-47-018	\$ 710.00	\$ 11.00	\$ 721.00
117576	11/13/2003	A Alan Alameda Trustee ET AL	600 S 2nd St San Jose CA 95113	600 S 2nd St	472-26-084	\$ 4,354.40	\$ 11.00	\$ 4,365.40
117879	12/17/2003	Cristina Bautista	2484 Battaglia Ct San Jose CA 95132	2484 Battaglia Ct	245-04-070	\$ 1,139.00	\$ 11.00	\$ 1,150.00
117880	12/17/2003	Gemie & Frank Gutierrez	1458 Hanchett Ave San Jose CA 95126	1458 Hanchett Ave	274-13-021	\$ 786.40	\$ 11.00	\$ 797.40
117895	12/17/2003	Tillie Z & Jess A Murillo	984 Diadem Dr San Jose CA 95116	984 Diadem Dr	481-34-028	\$ 1,704.84	\$ 11.00	\$ 1,715.84
117896	12/17/2003	Hermi A De Leon	2152 Cinderella Ln San Jose CA 95116	2152 Cinderella Ln	481-34-072	\$ 1,021.04	\$ 11.00	\$ 1,032.04
118414	2/6/2004	Orlando B Doyle	1310 N Washington Ave 11 Royal Oaks MI 48067	1321 Crossgate Ln	577-36-016	\$ 280.22	\$ 11.00	\$ 291.22
118490	2/18/2004	Luzmaria Martinez	374 S 19th St San Jose CA 95116	374 S 19th St	467-51-056	\$ 361.00	\$ 11.00	\$ 372.00
118491	2/18/2004	Marissa & Charles Arechiga III	1408 Mt Shasta Dr San Jose CA 95127	1406 Mt Shasta Dr	647-17-045	\$ 1,633.08	\$ 11.00	\$ 1,644.08
118782	3/18/2004	Saidu L Kamara	2340 Stevens Creek Bl 1 San Jose CA 95128	1717 Berrywood Dr	254-09-119	\$ 454.00	\$ 11.00	\$ 465.00
118851	3/25/2004	Michael Caloca	8710 Gallinde Ct Dublin CA 94568	980 Collage Dr	282-36-009	\$ 1,831.50	\$ 11.00	\$ 1,842.50
118855	3/25/2004							\$ -
118856	3/25/2004	Telesfor & Theresa Jaramillo Trustee	Po Box 507 Meadow Vista CA 95722	5763 Via Monte Dr	567/52/056	\$ 1,254.50	\$ 11.00	\$ 1,265.50
119002	4/8/2004	Angela K & Allan To Trustee	87 N 6th St San Jose CA 95112	503 E St John St	467-16-046	\$ 10,021.95	\$ 11.00	\$ 10,032.95
119397	5/19/2004	Arthur & Gloria C Queyqep	5563 Russo Dr San Jose CA 95118	5563 Russo Dr	569-04-106	\$ 890.18	\$ 11.00	\$ 901.18
120335	8/20/2004	Dawn S Cox	186 Ramona Rd Danville CA 94526	942 Nevada Ave	429-22-005	\$ 479.25	\$ 11.00	\$ 490.25
120771	9/30/2004	Ahmet & Hacima Sabic	1056 S Daniel Way San Jose CA 95128	925 Sherman Oaks Dr	282-32-063	\$ 709.32	\$ 11.00	\$ 720.32
120774	9/30/2004	Walter E Harding	502 S 2nd St San Jose CA 95112	502 S 2nd St	472-26-086	\$ 4,145.15	\$ 11.00	\$ 4,156.15
120776	9/30/2004	Jose Rosete & Julio C Carnacho	3167 Sylvan Dr San Jose CA 95148	3167 Sylvan Dr	649-06-037	\$ 938.32	\$ 11.00	\$ 949.32
121154	11/12/2004	Katerina & Karlo Simic	100 Blossom Hill Way Scotts Valley CA 95066	1931 Park Ave	274-06-07	\$ 1,822.64	\$ 11.00	\$ 1,833.64
121160	11/12/2004	Beebe L & Rosario L Tupaz Trustee	2831 Cortina Way Union City CA 94587	4199 Leigh Ave	419-26-010	\$ 3,686.12	\$ 11.00	\$ 3,697.12
121164	11/12/2004	Joyce Perea Trustee	2150 Waverly Ave San Jose CA 95122	2150 Waverly Ave	491-07-049	\$ 637.42	\$ 11.00	\$ 648.42
121874	2/3/2005	First Republic Bank	101 Pine St San Francisco CA 94111	25 N 14th St	467-15-082	\$ 920.74	\$ 11.00	\$ 931.74
121877	2/3/2005	Jeffrey G Draeger	1017 Vista Del Mar San Jose CA 95132	136 N 31st St	481-01-049	\$ 1,882.84	\$ 11.00	\$ 1,893.84
121879	2/3/2005	Hubert & Juliet L Khenanesho/ Mary Khosh	11705 Villa Malaparte Ave Las Vegas CA 89138	6510 Camden Ave	696-16-062	\$ 1,263.13	\$ 11.00	\$ 1,274.13
122554	4/12/2005	Karen U Hillman ET AL c/o Property Mngt Co	3190 S Bascom Ave 200 San Jose CA 95124	120 Jose Figueres Ave	481-06-039	\$ 2,517.99	\$ 11.00	\$ 2,528.99
122589	4/13/2005	Danh Ta, Ly Nguyen & Dan Ho	1006 E Santa Clara San Jose CA 95116	1006 E Santa Clara St	467-31-039	\$ 6,390.71	\$ 11.00	\$ 6,401.71
118855	3/25/2004	San Jose Apartment Assoc/USGI Inc	1740 Technology Dr 680 San Jose CA 95110	1569 Pensacola Dr	491-20-012	\$ 643.94	\$ 11.00	\$ 654.94
		Agent for Service: S Gregory Davies				\$ 59,000.43		\$ 59,341.43