

CITY OF OAKLAND
AGENDA REPORT

2008 MAR 13 PM 5:33

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: March 18, 2008

RE: Supplemental to the March 11, 2008 Sidewalk Repair Program Report to the Public Works Committee, Clarifying The Revolving Fund For Sidewalk Repair Program Proposal

SUMMARY

This supplemental report addresses questions raised at the March 11, 2008 Public Works Committee meeting regarding the Resolution Authorizing the City Administrator to Transfer \$300,000.00 Of Available FY 07-08 Sidewalk Repair Funds in Project C269160 To A Project To Be Determined To Enforce The Repair of Private Sidewalk Damage. The specific questions were:

1. Is \$300,000.00 sufficient for the proposed program?
2. How does the Revolving Fund work?
3. What is the estimated rate of repayment to the Fund?
4. How much private sidewalk damage was repaired by the City in the past two fiscal years, and how much was repaid?
5. What is the distribution of sidewalk damage in neighborhoods versus corridors?

1. Is \$300,000.00 sufficient for the proposed program?

No, \$300,000 is not sufficient. However, given that there is currently no funding available to address repair of private sidewalk damage, we recommend that \$300,000.00 be set aside for this program. Staff considered the funding available in the current budget for sidewalk repairs, the amount needed to address existing damage where trip-and-fall claims have been filed that are the responsibility of the City to repair (either fronting City property or at locations of official City Street Trees) and the need to initiate at some level repair of damage fronting private property. If more funding were available, the program could be expanded.

2. How does the Revolving Fund work?

When the City has notice of a sidewalk defect that is the responsibility of the private property owner, a "Notice to Repair" will be issued to the owner requiring repairs be made. Staff will conduct public education and outreach prior to actual enforcement. Property owners will be

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informed of their legal responsibilities and educated as to how sidewalks must be maintained.

The outreach will be in the form of direct mailings, including notices that will be sent to property owners with damaged sidewalks. These property owners will be provided an opportunity to discuss the amount of damage they are responsible to repair with the City.

When owners fail to make these repairs, the City remains liable for any injuries sustained at this location until the defect is repaired. Under the proposed program, the Revolving Fund would be used to pay a contractor to complete the repairs on behalf of the property owner. Once the repairs are made, a Notice of Prospective Lien is filed against the property and an administrative process is initiated to collect the cost of these repairs. Throughout this administrative process owners have the opportunity to pay for the repairs. If the repairs are not paid for, then the lien is filed and the cost is recovered on the next property tax bill. This process would take no more than eighteen months, and less depending upon the schedule of the County Tax Collector.

3. What is the estimated repayment to the fund?

Because this is a new program, there is no history to predict how much of the work completed by the City for private property damage will be repaid. One primary purpose of the Revolving Fund is to provide an incentive to property owners to complete repairs on their own. Information from the City and County of San Francisco, which has had a similar program in place for five years, indicates that 79% of property owners now complete required repairs within 30 days of receiving a notice to repair.

Staff is considering incentives that will be designed to make it attractive for property owners to use the City's contractor when they choose not to do the work themselves. Staff believes this will be popular because it is often difficult for a property owner to find a contractor available to do sidewalk repairs and will allow property owners to take advantage of the City's contract prices, which are typically more competitive than the cost to repair a specific location.

Staff will return to Council in late spring with a report addressing the details of the proposed Sidewalk Prioritization Policy and will include these incentives in that report.

The Municipal Code provides for low-income property owners to have an option to pay the repair costs in annual installments not to exceed five years with the ability to pay the balance at any time before the five-year period is completed. Such a program for low-income property owners will be included in the program.

4. How much private sidewalk damage was repaired by the City in the past two fiscal years and how much was repaid?

Since the City did not have a Revolving Fund, no permanent repairs were made to private sidewalk damage in the previous two fiscal years. For this reason, there is no information on repayments.

5. *What is the distribution of sidewalk damage in neighborhoods versus corridors?*

The results of the Sidewalk Survey indicate that sidewalk damage is generally distributed throughout the City.

RECOMMENDATION AND RATIONALE

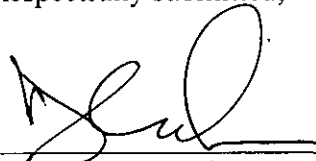
The proposed program will give property owners several options on how to make required repairs including participating in a coordinated sidewalk repair program offered by the City. Property owners could realize significant cost savings by participating in the coordinated repair program over conducting individual repairs. The cost to repair sidewalks under the City's contracts is typically less than half that on an individual, property-specific basis.

After the implementation of the program for the first year, staff will provide status report to the City Council on use, repayment and dissipation levels and whether replenishment will be required.

ACTION REQUESTED BY THE CITY COUNCIL

Staff requests that the City Council adopt the resolution authorizing the revolving fund.

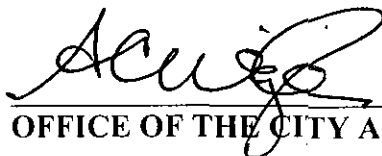
Respectfully submitted,



Dan Lindheim, Director
Community & Economic Development Agency

Prepared by:
Michael Neary, P.E.
Deputy Director, CEDA

APPROVED AND FORWARDED TO THE
CITY COUNCIL



OFFICE OF THE CITY ADMINISTRATOR

Oakland's Sidewalks

A Strategy to Increase Access, Reduce Liability and Repair our Sidewalks

Our Challenges

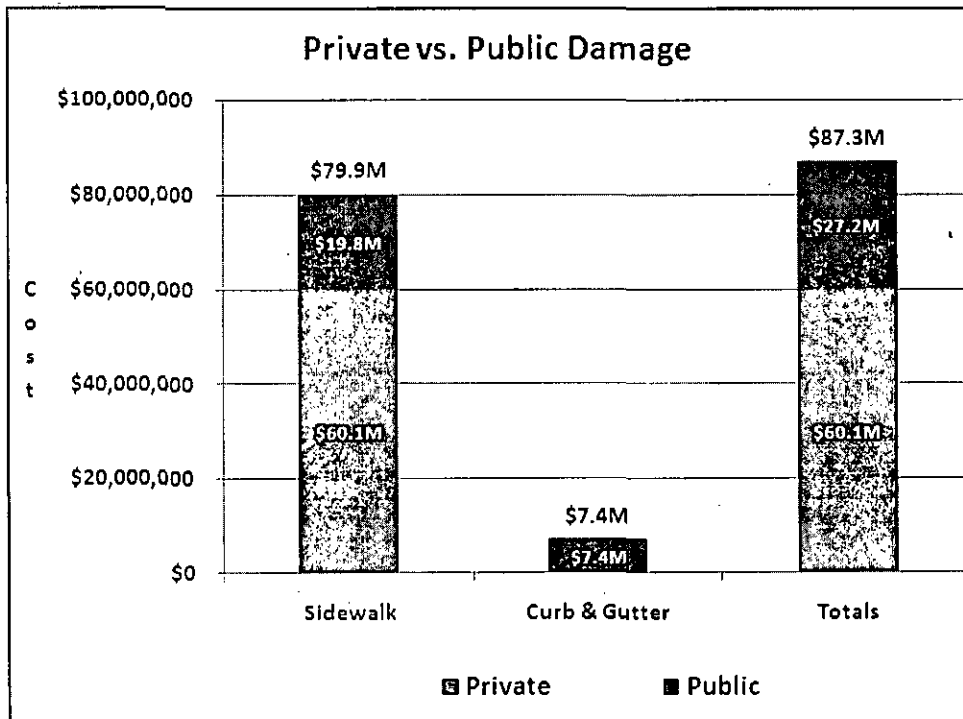
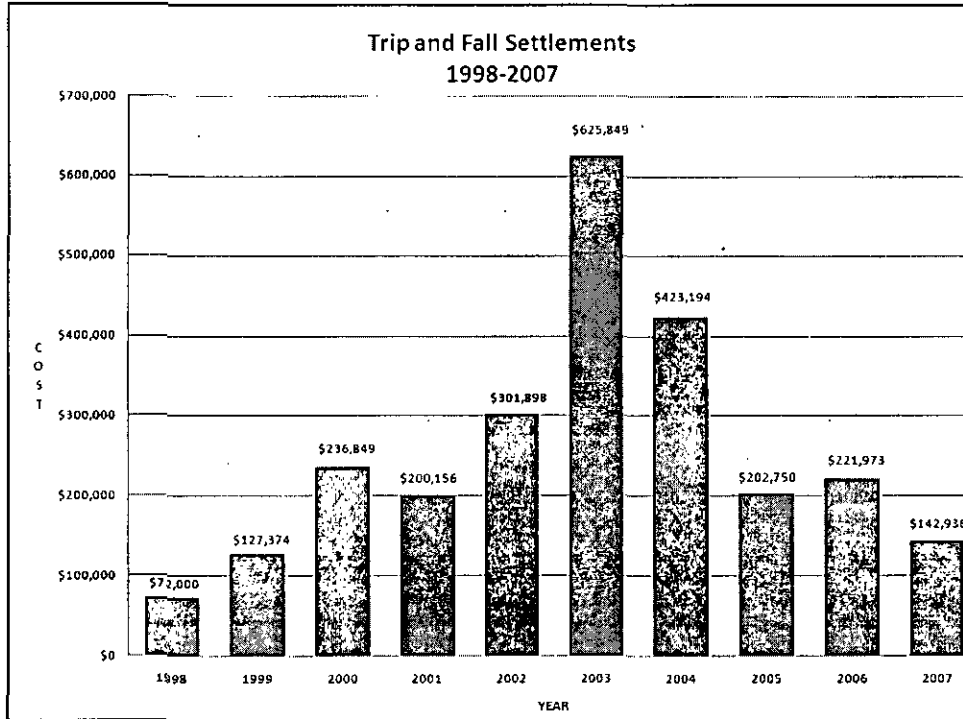
- Find Out Where the Problems Exist
- Find Out the Cost to Repair
- Provide Access to All Citizens

Survey Objectives

- Quantify the Condition of our Sidewalks
- Develop an Asset Management Tool
- Develop a Sidewalk Repair Program that
 - Leverages Limited Resources
 - Reduces Liability
 - Meets ADA Compliance Mandates

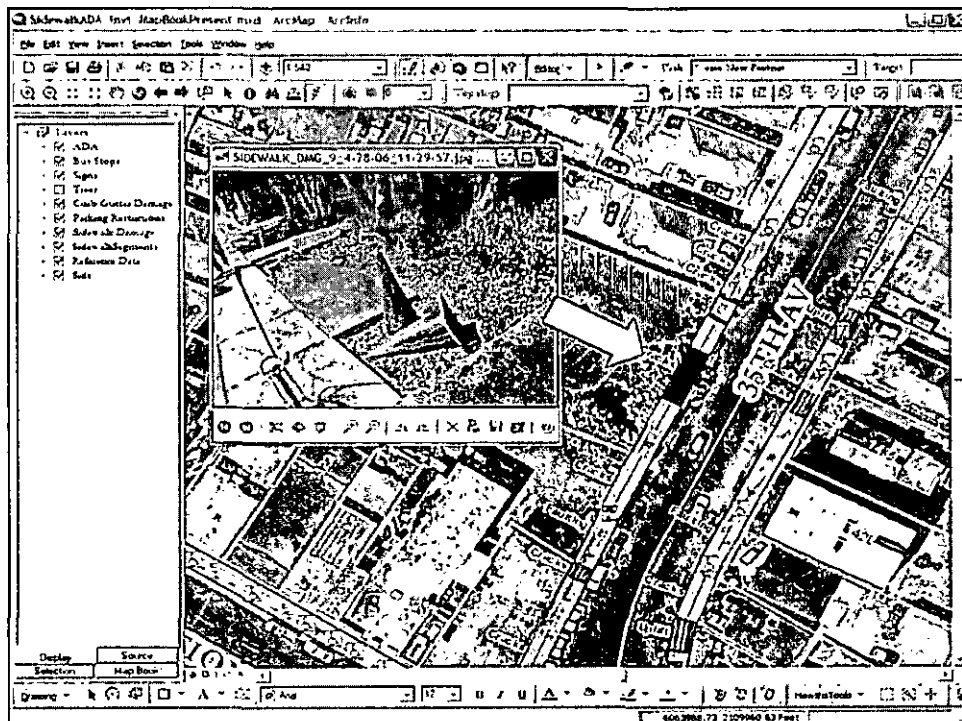
Survey Results

- Trip and Fall Claims are Significant
 - Average \$250,000 Annual Payouts
- Previous Damage Estimate was \$130 million
- Actual Damage is \$87.3 million
 - Most damage is due to old age
 - Damage due to Trees = \$19.8 million
 - Curb and Gutter Damage = \$7.4 million
 - Private Property Damage = \$60.1 million



Survey Results, Cont'd

- Location and type of every defect
- Location of all ADA barriers
- Location and species of all street trees
- All signs, curb markings, driveways, etc.
- GIS Application and Database
- Over 100,000 photographs



What Else Did We Find?

- Repairs are primarily complaint-based
- Trip and Fall claims not fully addressed
- Path of Travel not consistently considered
- Our World is Changing
 - Limited Resources
 - ADA Compliance Mandates
 - Need to leverage private and public dollars

Recommendations to Consider

- Adopt Clear Prioritization Criteria for Repairs
- Establish a Revolving Fund
- Consider a Sidewalk Liability Ordinance

Prioritization Criteria

- Repairs on a Corridor Basis
- Prioritize based on
 - Trip and Fall Locations
 - ADA Barrier Removal Criteria
 - Proximity to Transit or Essential Facilities – Hospitals, Senior Centers, Schools, Libraries, etc.
 - Areas of High Pedestrian Volume
 - Severity and Type of Damage

Revolving Fund

- \$300,000 Initial Investment
- Allows for Comprehensive Approach
 - Public and Private Repairs done at one time
- Addresses Liability Associated w/ Private Damage
- Similar to Sewer Revolving Fund
- Successful in Other Cities

Revolving Fund – How it Works

- Issue Notice to Repair
- Property Owner Makes Repairs – Done
- Property Owner Fails to Make Repairs
- City Contractor Makes Repairs
 - Preliminary Notice of Lien Filed
- Property Owner Pays – Done
- Property Owner Fails to Pay
 - Cost Collected on Next Property Tax Bill

Sidewalk Liability Ordinance

- City currently has full liability for damage whether or not we are responsible for repairs
- Increase Liability Risk for Homeowners
- Likely Reduce City's Costs for Claims
- Accelerate Repairs of Private Damage
- Help Leverage Other Funds – Homeowners' Insurance, etc.

Staff Recommendations

- **Adopt Prioritization Criteria**
 - Staff will return with detailed proposal on Corridor Approach, including ADA sidewalk transition plan
- **Establish Revolving Fund**
- **Consider Sidewalk Liability Ordinance**
 - Staff will return with detailed discussion and proposal for consideration
- **Award On-Call Construction Contract**