

# CITY OF OAKLAND

## AGENDA REPORT

2008 DEC -4 PM 3:56

TO: Office of the City Administrator  
ATTN: Dan Lindheim  
FROM: Community and Economic Development Agency  
DATE: December 16, 2008  
RE: **Supplemental Report On The Resolution Establishing A Five Year Prioritization Plan For The City Of Oakland's Sidewalk Repair Program And Allocating Sidewalk Repair Funds For Specific Categories Of Repair Each Year**

---

### SUMMARY

On November 12, 2008, staff presented to the Public Works Committee a five-year prioritization plan for the City of Oakland's Sidewalk Repair Program. The Committee continued the item to December 16, 2008 and directed staff to provide the following information:

1. A detailed data analysis by location of the trip and fall claims in the City (in map form).
2. What does it take to maintain a safe sidewalk?
3. What is the staff analysis of the use of a concrete grinder as an alternative to sidewalk replacement?
4. Where is the City damage versus private damage?
5. What will the impacts on commercial corridors be with the sidewalk maintenance being performed?
6. Can the sidewalk maintenance be dispersed throughout the City at the commercial corridors?

This supplemental report is in response to the Committee's direction. Staff recommends that the City Council accept this report and approve the sidewalk repair prioritization and expenditure policy.

### DISCUSSION

Staff believes that the recommended plan for the Citywide Sidewalk Repair Program will provide the most cost effective means of maintaining safe pedestrian paths of travel, thus preventing injuries and reducing liability from trip and fall claims, and from claims under the Americans with Disabilities Act (ADA).

The plan recommends a proactive, corridor-based approach that first addresses repairs of the most heavily used sidewalks along transit corridors in Oakland. The recommendation supports the City's Pedestrian Master Plan and the Safe Routes to Transit Policy by capturing and improving paths of travel throughout Oakland with the highest pedestrian activity. The City's Pedestrian Master Plan has identified over 200,000 weekday pedestrian trips associated with AC Transit and BART over transit streets. The transit streets designation was developed in the Land

Item: \_\_\_\_\_  
Public Works Committee  
December 16, 2008

Use and Transportation Element (1998) of the Oakland's General Plan. It was further developed in the City's Pedestrian Master Plan (2002) as part of the City's Safe Routes to Transit Policy.

Further, ADA Title II regulations dictate that municipalities implement a transition plan for making public rights of way accessible to individuals with disabilities. It also requires that a transition plan give high priority to paths serving state and local government offices and facilities, transportation centers, and places of public accommodation and employers. The recommended corridor-based, transit-oriented plan is established to reduce injuries to Oakland pedestrians and comply with the above ADA regulations. It is highly recommended that the City of Oakland adopt its own ADA sidewalk transition program as proposed in order to be proactive and avoid a potential lawsuit and legal intervention.

Staff's responses to the Committee's specific questions are as follows:

**1. *A detailed data analysis by location of the trip and fall claims in the City (in map form).***

A map showing trip and fall claim locations for the last 10 years is attached as *Attachment A*. Majority of the trip and fall claims are concentrated within the proposed Corridors. Repairing the damage within the corridors will reduce the trip and fall claims and make more funds available to repair sidewalks in other locations.

**2. *What does it take to maintain a safe sidewalk?***

A safe sidewalk is one that does not pose a trip and fall hazard, and complies with the City's design standards as it relates to material, and physical attributes such as color of concrete, slope, and cross-slope of sidewalk. In most cases, sidewalk damage is the result of old age, poor original construction, or excessive loads. In some locations, damage is caused by tree roots uplifting sidewalk panels. A typical hazardous condition is a location where elevation offset between an uplifted panel and its adjacent panel is more than  $\frac{1}{4}$  of one inch. These conditions typically need immediate repairs and the repairs are temporary in nature because tree roots continue to uplift and cause more damage. Temporary repairs are done by the Public Works Maintenance staff by using either grinding or asphalt patching.

**3. *What is the staff analysis of the use of a concrete grinder as an alternative to secure sidewalks?***

The limit for grinding operation is site specific and depends on sidewalk structural integrity. It is not recommended to use grinding technique for sidewalk offset greater than 1.5 inches. Any offsets larger than 1.5 inches need to be removed and replaced. The Public Works Agency typically performs about 80 sidewalk repairs per year, amounting to an average 10,000 square feet of sidewalk. Also, 600 linear feet of uplifted sidewalk is typically grind repaired each year. This equates to about 120 locations. Removal of elevation offset besides grinding can also be achieved alternatively by saw-cutting. There is a proprietary technology in the market that is

used by some cities in the area. Although the technology is different, both techniques are used to reduce or eliminate sidewalk offsets. Grinding as an alternative to repairing sidewalk offsets is a temporary and limited fix, though it is preferable to using asphalt.

**4. Where is the City's tree damage versus private damage?**

The sidewalk damage is spread throughout the City. A map showing the tree damage and private damage is attached as *Attachment B*. The City is responsible for repair of sidewalks damaged by City trees while the remainder is the responsibility of the private properties.

Under the recommended program, the city will repair sidewalk damage caused by City trees after conducting an outreach program in the affected areas and notifying property owners of the impending sidewalk repairs. Private property owners will have an option of using the City's contractor to perform necessary private repairs at the same time. Ultimately, complete sidewalk replacement and tree root pruning are required to provide a long-term solution to tree-damaged sidewalks.

The distribution of the City tree related sidewalk damage is shown in table below.

<b>General Plan Area</b>	<b>City Tree Related Sidewalk Damage by severity (sq ft)</b>				<b>Totals</b>	<b>% Damaged (<sup>1</sup>)</b>
	<b>Low (1)</b>	<b>Medium (2)</b>	<b>High (3)</b>	<b>Very High (4)</b>		
Downtown Area	7,213	11,514	11,241	3,114	<b>33,082</b>	<b>1.9%</b>
Residential	43,944	291,150	405,241	208,447	<b>948,782</b>	<b>4.0%</b>
High Density Residential	6,092	28,975	35,703	15,207	<b>85,976</b>	<b>1.6%</b>
Commercial	7,476	41,621	50,273	18,414	<b>117,784</b>	<b>4.3%</b>
Institutional	625	10,339	9,411	3,849	<b>24,225</b>	<b>2.8%</b>
Industrial	1,219	3,108	1,485	426	<b>6,238</b>	<b>1.1%</b>
Other	1,555	6,373	10,450	5,541	<b>23,919</b>	<b>1.3%</b>
<b>Totals</b>	<b>68,125</b>	<b>393,079</b>	<b>523,805</b>	<b>254,997</b>	<b>1,240,006</b>	<b>17.0%</b>

Although residential areas have the most sidewalk damage measured by total square footage, commercial areas have the highest ratio of damaged sidewalks<sup>1</sup>. It must be noted that the recommended transit corridors encompass the majority of the neighborhood, community, and regional commercial areas, which have a higher ratio of damaged sidewalks and the highest

<sup>1</sup> The percentage column shows the ratio of the City tree related sidewalk damage compared to the overall sidewalk asset within each General Plan area.

pedestrian traffic--over 200,000 pedestrian trips associated with AC Transit and BART every day.

**5. *What will the impacts on commercial corridors be with the sidewalk maintenance being performed?***

Staff will work with businesses and property owners to ensure minimal disruption to the businesses. The proposed sidewalk repair will be a collaborative effort between the City, property owners and business owners. The impacted businesses within the commercial corridors will be notified ahead of starting the construction to ensure minimal disruption to their businesses.

**6. *Can the sidewalk maintenance be dispersed throughout the City at the commercial corridors?***

The recommended corridor approach intends to deliver sidewalk repairs in a methodic and orderly fashion to provide the most benefit to all pedestrians in Oakland. Instead of moving around and providing scattered repairs, staff recommends to follow paths of travel comprehensively and contiguously. A concentrated effort also means higher efficiency and cheaper construction cost. It must also be noted that the recommended transit corridors encompass most of the commercial corridors. Additionally, staff is diligently pursuing the proposed federal Stimulus Package and has requested a line item for sidewalk damage repairs for Oakland that may be applied to address sidewalk damages that are outside the recommended plan.

## **KEY ISSUES AND IMPACTS**

In 2002, the United States Court of Appeals for the Ninth Circuit, whose jurisdiction includes California, held for the first time that sidewalks constitute a city service, program or activity and are therefore subject to the Americans with Disabilities Act (ADA) Title II program accessibility regulations.<sup>2</sup> Before this ruling it was unclear if local government ADA transition plans were required to address sidewalk access barriers.

Since the above ruling, a number of municipalities in California, through lawsuits and legal intervention, have been forced to enter into settlements for accepting sidewalk transition plans and making public rights of way accessible. The recommended prioritization plan represents a proactive sidewalk transition plan for Oakland that complies with the ADA regulations. At the same time, it reduces the City's trip and fall liability, and repairs sidewalks in the highly traveled corridors—improving paths of travel for over 200,000 daily pedestrians throughout Oakland.

---

<sup>2</sup> Barden v. Sacramento, 292 F.3d 1073 (9<sup>th</sup> Cir 2002)

It is highly recommended that the City of Oakland adopt its own ADA sidewalk transition program, as proposed, in order to be proactive and avoid a potential lawsuit and legal intervention.

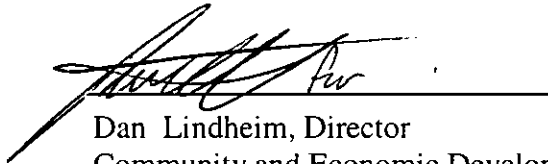
### RECOMMENDATION AND RATIONALE

Staff recommends that the City Council accept this report and approve the recommended sidewalk repair prioritization and expenditure policy in order to minimize major liability resulting from trip-and fall claims and to fulfill ADA compliance mandates. The sidewalk repair prioritization policy will take a comprehensive approach to improving the City's pedestrian's routes and removing other ADA barriers and creating accessible paths of travel for all pedestrians

### ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council accept this report and approve the resolution.

Respectfully submitted,



Dan Lindheim, Director  
Community and Economic Development Agency

Reviewed by:  
Michael Neary, P.E., Deputy Director  
Department of Engineering and Construction

Prepared by:  
Marcel Uzegbu, Supervising Civil Engineer  
Engineering Design & Right-of-Way Management Division

APPROVED AND FORWARDED TO THE  
PUBLIC WORKS COMMITTEE:

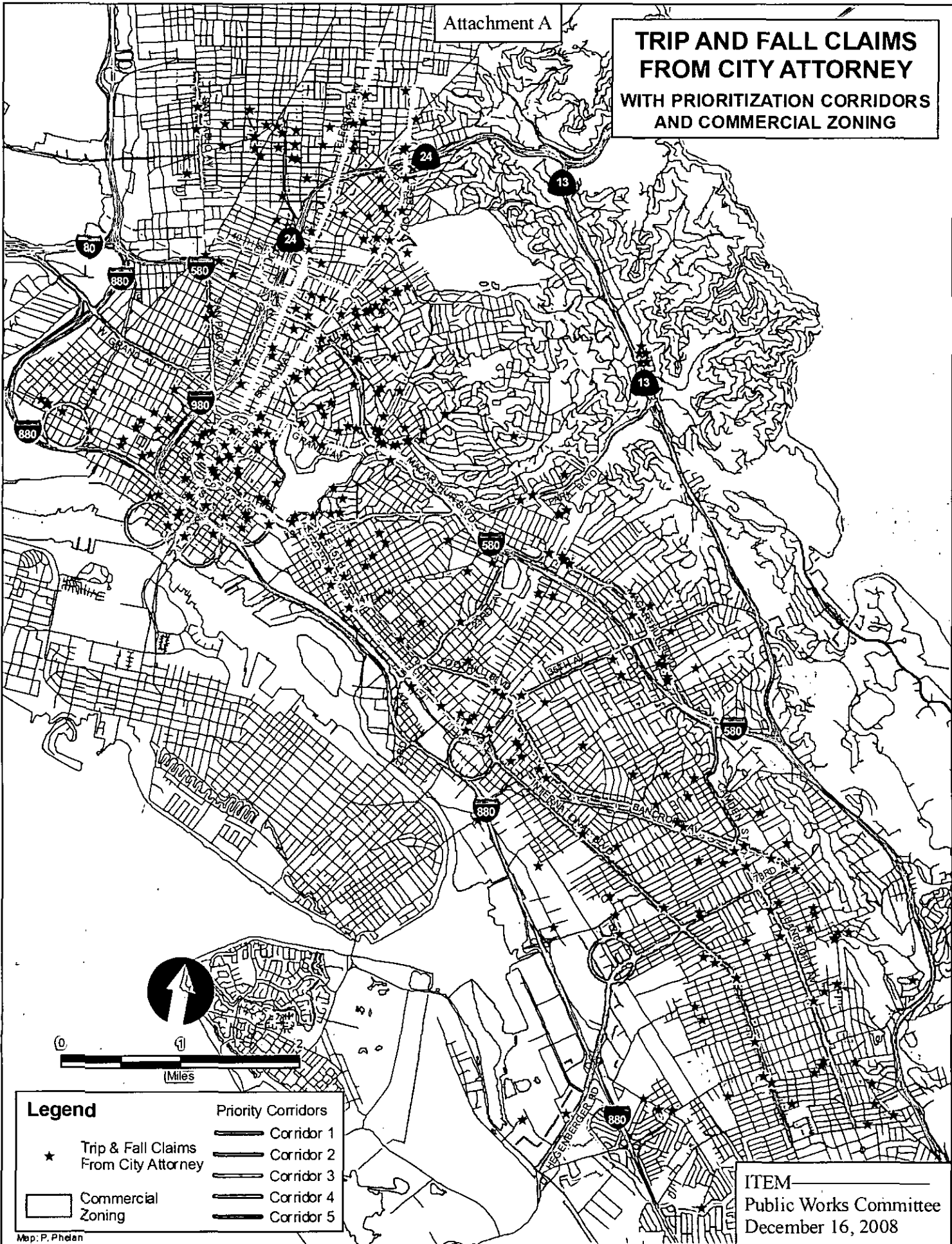


Office of the City Administrator

Item: \_\_\_\_\_  
Public Works Committee  
December 16, 2008

# TRIP AND FALL CLAIMS FROM CITY ATTORNEY

WITH PRIORITIZATION CORRIDORS  
AND COMMERCIAL ZONING



### Legend

- ★ Trip & Fall Claims From City Attorney
- Commercial Zoning

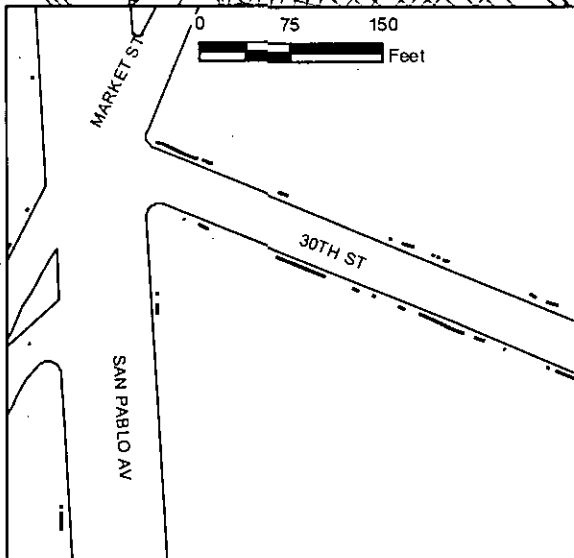
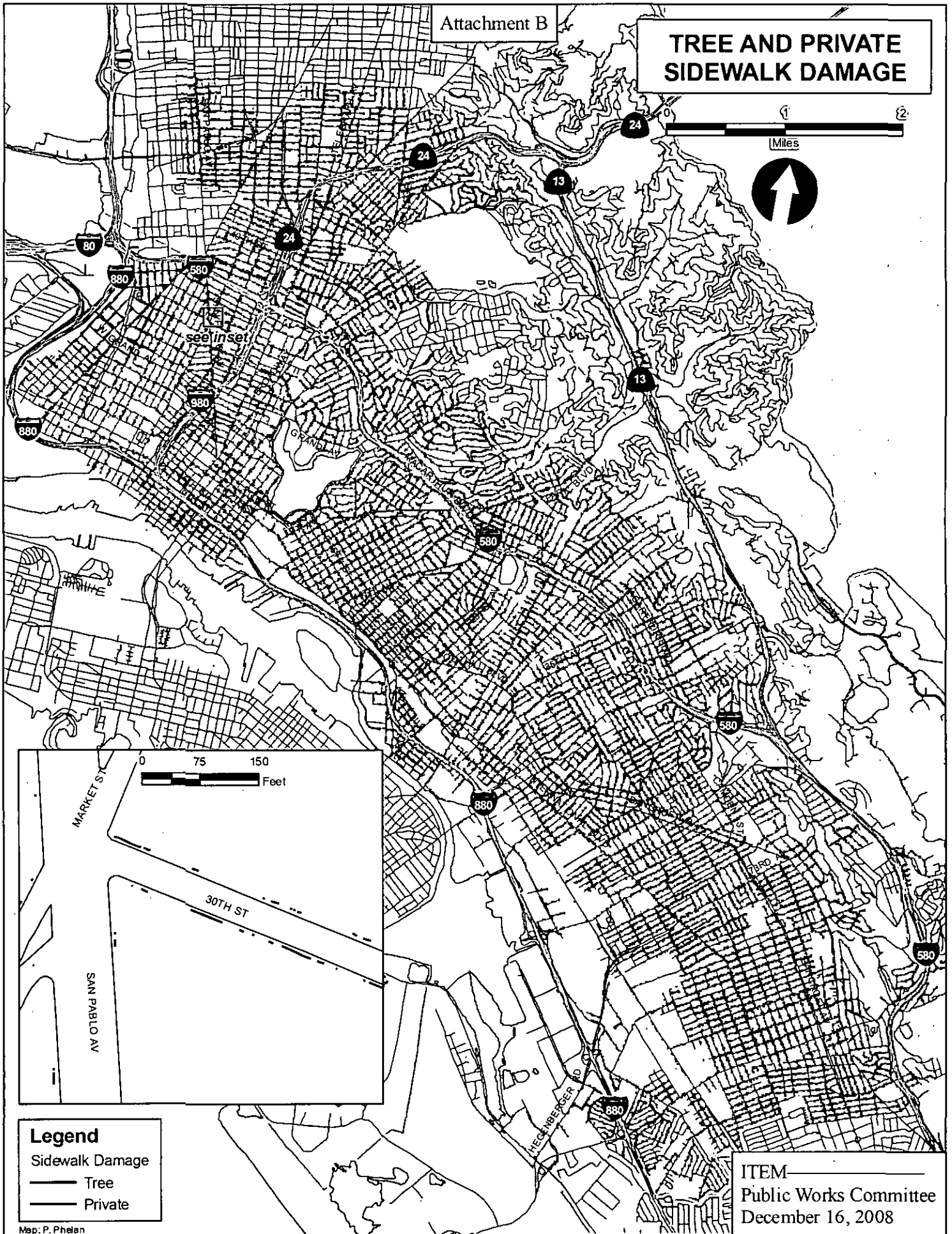
### Priority Corridors

- Corridor 1
- Corridor 2
- Corridor 3
- Corridor 4
- Corridor 5

ITEM  
Public Works Committee  
December 16, 2008

Map: P. Phelan

# TREE AND PRIVATE SIDEWALK DAMAGE



**Legend**

Sidewalk Damage

- Tree
- Private

ITEM \_\_\_\_\_

Public Works Committee  
December 16, 2008