



STAFF REPORT

Date: Tuesday, April 22, 2014
To: Bryan H. Montgomery, City Manager
From: Kevin Rohani, P.E. Public Works Director/ City Engineer

Approved and Forwarded to City Council:


Bryan H. Montgomery, City Manager

SUBJECT: City of Oakley Concrete Repair and Replacement Policy and 50/50 Cost sharing Program

Background and Analysis

By State law, property owners are responsible for maintaining sidewalks, curbs, gutters and the park strip area along the frontage areas of their property. Maintenance responsibilities include repair or replacement of damaged or displaced concrete sidewalk, curb, and gutter, abatement of weeds or debris, and trimming of shrubs to keep these areas free of hazards. Property owners are not exempt from liability even though the damage may have been caused by trees in the public right-of-way. In fact, the Oakley Municipal Code, at Sec.6.2.608, places a duty on adjoining property owners to maintain sidewalks, and makes them liable to any person who may be injured because of sidewalk defects.

As is the case in most cities, resident compliance with this maintenance responsibility has been less than successful in Oakley. Many of the property owners with damaged concrete sidewalks, curbs and gutters do not even respond to requests made by the City to perform these repairs, and these problems continue to increase and worsen. In an attempt to address this issue, Staff has evaluated a maintenance and repair program that would establish a cost sharing between the City and the property owners. This 50/50 Curb, Gutter, Sidewalk Repair and Replacement Cost Sharing Program provides a financial incentive for property owners to participate, and subject to available City funding, residents would only be required to pay half the cost. The City will contract to have the concrete repairs and replacements completed as part of a City-wide annual project that will be managed by the Public Works Department (there will likely be cost savings due to economies of scale). The Program will greatly accelerate the needed repairs that will prevent various trip and fall hazards.

Fiscal Impact

The cost of this 50/50 Cost Sharing Program will be included in the annual Capital Improvements Plan for the concrete repair and replacement program, and will benefit both the City and property owners, since the actual cost will be shared, and the City can perform more concrete repair and replacement City-wide. An initial allocation of

\$35,000 - \$50,000 is recommended, and an amount will be recommended in the upcoming 2014-15 Budget if the Program is approved.

Staff Recommendation

Staff recommends adoption and implementation of the Program based on the potential benefits that it will provide. Staff would also like to receive input and direction from the Council about the proposed program and any modifications that Council would like to make.

Attachments

1. Program Brochure
2. Resolution Approving the Program



**Curb, Gutter, Sidewalk, and
Parkstrip Maintenance**

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**50-50 Curb, Gutter, and
Sidewalk Replacement
Cost Sharing Program**

Curb, Gutter, Sidewalk, and Parkstrip Maintenance

The curb, gutter, sidewalk, and parkstrip are all public facilities within the right-of-way. They can generally be described as being the portion of improved land between the property line and the street.

Who is responsible for maintaining these areas?

By state law, the owner of the fronting property is responsible for maintaining the curb, gutter, sidewalk, and parkstrip area. The maintenance responsibility includes repair and/or replacement of damaged or displaced concrete, abatement of weeds or debris, and trimming of shrubs to keep the area free of hazards.

NOTE: *An encroachment permit from the City is required to plant trees or install any permanent covering, such as concrete, over the parkstrip area. If any repairs on underground utilities in the park strip are required, permanent coverings may have to be removed in a professional manner and replaced.*

How are the necessity and extent of concrete repair determined?

Repair or replacement is needed if an inspection reveals:

- The concrete has cracked and raised $\frac{1}{2}$ " or more
- Ramping, where there is a rise or depression of 1" in/over 2'
- A hole or opening in a break or joint of 1" or more
- The breaking away or spalling of concrete with a minimum depth of $\frac{1}{2}$ "
- Curb and gutter that has a separation or broken away of $\frac{1}{2}$ " or more
- Curb and gutter that is a part of a driveway approach that needs replacement
- Where sidewalks meet the curb, and have a vertical separation of $\frac{1}{2}$ " or more at the curb and gutter line
- Curb and gutter is raised and backs up water along the gutter
- Where there is horizontal displacement or separation of more than 1"

Where does the City get the authority to require property owners to pay for the repair of public sidewalks?

The City uses the procedure provided in Chapter 22 of Division 7, Part 3 of the California *Streets and Highways Code*. Briefly summarized, this State law requires the owner of the property fronting a public street to maintain the sidewalk, curb and gutters and parkstrip in a condition that will not endanger persons or property and interfere with the convenient use of the area.

50 - 50 Curb, Gutter, and Sidewalk Replacement Cost Sharing Program

This Program assists property owners in dealing with concrete curb, gutter, sidewalk, and parkstrip related problems. The 50-50 Program provides for the City to assist in managing and administering the repair and replacement contract, and splitting the cost with the property owner 50%-50%, thereby saving the property owners half the cost of the repairs and none of the administration and management of construction work.

1. A City Public Works Inspector, along with the property owner reviews the damaged/broken concrete sidewalk, curb, gutter, and parkstrip. The limits and scope of the concrete replacement are determined by the City Public Works Inspector and documented.
2. The City includes each site for the concrete replacement as part of the City's Annual Curb, Gutter, and Sidewalk Repair and Replacement project.
3. The City receives bids for this project and selects the lowest responsible bidder. A responsible bidder is a contractor with a valid State of California Contractor's License (Class A or C8), proof of insurance and a current City of Oakley Business License.
4. The City enters into a contract with the chosen contractor and manages and administers the construction contract. All work to be performed will be according to the City of Oakley Specifications.
5. The actual contract unit prices will be used to calculate the cost of the concrete repair and replacement for each location and its specific quantity of work.
6. Upon completion of the project, the City will send a bill to the property owner for only 50% of the cost of the concrete repairs and replacement at their property based on the scope of work that was previously determined and marked by both the City Inspector and property owner. The property owner would pay the invoice amount to the City and the project will be closed.
7. If the property owner elects not to pay the bill, the City Council will confirm the assessment that the bill continues to be unpaid. The City will then file a lien on the property. The cost of concrete replacement, City staff time, plus interest, will then appear on the property owner's next property tax bill.

**If you are interested in the Program, please contact
the City of Oakley Public Works Department
at (925) 625-7037**

How is the need for correction of landscape problems determined?

- **Visibility** - When parkstrip shrubbery interferes with vehicle operator visibility; trimming to keep shrubs below 3' is required.
- **Thorny plants** - Varieties of cactus and similar plants have thorns that could cause serious injury; thus, removal of these is required.
- **Walkway and Gutter Clearance** - Trimming of ground cover or shrubs is required when there is encroachment of more than six inches onto the sidewalk or gutter.
- **Tripping Hazards** - If the parkstrip is unimproved or landscaped and there is a drop that exceeds ½" below the concrete walk, the parkstrip must be filled with dirt or other material except asphalt.

How are property owners notified that repairs are necessary?

When an inspector determines that a repair is necessary, the property owner is sent a letter informing him/her of the need for the repairs.

Are there standards for repair work?

Yes, the standards for repair work are the same as those used for new construction. Concrete walks must be removed to construction joints or sawed at score lines and replaced using City specifications.

Is the property owner responsible for repairs if the concrete damage is caused by a parkstrip tree?

Yes, property owners are responsible even though the damage may have been caused by trees in the public right-of-way. In an effort to beautify our City's neighborhoods, street trees are required to be planted in front of residences and street trees are selected that are less likely to cause damage. If you wish to remove a tree in the public right-of-way, you may need a tree removal permit from the Planning Department (925) 625-7000.

How can I minimize concrete damage by tree roots?

Tree roots shall be removed to a minimum depth of 12" at the time of sidewalk/curb and gutter replacement. Roots should be pruned periodically thereafter, but only on one side per year to reduce chances of the tree blowing over. Deep watering encourages deeper roots. Care should be taken to avoid damaging underground utilities.

Who is liable if someone is injured due to a damaged sidewalk?

Each case must be decided on its own facts to determine liability; however, both the City and property owner have a duty to keep sidewalks free of defects that could cause harm to individuals using it.

RESOLUTION NO. __-14

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY

WHEREAS, by State law, property owners are responsible for maintaining sidewalks, curbs, gutters and the park strip area along the frontage areas of their property;

WHEREAS, in most cases the property owner compliance with the repairs and responsibility have been less than successful;

WHEREAS, in an attempt to address the issue, the City has established a 50-50 Curb, Gutter, Sidewalk Repair and Replacement Cost Sharing Program to provide financial incentive for property owners to comply with these repairs;

WHEREAS, the Program with greatly benefit both the property owners and the City, since the actual cost will be shared, and the City can perform more concrete repair and replacements City-wide, which will help in reducing various trip and fall accidents;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the City of Oakley will implement a 50-50 Curb, Gutter, Sidewalk Repair and Replacement Cost Sharing Program with an allocation of up to \$50,000 to add to the 2014-15 CIP Budget.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 22nd of April, 2014 by the following vote:

AYES:
NOES:
ABSENT:
ABSTENTIONS:

APPROVED:

ATTEST:

Randy Pope, Mayor

Libby Vreonis, City Clerk

Date