

CITY COUNCIL MEETING
MAY 15, 1985

CC 6
Pg 429

Following introduction of the matter by City Manager Peterson, and Council discussion, Council, on motion of Mayor Pro Tempore Reid, Olson second, authorized the initiation of a sidewalk deficiency inspection program and authorized the necessary funding, \$1,000 for the balance of this fiscal year, for such a program.

FUNDS FOR SIDEWALK
DEFICIENCY INSPECTION
PROGRAM ALLOCATED

City Manager Peterson presented a request from Rebecca Stone, Conflict Management Advisor of the Lodi Unified School District for use of the Grape Bowl for a concert to be held May 27, 1985 to raise funds for Ethiopia. Following discussion with questions being directed to Staff, Council, on motion of Council Member Snider, Reid second, directed Staff to work out the necessary arrangements and prepare an appropriate agreement for the holding of the subject concert in the Lodi Grape Bowl.

ROUGH DRAFT (Council Communication)

TO: City Council

FROM: City Manager

DATE: May 3, 1985

SUBJECT: City's Sidewalk Maintenance Program



ROUGH DRAFT

RECOMMENDED ACTION: That the City Council take the following actions.

1. Adopt a curb, gutter and sidewalk maintenance policy;
 2. Initiate a formal inspection and inventory program of the City's curb, gutter and sidewalks;
 3. Establish a program to keep this inventory updated;
 4. Incorporate the policy into the city code;
 5. Establish a public relations program to publicize the new policy;
- and
6. Allocate funds to enable the Public Works Department to purchase equipment and hire personnel to correct the deficiencies which are the City's responsibility.

BACKGROUND INFORMATION: Over the last few years claims against the City for injuries and damages caused by deficiencies in the sidewalks have risen drastically. Exhibit A shows the amount paid for settled claims and the amount reserved for open claims from 1977 through March, 1985. Payments made for 1977 through 1983 totaled approximately \$10,000, whereas settlements and reserved costs for 1984 and 1985 total approximately \$130,000.

Since it is estimated that 90% of the deficiencies in sidewalks are caused by City-maintained trees, and new case law places the responsibility for damages in those circumstances on the City, a formal Curb, Gutter and

Sidewalk Maintenance Policy should be implemented. It should also be noted that even when the damage is not caused by a City-maintained tree, under the joint and several liability theory, cities in many cases are required to pay the full amount of damages regardless of the minimum amount of negligence attributable to them.

At the present time sidewalk repair and maintenance is the responsibility of the property owner regardless of the cause of damage. However, there is no formal inspection or notification to property owners to require repair of hazardous sidewalk, so it is replaced only when the property owner desires. The City does root surgery or removes City trees at the time the property owner replaces damaged sidewalk. The City takes responsibility for the replacement of damaged curb and gutter regardless of the cause.

In the following sections the above Recommended Actions will be discussed.

CURB, GUTTER AND SIDEWALK MAINTENANCE POLICY

It is recommended that the following items be included in a new curb, gutter and sidewalk maintenance policy:

1. City be responsible for maintenance of all curb and gutter;
2. City be responsible for sidewalk replacement under the following conditions:
 - a. Damage caused by City-maintained trees.
 - b. Damage due to grade subsidence.
 - c. Damage due to City utility cuts.
 - d. Sidewalk fronting city owned property.
 - e. Damage due to heat expansion.

3. Property owner be responsible for sidewalk and driveway apron replacement for causes other than those mentioned in Item 2;
4. City be responsible for root surgery on City-maintained trees where appropriate; and
5. City do temporary patching of sidewalks where deemed necessary.

Attached as Exhibit B is draft of the proposed sidewalk policy which more clearly defines these items.

In formulating this policy, we surveyed the policies of nine cities. The questions asked and the answers given as part of that survey are shown on the attached Exhibit C. The City of Visalia completed a more extensive survey of 140 cities throughout California to determine policies regarding replacement of curb, gutter, sidewalk and driveway approaches. Visalia found that 95% of the cities who replied removed and replaced curb, gutter and sidewalk damaged by parkway trees. A copy of that survey is attached as Exhibit D.

INSPECTION AND INVENTORY PROGRAM

To properly evaluate the existing status of the curb, gutter and sidewalk throughout the City, a formal inspection program should be initiated. Presently the Street Division receives notification of potentially hazardous areas through citizen complaint, employee observation, or an accident report. Many times the worst hazards are not observed or reported. The inspection and inventory program would provide a systematic scheduling of repairs according to the degree of hazard. In order to keep

this program functional, it would be necessary to make regular inspections and to update the inventory as work is completed.

The City of Stockton is using a software program for the IBM Personal Computer which keeps an inventory of the curb, gutter and sidewalk system. They have offered the use of this program to us.

ORDINANCE ESTABLISHING CITY POLICY

The Streets and Highways Code provides for the maintenance of curb, gutter and sidewalk. However, if a new policy is established, that policy should become part of the City code. Our present policy is not formally documented anywhere.

PUBLIC RELATIONS PROGRAM

When the policy on curb, gutter and sidewalk maintenance is adopted, it is recommended that an ongoing public relations program be established. It will be important that the property owners realize that the City is doing an inventory, and that the City will be notifying property owners to replace their sidewalk where damage has been caused by property owner's tree. This program should also make property owners aware that it is their responsibility to notify the City of significant changes in the condition of the sidewalk, either where it has been repaired, or where the condition of the sidewalk has changed. The public relations program should also make property owners aware that an encroachment permit will be required when replacing sidewalk, and that the new installation must conform to City standards.

Attached as Exhibit E is a brochure prepared by the City of San Leandro, which gives information regarding San Leandro's sidewalk repair program. Handouts similar to this could be given to new City residents, be distributed by City employees, and be informational handouts in City buildings.

Periodic messages could be placed on the utility bills as reminders to residents to notify the City of changes in the sidewalk.

ADDITIONAL CITY PERSONNEL AND EQUIPMENT

It would be in the City's best interest to have City forces do the sidewalk replacement where the City-maintained trees have caused damage. City forces could also do the minor curb and gutter replacement. Contracts would then only be issued for major curb, gutter and sidewalk replacement. At this time it is not recommended that the City forces do any sidewalk replacement for property owners.

Many cities have a curb, gutter and sidewalk crew. However, until the initial inventory is completed, a detailed recommendation on manpower and equipment cannot be made.

SIDEWALK CLAIMS

Settlement or Reserve Cost

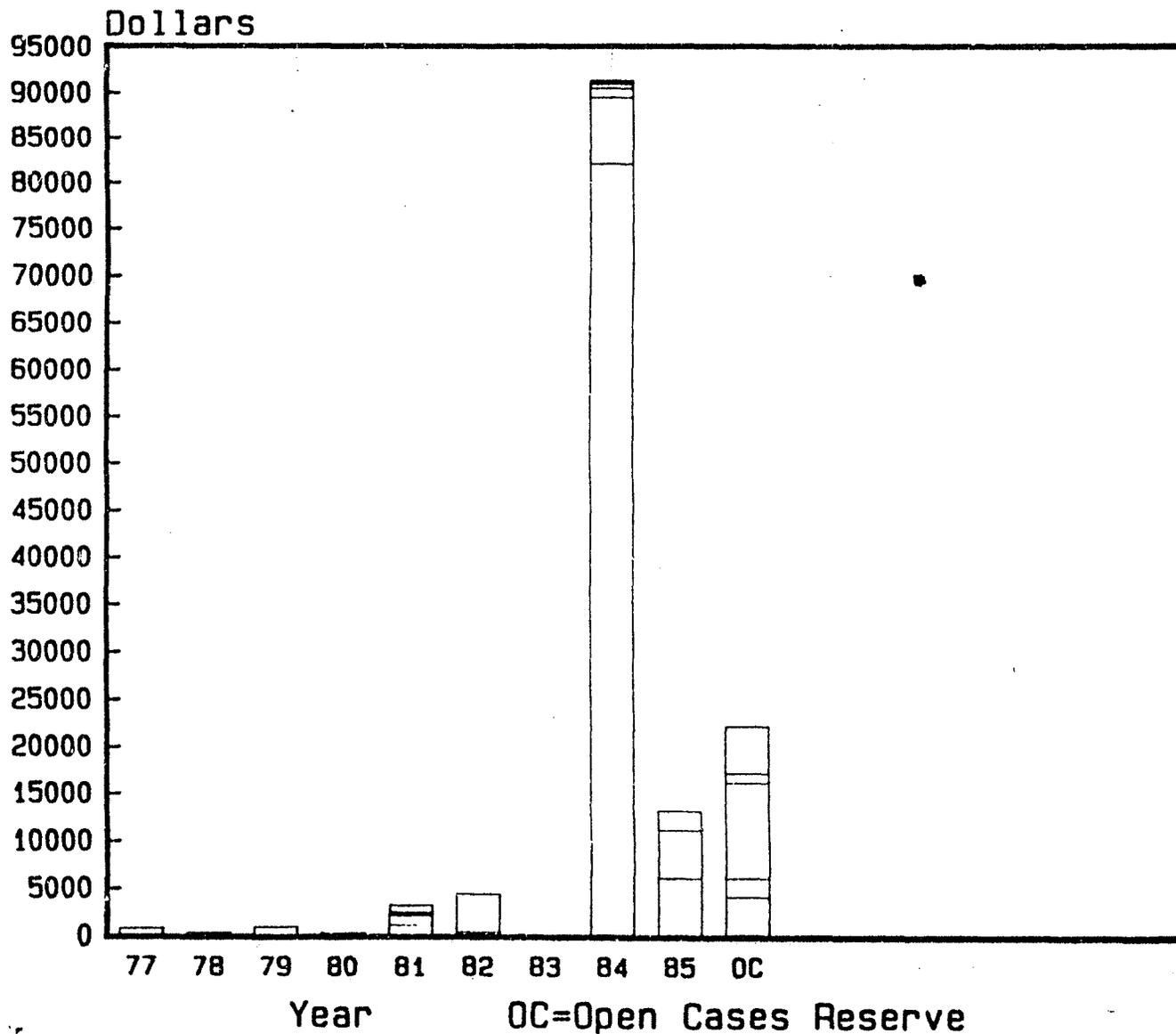


Exhibit A

ROUGH DRAFT

CURB, GUTTER & SIDEWALK MAINTENANCE POLICY

Property owner or tenant shall report to the Street Superintendent defective sidewalk in front of or along property owned or occupied by him/her.



I. SIDEWALK MAINTENANCE

- A. TEMPORARY PATCHING - The City shall patch sidewalk where there is 3/4" - 1 1/2" vertical offset or minor irregularities. This will be done at no charge to the property owner. The property owner or tenant shall notify the City of any change in the condition or the sidewalk or the patched area.
- B. SIDEWALK REPLACEMENT - Sidewalks shall be removed and replaced when vertical offset is greater than 1 1/2".
 - 1. Sidewalk replacement at City expense is done under the following conditions:
 - a. Damage caused by City-maintained trees
 - b. Damage due to grade subsistence
 - c. Damage due to City utility cuts
 - d. Sidewalk fronting City-owned property
 - e. Damage due to heat expansion
 - 2. Property owner shall replace sidewalk and driveway apron where the hazardous condition is caused by something other than the above categories. The property owner shall have a licensed contractor do the work within a prescribed time. If, after formal notice by the City, the repairs are not completed within that time, the City shall make the repairs and assess the property owner.

II. TREE MAINTENANCE

- A. The City shall do root surgery on all City-maintained trees where it is required. City shall also remove City-maintained trees when necessary. This work will be done in conjunction with the replacement of the sidewalk.
- B. The City shall perform preventive root surgery on City-maintained trees that have started to raise the sidewalk and do any temporary patching that may be required. It is the property owner's responsibility to notify the City of any change in condition of the tree or the patched area.
- C. The City shall not do root surgery on any privately-owned trees.

III. CURB AND GUTTER MAINTENANCE

The City shall maintain all curb and gutter.

Exhibit C

CITY OF LODI
PUBLIC WORKS DEPARTMENT

	Fairfield	Fresno	Grass Valley	Modesto	S
Have formal sidewalk inspection program	No	No	No	No	
City is responsible for					
City tree damage					
Sidewalk	Yes	Yes	No	Yes	
Curb & gutter	Yes	Yes	Yes	Yes	
Driveway	Yes	Yes	No	Yes	
Who is responsible for damage by PO tree					
Sidewalk	PO	PO	PO	PO	
Curb & gutter	PO	PO	City	City ³	
Driveway	PO	PO	PO	PO	
Who is responsible for damage by unknown causes					
Sidewalk	PO	PO	PO ⁵	PO ⁹	
Curb & gutter	PO	PO	City	City	
Driveway	PO	PO	PO	PO	
City does root surgery on City trees	Yes	Yes	No	Yes	
on PO trees	No	No	No	No	
City forces remove concrete	Yes	Yes	No	Yes	Som
City forces do concrete work	Yes	Yes	Yes	Yes	
City makes temporary repairs	No ⁸	Yes	Sometimes	Yes	

SIDEWALK POLICY QUESTIONNAIRE RECAP

	Sacramento	Santa Rosa	Stockton	Visalia	Woodland
Yes		No	Yes	No	No
No		50/50 ¹	Yes	No	Yes
Yes		50/50	Yes	No	Yes
No		50/50	Sidewalk	No	Yes ⁶
PO		PO	PO	PO ²	PO ⁴
City		PO	PO	PO	PO ⁴
PO		PO	PO	PO	PO ⁴
PO		PO	PO	PO ²	City
City		PO	PO	PO ²	City ⁶
PO		PO	PO	PO ²	
No		Yes ⁷	Yes	Yes	Yes
No		No	No	Yes	Yes
Sometimes		No	Yes ¹⁰	Yes ¹¹	Yes
No		No	Yes ¹⁰	Yes ¹¹	No
Yes		Yes	Yes	Yes	Yes

Footnotes

1. City splits cost of repair with PO - 50/50
2. If settlement has caused problem, property owner pays only for materials
3. City does all curb repair
4. City does work but bills the owner
5. Unless it is determined that P.G.&E. or City ditch did the damage
6. City does not ordinarily make these repairs
7. By Parks Department
8. Spray with orange paint and notify owner to repair or City replaces
9. If it is over a water line trench, the City is responsible
10. For City tree damage
11. City does work, citizens billed for L,M,O
12. When work is contiguous to City's responsibility
13. Usually sends 2nd notice in 2 weeks, then does work, bills PO, then liens
14. Long-time billings. Council will work with PO on individual basis, some HUD grants available through Housing Department
15. For the Community Development Block Grant work
16. Form assessment districts -- not really "special payment" plan
17. Mail letter plus card for response plus 2nd notice
18. PO can get their own contractor if they want
19. City does work and bills owner but no low interest
20. Only send letter if there has been a complaint
21. Paid up front
22. Only a portion of time - approximately 10%
23. 12 men - 1 month a year

Exhibit D

REPLACEMENT POLICY

CURBS, GUTTERS, SIDEWALKS & DRIVE APPROACHES

The City of Visalia has investigated a possible policy change in the removal and replacement of broken and/or deteriorated curb & gutter, sidewalk and drive approaches. We sent questionnaires to some 171 cities throughout California. We had an 82% response. Three population categories were established: 13,000 - 30,000, 30,000 - 50,000 & 50,000 to 80,000 +. We did not consider either size or tax revenue, nor did we break down cities located in urban and non-urban counties.

Tables A, B & C give the breakdown of replacement cost policies within the three population categories. Table D is a compilation of all 140 cities.

Several observations are in order:

1. Nearly all (95%) of the cities remove and replace curbs, gutters and sidewalks damaged by parkway trees.
2. Some 84 cities do the removal work with their own crews. This keeps the replacement costs down for the property owner.
3. 25% of the cities are also reviewing their replacement policies.
4. Chapter 22 & Chapter 27 of the 1911 Improvement Act are the tools used by most cities in the reconstruction of curbs, gutters, sidewalks and drive approaches.

The City of Visalia wishes to thank all the cities that helped us in our study. Please feel free to contact us if we can help you in any way.

Russell J. Webber

RUSSELL J. WEBBER - PROJECT ENGINEER

RECEIVED

CITY OF VISALIA
PUBLIC WORKS DEPT.

	Fairfield	Fresno	Grass Valley	Modesto	Sacramento
Where PO is responsible for repairs:					
A. City has formal method of notification	Yes	Yes	Yes	Yes	Yes
B. City arranges for work and bills owner	Sometimes ¹²	Sometimes ¹²	No	No	Yes
C. Have formal procedure when owner refuses to repair	Yes ¹³	Lien Process	Lien Process	Lien Process	Lien Process
D. City has special payment programs	Yes ¹⁴	Yes ¹⁶	No	No	No
How many employees assigned to C, G SW repair and inspection?	3	7 ¹⁵	--	?	3
No. of street miles	200	1175	27	?	1090

PO = Property Owner
Lien process = constitutes notices,
City does work, etc. as required
in 1911 act.

2/62

200* 230 330 100*

-- 8 3 33 13 33

No 13 No No No

Process Process Process Process
Item Item Item Item

Yes 18 No Yes 31 Yes

Yes 11 No Yes

3896 808 2606 1781 1001

TABLE A

15,000 - 30,000 POPULATION
67 CITIES

REPLACEMENT ITEM	NO. OF CITIES	% OF CITIES
<u>CURB & GUTTER</u>		
100% City Replacement	36	54%
100% Owner Replacement	26	39%
City/Owner Replacement	4	6%
No Policy	1	1%
<u>SIDEWALK</u>		
100% City Replacement	24	36%
100% Owner Replacement	39	58%
City/Owner Replacement	3	4%
No Policy	1	1%
<u>DRIVE APPROACH</u>		
100% City Replacement	14	21%
100% Owner Replacement	50	75%
City/Owner Replacement	2	3%
No Policy	1	1%

TABLE B

30,000 - 50,000 POPULATION
43 CITIES

REPLACEMENT ITEM	NO. OF CITIES	% OF CITIES
<u>CURB & GUTTER</u>		
100% City Replacement	30	70%
100% Owner Replacement	9	21%
City/Owner Replacement	1	2%
No Policy	3	7%
<u>SIDEWALK</u>		
100% City Replacement	20	46%
100% Owner Replacement	17	40%
City/Owner Replacement	3	7%
No Policy	3	7%
<u>DRIVE APPROACH</u>		
100% City Replacement	8	19%
100% Owner Replacement	30	70%
City/Owner Replacement	1	2%
No Policy	4	9%

TABLE C

50,000 - 80,000+ POPULATION
30 CITIES

REPLACEMENT ITEM	NO. OF CITIES	% OF CITIES
<u>CURB & GUTTER</u>		
100% City Replacement	18	60%
100% Owner Replacement	10	33%
City/Owner Replacement	2	7%
No Policy	0	0%
<u>SIDEWALK</u>		
100% City Replacement	13	43%
100% Owner Replacement	13	43%
City/Owner Replacement	4	14%
No Policy	0	0%
<u>DRIVE APPROACH</u>		
100% City Replacement	9	30%
100% Owner Replacement	20	67%
City/Owner Replacement	0	0%
No Policy	1	3%

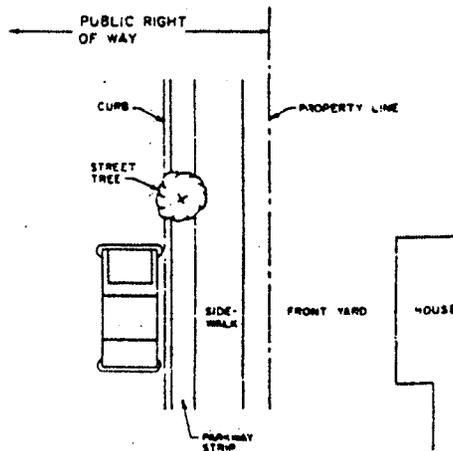
TABLE D

TOTAL COMPILATION
140 CITIES

REPLACEMENT ITEM	NO. OF CITIES	% OF CITIES
<u>CURB & GUTTER</u>		
100% City Replacement	84	60%
100% Owner Replacement	45	32%
City/Owner Replacement	7	5%
No Policy	4	3%
<u>SIDEWALK</u>		
100% City Replacement	57	41%
100% Owner Replacement	69	49%
City/Owner Replacement	10	7%
No Policy	4	3%
<u>DRIVE APPROACH</u>		
100% City Replacement	31	22%
100% Owner Replacement	100	72%
City/Owner Replacement	3	2%
No Policy	6	4%

The sidewalk in front of your home or business is public property. However, by State law and local ordinance the owner of the fronting property is responsible for maintaining the sidewalk. This responsibility includes repairing or replacing broken or displaced concrete that could result in injury to someone using the sidewalk.

Street trees are a major cause of sidewalk damage. In order to maintain an equitable balance between individual responsibility for sidewalk repairs and the community-wide desire to preserve trees, the City has adopted a program in which the cost of repairing street tree related damage is shared. Also, in order to minimize the cost to individuals and the community as a whole, damaged sidewalk need be replaced only in severe cases. These and the other features of the City's sidewalk repair program are described in more detail on the following pages.



HOW IS IT DETERMINED IF SIDEWALK REPAIRS WILL BE REQUIRED?

When the City becomes aware of damaged sidewalk, an inspector will examine the area. Using the following guidelines, the inspector will determine if repairs or replacement will be required and, if so, the nature of the repair/replacement.

Concrete with less than 3/4" vertical offset or other slight irregularities

No repairs are required. However, the property owner is responsible for notifying the City of any significant change in the condition of the damaged sidewalk.

Concrete with 3/4" - 1 1/2" vertical offset or minor irregularities

The City will patch the affected area with concrete at no cost to the property owner. The property owner is responsible for notifying the City of any significant change in the condition of the patched area.

Concrete with 1 1/2" or greater vertical offset or major irregularities

The City will barricade or temporarily patch the affected areas. The property owner is then required to remove and replace the broken or displaced concrete.

Regardless of the degree of damage, when sidewalk damage has been caused by the roots of a street tree*, the City will attempt to control further damage by root pruning. Also, if the property owner is required to remove and replace sidewalk broken, or displaced by a street tree*, the City will usually pay one-half the cost of the work.

*A street tree is a tree located within the public right of way as shown in sketch at left.

IF YOU ARE REQUIRED TO REMOVE AND REPLACE DAMAGED SIDEWALK, WHAT OPTIONS ARE AVAILABLE FOR ACCOMPLISHING THE WORK?

Three options are available to property owners in making concrete repairs:

- 1) You can choose to do the work yourself or by private contractor. However, if the damage is street tree related and the City is to pay for a portion of the cost of the repairs, the work must be done by a licensed contractor (or by the City's contractor under Option 2 or 3). In any case, a permit must be obtained from the City before the work is started. Also, a City inspector will check to see that the new concrete meets acceptable standards of quality.
- 2) You can choose to have the work done by the City's contractor by signing a Request for Services form. This relieves you from having to find and work directly with a concrete contractor.

Also, by signing a Request for Services form, the repair work will be scheduled as soon as possible. A bill will be sent to you for the repairs shortly after they are completed. This avoids the delay and complexities of the legal posting and public hearing process described below.

- 3) If you choose not to use either of the two options described above, the City will proceed with the "posting" process provided for in the Streets and Highways Code of the State of California. This legal process works as follows:

After barricading or temporarily patching the affected areas and after the City

accumulates a sufficient number of locations to be "posted" (approximately once every two or three months) the property owners are given a "Notice to Repair Sidewalk, Curbs or Gutters". This notice consists of a postcard sent to you in the mail and a placard placed on your doorstep. The date of the notice begins a two week period during which you can decide whether to arrange and pay for the repairs yourself or to have the City do the work. If you or your contractor do not apply for a permit to do the work within this two week period, the City's contractor will automatically be sent orders to do the required work.

After the work is completed but before you are billed for the work, you will receive another notice in the same manner as described above. This second notice is to inform you that a public hearing will be held (during a City Council meeting) at which time any objections or protests concerning the cost of the required repairs will be heard. If you wish to protest, you may do so in person at the hearing or in writing prior to the hearing. If no protest is received or the City Council overrules the protest, you will receive a bill from the City Finance Office. If the damage is street tree related, you will be billed for your portion only.

The Notice to Repair Sidewalk, Curbs or Gutters and a subsequent billing statement contain a warning about a possible lien on the property. This warning is included because once a year unpaid bills due the City are sent to the County Assessor and the unpaid amount then appears on the property tax bill. If the bill is not paid with the taxes, it becomes delinquent in the same manner as a tax and with the same consequences.

WHAT ABOUT DAMAGED IMPROVEMENTS IN THE PARKWAY STRIP?

Frequently, the area between the sidewalk and curb (commonly called the parkway strip) has been filled with concrete, bricks or other surface improvements. If these improvements are broken or displaced the City will not require their removal or repair except where:

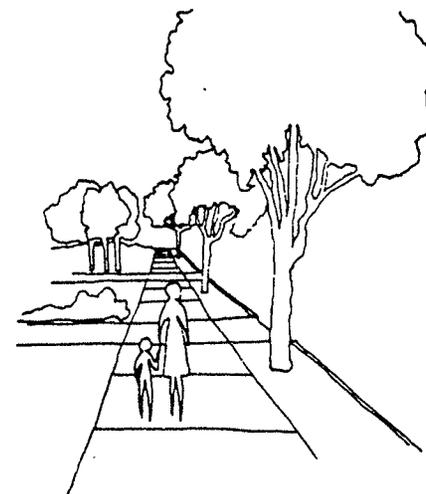
- 1) The adjacent sidewalk cannot be properly repaired unless the parkway strip improvements are removed.
- 2) The damage is in an area of high pedestrian use, such as at a mid-block crosswalk, in which case it will normally be treated like sidewalk.
- 3) Any other condition exists which presents a high risk of injury to the public.

Even if not required, when sidewalk repairs are made the property owner may want to consider removing or replacing the damaged parkway strip improvements in order that those improvements will conform with the new sidewalk. The property owner is responsible for all costs related to improvements within the parkway strip.

Exhibit E

General information & answers
to commonly asked questions
regarding the

CITY OF SAN LEANDRO SIDEWALK REPAIR PROGRAM



LEAGUE OF CALIFORNIA CITIES
1400 K Street
Sacramento, California 95814
RETURN IN 2 WEEKS PLEASE

For further information contact the
City Sidewalk Inspector at 577-3408