

## **Sidewalk Improvement Program Description**

### **June, 2010**

The goal of the Sidewalk Improvement Program, or SIP, is to create a City-wide, voluntary, improvement district to facilitate the repair of sidewalks throughout the City, in the City's right of way, according to Forest Grove Municipal Code (FGMC) section 3.405 through 3.495, and Oregon Revised Statutes (ORS) Chapter 223.

#### **Overview**

Public Works has made a survey of sidewalks throughout the City and has determined that many sidewalks are in a state of disrepair. Approximately 600 property owners have sidewalks adjacent to their properties that are in some state of disrepair. The total estimated cost is about \$1.3 million, for an average per property owner of about \$2,100. The City Engineer has divided the sidewalks into sidewalk segments that correspond to individual property owners that abut the sidewalk, in order to divide the cost accurately between property owners and assess each property appropriately.

Repair and maintenance of sidewalks are the responsibility of the property owner whose property is adjacent to the sidewalk, yet many property owners either do not know how to, or keep procrastinating, repair of the sidewalks for which they are responsible. The City desires to facilitate the repair of sidewalks throughout the City, reasoning that if the City coordinates a sidewalk repair program, the overall cost may be less by hiring one contractor for many sidewalks than if individuals hire many contractors for many sidewalks. Also, the City proposes to coordinate the hiring and scheduling of the contractor, thereby relieving property owners of those administrative hassles.

#### **Description of Program**

To accomplish this facilitation, Public Works is proposing to create a city-wide improvement district, calling it the "Sidewalk Improvement Program," where property owners voluntarily sign up to have their sidewalks repaired at their cost. The City facilitates the repair by hiring and scheduling the contractor to perform the work. The City fronts the cost of the contractor, to be repaid by individual property owners who sign up for the program. Once the City awards the work to a contractor, that contractor will give the City a cost per sidewalk segment, and those costs, along with the costs of unforeseen circumstances and interest charges if applicable, become the assessment to those property owners who signed up.

If a property owner does not want to pay the assessment, or otherwise objects to the assessment, then that sidewalk adjacent to that owner's property is not repaired and no assessment is made.

Staff proposes to pilot the Sidewalk Improvement Program in the summer and early fall of 2010. To keep this pilot program manageable, staff propose a minimum of participants whose repair work would total not less than \$50,000, to make the work worthwhile to a contractor. To keep the program manageable, staff propose to cap the number of participants at 60, based on criteria such as timing of participant response (first come, first served), contiguous contract work for the efficiency of the work, and severity of repair – more severe or complicated repairs may not be able to be accommodated within the pilot program, but will be

considered as a top priority should the program continue after the pilot. After this pilot program is complete, staff will evaluate the program with Council to determine whether or not to pursue this program in future years.

In most circumstances, repairing a sidewalk segment will be relatively straightforward. The old, broken or cracked concrete is taken up, replaced by new, smooth concrete. However, there are circumstances that may arise that could complicate a sidewalk repair, the costs of which will be borne most of the time by the adjacent property owner. In a few, unusual circumstances, the City or the contractor may be responsible for additional costs. Examples of these circumstances include:

- Trees: Most of the time, the contractor will be able to estimate how the fix to the sidewalk will impact a nearby tree. Often, grinding down an offending root is the fix, with very little impact to the tree. However, occasionally, the root system may be so large or so extensive that roots may have to be severed in order to properly fix the sidewalk. Cut or severed roots may seriously harm the tree, and may kill it. In these circumstances, the property owner needs to understand this risk to the tree and accept this risk prior to the sidewalk repair commencing. The property owner will also need to understand they may be responsible for replacing a tree within the right-of-way. If the offending tree is on their own property, they may choose not to replace it.

Also, it is possible that the tree must simply be taken out because it is not suitable to be near a sidewalk, and will continue to cause cracks and breaks over time. In this instance, the property owner will need to take down the tree and replace it with a tree the City approves of, at their cost. Most likely, the City and/or Contractor will be able to identify this type of problem prior to the property owner agreeing to the program. If the property owner is not ready to deal with replacing the tree and repairing the sidewalk, the property owner may choose to hold off on sidewalk repairs until a later date, but still understanding their liability for a sidewalk in a state of disrepair. However, the City would retain the right to require the property owner to fix the sidewalk sometime in the future.

Sometimes, the tree causing a problem for a sidewalk is a very important tree to the City, and the City has an interest in keeping it. In this circumstance, the City may choose to do a unique design of the sidewalk segment in order to both save the tree and have a repaired sidewalk. In this circumstance, the cost would be negotiated between the property owner and the City.

- Retaining walls: In some circumstances, retaining walls are so close to a sidewalk that they will be impacted by the sidewalk repair, and possibly ruined. The City Engineer and contractor hired by the City will be able to identify these types of retaining walls. In these circumstances, the retaining wall should be replaced at the same time the sidewalk is repaired. The cost of this replacement would be borne by the property owner.
- Curbs: Replacement of curbing is not an objective of this program, although curbs found to be an integral part of a sidewalk to be repaired and that are unsalvageable, will be replaced at the City's cost.

- Unknown/forgotten irrigation lines and/or drainage pipes: When the concrete of a broken sidewalk is pulled away, sometimes irrigation lines or old drainage pipes are revealed and accidentally broken. The cost of replacing or repairing these lines, even though unexpected, is the responsibility of the property owner.
- Accidental damage: As the contractor works, sometimes accidents do happen, such as damaging a driveway or other amenity, or breaking located lines or pipes, or damaging landscape. In these circumstances, the contractor would be responsible for the cost of repair.

### **Public Outreach**

The City plans to do an extensive outreach effort to let the property owners know that they can sign up to have their sidewalk repaired, at their cost, but avoid the hassle of finding a contractor and scheduling the work. The City may decide to target a neighborhood, giving it more focused attention, perhaps even door-to-door outreach by City employees.

Once the Council consents to move forward with the Sidewalk Improvement Program, slated for June 28 2010, staff will embark on advertising the program. Staff will use the City Ad space in the News-Times, possibly write an article for the paper, write a section in the FYI Forest Grove monthly newsletter, post it on the City's web site and the City's new facebook page. As mentioned above, staff may even go door-to-door to drum up interest in the program.

### **Funding the Program**

Staff proposes to fund this program through an inter-fund loan. The source of this loan is proposed to be the Capital Projects Fund (Fund #330). Funding would be loaned to the Sidewalk Improvement Program (SIP), to be repaid with interest by the SIP. For this pilot of the program in 2010, the estimate is between \$50,000 and \$150,000. The SIP would pay the funds out to the contractor, and collect funds from those property owners who voluntarily sign up for the program.

Property owners will have three options to pay their final assessment: 1) pay in full within 30 days of completion of work; 2) financed with interest over five years; or 3) financed with interest over 10 years (this option required by ORS 223.215). The 10-year repayment option would carry a higher interest rate, to provide incentive for participants to pay over a shorter time period, and to compensate the City for increased risk of non-payment and increased risk of interest rates increasing over time. The interest paid by the property owners not only helps to pay back the inter-fund loan, but also provides revenue to the SIP to cover administrative costs.

### **Assessment and Payment**

The City Code allows the Council to use any just and reasonable method of apportioning the costs of the sidewalk improvements, and assessing properties specially benefited (FGMC 3.445). Staff is proposing that the method of apportioning the costs of improvements and assessing properties be based upon those property owners who sign the Sidewalk Improvement Program contract, and that the assessments against those properties be based on the actual cost of repair to the sidewalk segment abutting the property of that owner who signed the Sidewalk Improvement Program contract, plus the cost of any circumstances that

may arise once the work begins (as discussed above), plus interest if the assessment is paid back over time. No costs would be apportioned, and no assessment made, to those properties whose owners did not sign the contract, and no repairs or benefits would occur or accrue on those sidewalk segments abutting those properties.

The City Engineer will estimate the cost to repair each sidewalk segment, and add a 10% contingency to cover certain circumstances, such as those mentioned above, or unforeseen cost increases. Each property owner will be presented with this dollar figure as an initial estimate, and will be asked if they want to participate. If a property owner wants to participate, they will be asked to sign a contract stating their preliminary approval to have their sidewalk repaired at their cost, and to be assessed for the actual cost of the repair, plus the cost of any circumstances that may arise once work begins, plus interest if they choose to pay over time.

Once the City awards a contract for the work to be done, the contractor will provide to the City the cost to repair each sidewalk segment. This cost will become the final assessment charged to each property owner who signed up, plus the cost of any circumstances, plus interest if they choose to pay over time. If this final assessment exceeds the initial estimate plus 10%, the property owner can back out of the deal. No repairs to the sidewalk will be made, and no assessments will be levied.

If property owners still desire to proceed after learning the amount of the final assessment, they will be asked to grant their final approval for the work to proceed and for the assessment to be made. A lien will be placed upon the property, according to ORS 223.230, in the amount of the final assessment, plus interest if they opt to pay over time, plus the additional costs incurred due to additional circumstances, to be released once the assessment is paid in full.

### **Penalties for Late Payments**

If payment is not received within 10 business days of the due date, a late fee in the amount of \$10.00 will be added. This late fee applies regardless of the payment method chosen by the homeowner. Each quarter, outstanding late fees will be rolled into the principal owed, and interest will accrue on the total balance. At the end of each calendar year, late fees and accrued interest will be capitalized into the principal owed, and the lien will be adjusted accordingly to reflect this new amount. Interest will accrue on the total.

### **Lien Adjustments**

The City will place a lien on each property whose owner voluntarily signed up for the sidewalk program and subsequently had the sidewalk abutting the property repaired under the program. The lien will be in the amount of the actual cost of repair, plus: 1) any additional agreed upon work; 2) any costs incurred due to additional circumstances; and 3) interest if the property owner chooses to pay the amount due in installments. The lien will be released once the assessment and all additional charges are paid in full.

Liens will be adjusted at the beginning of each fiscal quarter to reflect the amount outstanding, adjusting for payments or penalties. Payments made will be adjusted off the lien balance. Late fees and accrued interest will be added to the lien.

The lien will be released once all amounts are paid in full.

**Process**

Many steps need to be completed and Council motions made for this Sidewalk Improvement Program to commence, according to FGMC 3.405 through 3.495 and ORS Chapter 223.

The steps to be completed by the City Council include:

- Council consents (June 28) to initiate the Sidewalk Improvement Program;
- By resolution (June 28), the Council directs the City Engineer to complete an Engineering Report on sidewalks;
- By resolution (July 12), the Council either accepts, rejects, or modifies the City Engineer's Engineering Report;
- By resolution (July 12), the Council declares its intent to make the sidewalk improvements, provides the manner and method of carrying out the improvements, and directs the City Recorder to give notice of the improvements;
- By resolution (July 12), the Council sets out the terms for repayment of assessments;
- By Ordinance (September), the Council spreads the assessment to benefiting property owners.

Staff also have many steps to perform to implement this program. These include:

- Advertising the program (begin June 29);
- Obtaining feedback from interested parties (begin June 29);
- Drawing up contracts with interested parties (begin July 15);
- Requesting bids for the sidewalk work (August);
- Awarding a contract (August);
- Calculating final assessments to be levied (September);
- Facilitating the signing of final contracts with interested parties (September);
- Managing the contract work of repairing the sidewalks (October);
- Inspecting the work (October);
- Levying the properties and coordinating payments (October).

Because of the timeline to implement a pilot program in the summer and fall of 2010, staff desires to begin to implement the Sidewalk Improvement Program after obtaining the Council's consent. Staff would like to proceed on the first two steps under each category above – soliciting the City Council's consent to initiate the Sidewalk Improvement Program, proposing a resolution directing the Engineering Report to be done, advertising the program, and obtaining feedback from interested parties.

If everything goes according to plan, sidewalk repair work will begin in October. Once the 2010 pilot program is complete, staff will report to the Council on results. At that time, staff and Council will evaluate the success of the program and discuss whether to offer the Sidewalk Improvement Program in the summer of 2011.