

Attachment 3

FY 2017-18 Sidewalk Repair Cost-Sharing Program Summary - DRAFT

City of San Rafael | Public Works Department

October 2, 2017

DPW File No. 16.04.17

Purpose

The intent of the Sidewalk Repair Cost-Sharing Program (“Program”) is to provide fiscal and institutional assistance to residents and property owners who need to replace public sidewalks abutting their property.

The City Council annually, at its discretion, may set aside a specific amount of funding to support the repair and replacement of privately maintained sidewalks within the City. This amount may vary each fiscal year depending upon the City’s budgetary constraints. Allocation of these funds to residents requesting to replace their sidewalks will be on a first come, first served basis; such that when the funds set aside annually are depleted, no additional funding shall be added to the Program until the following fiscal year, or as the City Council deems necessary.

The Program provides for the following:

- City staff assistance in encroachment permit processing and inspection
- Partial reimbursement for sidewalk replacement
- City staff assistance in reviewing possible removal and replacement of trees within the public right-of-way
- Preferred pricing from contractors
- Full reimbursement of tree removal and replacement costs where deemed necessary by the City, up to a maximum amount
- Full reimbursement of curb and gutter replacement costs where deemed necessary by the City, up to a maximum amount

This Program summary provides an overview of financial and other assistance a property owner could potentially receive from the City for maintenance and repair of their damaged sidewalk if they are accepted into this Program. Inspection and approval by the City Public Works Department is required for all repairs initiated through this Program. Costs for any improvements within the right-of-way a property owner initiates beyond what the City has approved as eligible will be entirely borne by the property owner.

Important: There will be no retroactive reimbursement to property owners for repairs performed outside of or prior to the establishment of the Program.

Background

There are over 275 miles of sidewalk within the City of San Rafael. Due to age, deferred maintenance, tree and vegetation root intrusion, many of the sidewalks are in a severe state of disrepair, creating potentially hazardous conditions to pedestrians. Repair costs for sidewalk damage citywide are estimated at \$5-10 million. Historically, the City has deferred to California Streets and Highway Code Section 5610, which places the burden of sidewalk maintenance on the adjacent property owner. However, on October 2nd, 2017, City staff recommended that the San Rafael City Council follow suit with many other cities, and adopt a formal Sidewalk Ordinance to clarify that:

- (1) The responsibility for performing and funding sidewalk maintenance and repairs rests with the adjacent property owner; and
- (2) The adjacent property owner owes a duty of care to pedestrians or other sidewalk users to maintain the sidewalk in a non-dangerous condition, and if a sidewalk user is injured as a result of the property owner's failure to so maintain the sidewalk, the property owner will be liable to the injured party.

Acknowledging that the cost associated with the responsibility to maintain sidewalks may be a financial burden for some property owners, the Department of Public Works has developed a Program that supports sharing the cost of replacement and/or repair of displaced and damaged sidewalks between the property owner and the City.

The primary purpose of the Program is to assist property owners with the following costs associated with sidewalk repairs:

- Concrete sidewalk repair and replacement
- Tree work associated with sidewalk repair and replacement (root trimming, stump grinding, removal/ replacement)
- Curb and gutter work required with sidewalk repair and replacement
- Encroachment permit fees and related inspections

Program Description

Overview

The City will provide reimbursement as specified for the sidewalk repair and replacement work to property owners who arrange with a private licensed contractor to perform the work. The entirety of the work, as outlined in this Program Description, shall be arranged independently between the property owner and the contractors who perform the work. Through an application process in the Sidewalk Repair Cost Sharing program, the Department of Public Works shall inspect the damaged sidewalk prior to any work commencing, and will notify the property owner which portion of the repair and replacement is eligible for City reimbursement. Any additional work the property owner may elect to do (e.g. if a property owner decides to replace the entire sidewalk abutting their property, when only one section may be approved for replacement through the Program), will not be reimbursed by the City.

After the repairs are completed, and the site has been inspected by the Department of Public Works, the property owner may be reimbursed as detailed in Table 1.

Prevailing Wage Requirements

Pursuant to California Labor Code Sections 1770 et seq., property owners participating in this Program who will **eventually** be reimbursed by the City must abide by the California State Department of Industrial Relations (DIR) [Prevailing Wage Requirements](#). This means that the contractor hired to do the work must be registered with the DIR, and any work performed that will be reimbursed in full or in part by the City must be done at prevailing wage rates. Any work approved for the Program, but performed by a contractor who is (a) not registered with the DIR and/or (b) not abiding by prevailing wage requirements, will not be reimbursed by the City.

Application

Applications under the Sidewalk Repair Cost-Sharing Program shall be made on a form provided by the City and submitted to the Department of Public Works in connection with the property owner's or contractor's application for an encroachment permit for the proposed sidewalk repair work ("Encroachment Permit").

Priority

Applications will be processed on a first come, first served basis until Program funds allocated for the fiscal year have been exhausted. If funds are exhausted for the present fiscal year, the property owner may elect to perform the repairs outside the Program or assume liability for any tripping hazard in the interim and apply the following year.

Applicants with approved applications and who have obtained an Encroachment Permit may proceed at their earliest convenience. Please note that should the Encroachment Permit expire, the authority for reimbursement is no longer valid and a new Encroachment Permit must be obtained to qualify for reimbursement. All work shall be completed by an appropriately licensed and insured contractor.

Eligibility

In order to qualify for the Sidewalk Repair Cost-Sharing Program, the sidewalk displacement to be repaired must be greater than 2 inches in height. In general, a displacement of less than 2 inches in height can be reduced by “shaving”, while a displacement greater than 2 inches requires full removal and replacement of the damaged portion of the sidewalk.

Applicants may receive funds from this Program only once every five years. Commercial property owners have a reimbursement limit of \$2,000 per total application (\$2,000 cap includes 50-50 cost share, tree work, curb and gutter, etc.). There is no reimbursement limit for residential properties.

Tree Inspections: Maintenance and Removal

Prior to sidewalk replacement work, tree root inspections are required for all trees located within the right-of-way to determine if trees can be preserved by root pruning. The inspection can only be done once the sidewalk is removed. It is the goal of this Program to encourage the preservation of trees whenever possible. If roots can be pruned so as not to interfere with the installation of a new sidewalk and still protect the health and stability of the tree, the tree should remain.

After inspection by DPW, trees approved for removal may be removed as part of the applicant’s approved sidewalk repair or replacement. The applicant shall be required to plant a replacement tree, per the list of approved City Street trees. Property owners shall hire a licensed tree service contractor or utilize the City’s tree service contractor for removal of all trees. Tree removal shall also include completely grinding and removing the stump and trimming/removal when necessary of all roots within the public right-of-way. For trees that have been previously cut down and the stump interferes with the repair of the sidewalk, the stump shall be completely removed as part of the sidewalk repair work (Table 2). Root trimming eligible for City reimbursement includes only roots that interfere with the sidewalk. The tree contractor hired should be listed on the encroachment permit taken out for the sidewalk repair.

Replacement trees, including stakes and ties, will be provided by the City to the property owner at no cost, or the City will contribute to the cost of a replacement tree from the approved list of City Street Trees that is purchased by the property owner. Replacement trees shall be sized to fit the available planting space and avoid future sidewalk damage. If there are overhead utility lines, only trees approved for planting under utility lines may be planted. The planting of the replacement trees will be the responsibility of the property owner at a location in the City right-of-way determined by the City. **The price paid for tree removal and submitted to the City for reimbursement should include the planting of the replacement tree.** In order to minimize future sidewalk damage and encourage the roots to go deep into the soil away from paved surfaces, all trees must be planted and watered by the property owner to City specifications.

Reimbursement

An inspector from the Department of Public Works will approve the repair work that is eligible for the Program through the Application process prior to the commencement of any repair work. Approved applicants will only be reimbursed upon completion of the approved work and final inspection. Any changes to the repair work must be first approved by the inspector prior to construction. The applicant

is required to submit copies of all paid itemized invoices and receipts to the Public Works Department to receive reimbursement. The City will provide the following reimbursement (Table 1):

Table 1

| | % Reimbursed by City | Up to \$ amount |
|--|----------------------|-----------------|
| A. Sidewalk repair and replacement | 50% | \$1,000 |
| B. Driveway approach repair and replacement | 0% | N/A |
| C. Curb and gutter repair and replacement | 100% | \$4,000 |
| D. Tree work | 100% | See below |
| E. ADA curb ramp* | 100% | N/A |

*If the property is on a corner and a curb access ramp does not exist, one shall be installed per the Americans with Disabilities Act (ADA). The property owner’s contractor shall furnish a proposal to the City quoting a price to install a ramp per City standards. In some circumstances, a ramp may not be approved for construction due to conflicts with drainage and/or other utilities.

Following inspection by the Department of Public Works, any approved tree work shall be eligible for 100% reimbursement up to the amounts per tree work type and size set forth in Table 2 below. In addition, if tree removal is deemed necessary for the sidewalk repair, per the discretion of the Department of Public Works inspector, the City will pay 100% of the cost of the replacement tree, up to the maximum shown in Table 2.

Table 2

| Tree work type and size | Up to \$ amount per tree |
|---|--------------------------|
| Root Trimming | \$350 |
| Stump Grinding (per inspection) | \$200 |
| Tree Removal 6” to 12” Diameter at Breast Height (DBH) | \$550 |
| Tree Removal Over 12” to 20” DBH | \$850 |
| Tree Removal Over 20” to 30” DBH | \$1,200 |
| Tree Removal Over 30” to 48” DBH | \$1,700 |
| Tree Removal Over 48” DBH | \$2,700 |
| Tree Replacement | \$300 |

Encroachment permits

While the fee associated with the Encroachment Permit (currently \$246) shall be waived for sidewalk repair, replacement, and improvements, applicants are still required to file for an Encroachment Permit with the Department of Public Works. Permits are issued to the applicant’s contractor who performs the work. Permits may be obtained at the Department of Public Works at 111 Morphew Street. Applicants who are participating in the Sidewalk Repair Cost-Sharing Program will not be charged a fee for the permit. The permit is good for 6 months and extensions may be granted. An inspection is required prior to placing new concrete and performing tree work. All concrete installation shall comply with the American Disabilities Act (ADA) and City Standards.

One Encroachment Permit per contractor shall be required for all work related to the sidewalk repair (e.g. tree work, sidewalk repair and replacement, curb and gutter etc.).

2017-18 Call for Applications

The application period for FY 2017-18 (July 1, 2017 to June 30, 2018) will be open at noon on January 15, 2018.

Detailed information and a complete sample application will be posted to the City of San Rafael website no later than December 15, 2017.

DRAFT