



## Council Agenda Report

Item 7a

**Department:** Public Works  
**Cost Center:** 5006  
**For Agenda of:** 5/20/2024  
**Placement:** Business  
**Estimated Time:** 45

**FROM:** Matt Horn, Public Works Director  
**Prepared By:** Greg Cruce, Deputy Director – Maintenance Operations

**SUBJECT:** REVIEW THE PROCESS AND PROCEDURE FOR ISSUING NOTICES TO CORRECT TO PRIVATE PROPERTY OWNERS FOR UNSAFE SIDEWALK OR FRONTAGE CONDITIONS, AND AUTHORIZE STAFF TO ISSUE NOTICES TO CORRECT TO SPECIFIC PRIVATE PROPERTY OWNERS FOR THE DETERIORATED CONDITIONS OF FRONTAGES

### RECOMMENDATION

1. Adopt a Draft Resolution formalizing the City's procedures for issuing Informal and Formal Notices to Correct for sidewalk and frontage improvement deficiencies; and
2. Adopt a Draft Resolution approving the issuance of Formal Notices to Correct to the property owners of 360 Chorro Street, 368 Chorro Street, 878 Islay Street, 859 Mission Street, 867 Mission Street, 875 Mission Street, and 1543 Morro Street, and authorizing the City to execute the required work if the property owner fails to commence the work within 14 days after the first Formal Notice to Correct is sent; and
3. Authorize the Public Works Director to waive issuance of a Formal Notice to Correct if the property owner takes corrective action before the notice is formally issued.
4. Appropriate \$178,102 from the CIP Reserves to fund the sidewalk reconstruction work.

### POLICY CONTEXT

[Section 12.16.020](#) of the City of San Luis Obispo Municipal Code incorporates [Division 7, Part 3, Chapter 22](#) of the California Streets and Highways Code. Pursuant to this Code, property owners whose lots front any portion of a public street or place — or abut an area maintained as a park or parking strip between the property line and the street — are responsible for maintaining the adjacent sidewalks. Property owners must ensure that sidewalks are kept in a condition that does not endanger persons or property and does not interfere with the public's convenient use of these areas. This obligation applies except where a condition has been created or maintained by another party acting under a legal right, permit, or authorization granted by the City, in which case that party assumes the responsibility for maintenance.

In 2013, the City Council adopted a formal [Sidewalk Inspection Program](#) that established a practice of inspecting the City's sidewalks on a regular basis, thresholds for damaged sidewalks that require repair or replacement, and prescriptive measures for correction of identified conditions. Council authorization is not required for issuance of a formal Notice of Correction. However, once the formal Notice is issued, the [Streets & Highways Code § 5614](#) removes much of the City's discretion regarding the subsequent timeline and procedural requirements – for both the property owner and the City – so staff is seeking authorization from the Council to proceed. The timeline, required procedures, and voluntary procedures are discussed in more detail in the background section of this report.

The City maintains a Capital Projects Reserve Fund in the amount of 20% of capital improvement plan budget from the Local Revenue Measure for the purposes of offsetting unanticipated cost increases, unforeseen conditions, and urgent unanticipated projects to provide continued investment in infrastructure maintenance and enhancement. Use and allocations of funds from the Capital Projects Reserve Fund will be made to Capital Projects including Major Facility Replacement upon Council approval as necessary during any fiscal year.

## **REPORT-IN-BRIEF**

This report provides a summary of the City's efforts to address sidewalk deficiencies on private property, in accordance with San Luis Obispo Municipal Code Section 12.16.020 and the California Streets & Highways Code. City staff are requesting Council authorization to issue Formal Notices to Correct for eight properties with unresolved sidewalk hazards. These locations have been the subject of repeated community complaints and were found to contain substantial damage that presents risks to public safety and legal liability to the City.

Staff have made extensive efforts to achieve voluntary compliance, issuing at least two Informal Notices to each property owner and offering flexible timelines to complete the work. In some cases, outreach began as early as 2021. Despite these efforts, the required repairs or replacements have not been completed. The eight sidewalk segments are located throughout the City and represent a total estimated repair cost of \$178,102. If the work is not completed by the property owners following issuance of a Formal Notice, in compliance with the Streets & Highway Code the City needs to complete the repairs and consider cost recovery through a future public hearing.

This report also outlines the City's informal and formal sidewalk correction procedures, consistent with the Streets & Highways Code §§ 5610–5618 and §§ 5625–5629. If authorized, staff will initiate formal noticing, and, if necessary, complete the work and return to Council to affirm the costs and place liens on affected parcels. Funding for this work is proposed from the City's CIP Reserve account. All recovered costs will be returned to the reserve fund upon collection.

The City prioritizes voluntary compliance as the first step in addressing sidewalk deficiencies. Because the California Streets and Highways Code establishes specific procedures and timelines once a Formal Notice to Correct (NOC) is issued, the City

begins the process by issuing an Informal NOC. This report includes a table in the discussion portion of the report that compares the City process to what is required by the Streets & Highway Code. We are currently in Step 4 Council Authorization of this process.

## **DISCUSSION**

### **Background**

#### **Notice to Correct Process & Procedure**

The Streets Maintenance Program, part of the Public Works Department, is responsible for managing the City's Sidewalk Inspection Program, which includes proactive inspections across all pavement zones. The City is divided into nine pavement zones. Zones 1 through 8 are inspected on an approximately eight-year cycle, while Zone 9, which includes the downtown area, is inspected annually prior to the holiday season.

Staff inspects all sections of sidewalks within the public right-of-way in each zone and documents any identified damage. If the damage is caused by a City street tree, staff will complete temporary repairs to mitigate the hazard and plan for permanent repairs. If the damage is not caused by a City street tree, Streets Maintenance will, when conditions allow, perform temporary repairs to mitigate the hazard and issue an Informal Notice to Correct (NOC) to the adjacent property owner to ensure that a permanent repair is completed.

The Streets Superintendent uses the damage thresholds outlined in the [City's Sidewalk Inspection Program \(documented under Section II Sidewalk Review\)](#) to determine whether repairs or replacements are needed. In all cases, staff seeks to work collaboratively with property owners to achieve voluntary compliance. For minor damage, repairs may be sufficient to correct the defect; however, severely deteriorated sections—such as those shown in Figure 1—are beyond repair and must be replaced. The Superintendent of Streets is responsible for determining the appropriate level of repair or replacement, which is specified in Formal Notices to Correct.



### Sidewalk Inspection Action Thresholds

- Vertical displacements  $\frac{3}{4}$ " or greater
- Sidewalk slopes that exceed 5:1
- Cracks and holes with gaps of  $\frac{1}{2}$ " or greater

In addition to identifying sidewalk hazards through proactive inspections, the City also receives reports of sidewalk deficiencies through Ask SLO and similar community reporting tools.

The following procedure was developed by City staff in 2019 to standardize the informal notice process and encourage cooperation, avoid adversarial enforcement, provide flexibility and due process. The Informal NOC notifies the property owner of the relevant code requirements and their responsibility to correct conditions along the frontage of their property. The notice acknowledges that receiving such a letter may be unexpected and outlines the following recommended timeline for corrective action:

- **Within 30 calendar days:** Acknowledge receipt of the notice.
- **Within 60 calendar days:** Submit repair plans to the City for review and issuance of an encroachment permit.
- **Within 90 calendar days:** Obtain an encroachment permit.
- **Within 120 calendar days:** Complete the work to the satisfaction of the City.

The notice also recognizes that sidewalk repairs can be costly and invites property owners to propose alternate timelines for the City's consideration.

If a property owner does not respond to the notice or engage in the process within 180 days of receiving the first Informal Notice to Correct (NOC), a second Informal NOC will be issued. This second notice provides the property owner with a new deadline—no less than 90 days—to begin the required work.

If no action is taken within that timeframe, staff will seek City Council authorization to proceed with a Formal NOC. If the property owner demonstrates meaningful progress, the item will be removed from the Council agenda, and staff will continue working with the property owner to achieve voluntary compliance. If progress is not made, staff will present the specific sidewalk conditions to the City Council. The presentation also provides an opportunity for the property owner and the public to offer testimony. If the Council

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authorizes issuance of a Formal NOC, the California Streets and Highways Code (SHC) mandates that the property owner must begin the required work within 14 days after the first Formal NOC is served in accordance with Streets & Highways Code §§ 5611-5614.

If the work does not begin within that statutorily mandated 14-day timeframe, the City will complete the repairs and return to Council for a public hearing to affirm the costs and the recovery from the property owner (SHC §§5616-5618.) At that hearing, staff will present a report detailing the completed work, the total repair costs, the affected property, and the proposed assessment against the property owner to recover those costs. The Council may modify or confirm staff's report.

In accordance with SHC, if the City Council authorizes the assessment and the property owner does not pay within five days, a lien will be placed on the property following the procedures in [SHC §§ 5625–5627](#). Alternatively, the Council may choose to have the lien collected through the County as part of the property tax bill ([SHC § 5628](#)), or allow the property owner to repay the amount in up to five annual installments ([SCH § 5628.1](#)). These decisions are not required at this time and would be made later in the process, specifically during Steps 7 and 8 outlined below.

The table below shows the steps in the City process as compared to the requirements of the Streets & Highways Code.

Step	City of San Luis Obispo Process	Streets and Highways Code (SHC) Requirement
<b>1. Inspection</b>	Streets Maintenance Program inspects sidewalks proactively by zone (Zones 1–8 every 8 years, Zone 9 annually).	No requirement for proactive inspection. SHC is complaint-driven or based on observed conditions (SHC § 5611).
<b>2. Informal Notice to Correct</b>	First notice sent with voluntary timeline: - 30 days: Acknowledge notice - 60 days: Submit plans - 90 days: Obtain permit - 120 days: Complete work	Not required or defined in SHC. This is a <b>local best practice</b> to promote voluntary compliance before formal enforcement begins.
<b>3. Second Informal NOC</b>	If no action within 180 days, second notice issued with an additional 90-day deadline.	Not required in SHC. Again, this is a <b>City-added step</b> before triggering formal process.
<b>4. Council Authorization</b>	If still no response, staff seeks Council approval to initiate the formal SHC process.	SHC does not require Council authorization. Authority rests with Superintendent of Streets to issue notice (SHC § 5611).
<b>5. Formal Notice to Correct</b>	Send after Council approval. The notice must include repairs, method and materials required. A second notice must be sent	Required: - SHC §§ 5611–5614 Superintendent of Streets issues notice that must include repairs, method and materials required. A

Step	City of San Luis Obispo Process	Streets and Highways Code (SHC) Requirement
	out 7 days after the first notice. Work must commence within 14 days of the first notice.	second notice must be sent out 7 days after the first notice. Work must commence within 14 days of the first notice.
<b>6. City Performs Repairs</b>	Contractor the City selects completes the repairs. City tracks costs and prepares for cost recovery.	Allowed under SHC § 5615 if owner fails to act. The Superintendent of Streets completes the repairs directly.
<b>7. Hearing on Costs</b>	Public hearing before Council to present completed work and costs.	Required under SHC § 5616–5618. The City must notify the property owner and hold a hearing to confirm costs and allow for objections.
<b>8. Assessment &amp; Lien</b>	If unpaid after hearing: - Costs become a <b>special assessment and lien</b> . - May be added to tax rolls or paid in installments.	Required and detailed in SHC §§ 5625–5629: - Costs become a <b>special assessment and lien</b> .

It should be noted that the Steps shown in the table above are a combination of requirements of the SHC. Steps 1 through 4 are not required by the SHC or other applicable City codes or standards. The City prioritizes voluntary compliance as the first step in addressing sidewalk deficiencies. Because the SHC establishes specific procedures and timelines once a Formal Notice to Correct (NOC) is issued, the City begins the process by issuing an Informal NOC. We are currently in Step 4 Council Authorization of this process.

### Specific Locations

Issuing Notices to Correct (NOCs) falls within the scope of the Street Maintenance Program in the Public Works Department. During the 2023–24 fiscal year, the program faced staffing shortages, resulting in a backlog of unresolved NOC cases. With the program now fully staffed, staff resumed work on ten previously inactive cases in the fall of 2024. Of those, two have been resolved, and eight remain open as of the preparation of this report. It is important to note that all cases currently before the Council originated from community member complaints, not from proactive enforcement. All identified problems with the sidewalk are related to concrete failures. These concrete failures have displaced the sidewalk horizontally and vertically which create trip and fall risks for sidewalk users and increased liability concerns for the City. To mitigate this user risk and liability for the City the sidewalk must be replaced.

Attachment A provides detailed information for each outstanding NOC case, including photographs, a timeline of correspondence, and estimated replacement costs should Council authorize issuance of the formal NOCs and the property owners fail to take corrective action. In every case, property owners received at least two Informal NOCs



and supporting documentation via both certified and standard mail. Additionally, many property owners—or their representatives—have communicated with staff by phone or email, and some have met with staff on-site to discuss the conditions. On-site discussions included repair methods and limits, and reasoning for the determination. One of the property owners who met with staff objects to the determination and feels the sidewalk is not out of compliance and does not pose a safety risk. Another property owner stated the determination is subjective and not supported by data, or direct reference to applicable standards. Other property owners acknowledge the requirement and need but have had challenges obtaining a contractor or funding to complete the work. To date, three of the properties have been issued encroachment permits for the corrective work.

**Next Steps**

If the Council authorizes the staff recommendations, the next step will be to issue Formal Notices to Correct (NOCs) to all property owners who have not yet taken the required corrective actions. These notices will be delivered via certified and standard mail and will also be physically posted on the property. If work has not commenced within seven days of the first notice, a second Formal NOC will be issued.

In accordance with the [California Streets and Highways Code \(§ 5614\)](#), property owners have 14 days from the issuance of the first Formal NOC to begin the necessary work. If the work is not initiated within this timeframe, the City will proceed with repairs using its Job Order Contract (JOC) contractor, who was selected through the public bidding process.

For four of the eight properties, the sidewalk repairs involve shared approaches. In these cases, the repair estimates reflect the full cost of the shared work, with costs split between the adjacent properties. All estimates include a standard 15% contingency to account for unforeseen construction needs. Although shared, each site will be billed independently if work is performed by the JOC contractor.

Once the repairs are completed, staff will return to Council for a public hearing. At that time, staff will present a summary of the completed work, the cost of repairs, a description of the affected properties, and the proposed assessments for each parcel. The Council may modify or confirm staff's report of costs. The Council may then authorize staff to pursue cost recovery. If a property owner fails to pay the assessed amount, the Council may authorize placing a lien on the property in the amount of the unpaid costs, as discussed above.

**Public Engagement**

All impacted property owners have been sent multiple notices by standard and certified mail, email communication, and in some instances met with staff on-site.

**CONCURRENCE**

The recommended actions are supported by the Administration Department and the City Attorney's Office.

## ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) does not apply to the recommended action in this report, because the action does not constitute a "Project" under CEQA Guidelines Section 15378.

If the City chooses to move forward with replacement of sidewalks as recommended by this report, the work would be categorically except from CEQA under CEQA Guidelines Section 15301 (maintenance or repair of existing public or private structures involving negligible or no expansion of existing or former use) and Section 15304 (minor alteration to land involving minor trenching and backfilling where the surface is restored.)

## FISCAL IMPACT

Budgeted: No

Budget Year: 2024-25

Funding Identified: Yes

### Fiscal Analysis:

Funding Sources	Total Budget Available	Current Funding Request	Remaining Balance	Annual Ongoing Cost
General Fund	\$331,377	\$178,102	\$153,275	\$0
State				
Federal				
Fees				
Other:				
<b>Total</b>	<b>\$331,377</b>	<b>\$178,102</b>	<b>\$153,275</b>	<b>\$0</b>

Staff is recommending funding this work using the CIP Reserve account. The current balance of the CIP Reserve account is \$331,377, and the cumulative cost to complete the work at all locations is \$178,102, leaving a balance of \$153,275 in the CIP Reserve account. If Council authorizes staff to pursue cost recovery at the future second public hearing, all recovered costs would be returned to the CIP Reserve account upon collection.

## ALTERNATIVES

***Council could direct revisions to the informal NOC process.*** Staff welcomes Council's input and direction on this process.

***Council could decide not to authorize issuance of formal NOCs.*** Council could direct staff to continue working with property owners to obtain voluntary compliance. As seen in



Attachment A, staff have been working with many of the property owners since 2023 (in one case, since 2021) and have been unable to obtain voluntary compliance.

***Council could decide not to authorize use of CIP reserve funds to complete the repairs if owners fail to do so.*** Once the formal NOC is issued under the SHC, the City is required to complete the necessary repairs/replacement if the owners fail to do so. Other than the CIP reserve, no other funding source has been identified for completing this work. If Council does not approve of the use of CIP reserves staff would review other projects to determine if this need is a higher priority and return to Council with a different funding recommendation.

***The Council may direct staff to complete curb, gutter, and sidewalk replacement outside the process outlined in the Streets and Highways Code.*** Under this approach, staff would continue to coordinate with property owners to schedule the necessary work. The City would hire a contractor to perform the replacements and cover the full cost of construction. Property owners would not be required to contribute funding, and no further Council action would be needed. However, this approach could reduce future voluntary compliance from property owners with deficient sidewalks and may lead to increased long-term maintenance costs for the City.

## **ATTACHMENTS**

- A – NOC Location Specifics and Timelines
- B – Streets and Highway Code
- C – Draft Resolution Authorizing Informal and Formal NOC Process
- D – Draft Resolution Authorizing Staff to Issue Formal NOCs
- E – Costs and Correspondences for 360 Chorro St
- F – Costs and Correspondences for 368 Chorro St
- G – Costs and Correspondences for 3195 S. Higuera
- H – Costs and Correspondence for 878 Islay
- I – Costs and Correspondences for 859 Mission St
- J – Correspondences with 867 Mission St
- K – Correspondences with 875 Mission St
- L – Correspondence with 1543 Morro St