

# City of Calistoga

## Staff Report

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**TO:** Honorable Mayor and City Council  
**FROM:** Dan Takasugi, Public Works Director  
**DATE:** September 6, 2011  
**SUBJECT:** Discuss and provide direction regarding a Phased Approach to Inspection and Repair of Sidewalk Trip Hazards throughout the City

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**APPROVAL FOR FORWARDING:**

  
Richard D. Spittler, City Manager

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2 **ISSUE:** Discuss and provide direction regarding a Phased Approach to Inspection and  
3 Repair of Sidewalk Trip Hazards throughout the City.

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5 **RECOMMENDATION:** Discuss and provide direction.

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7 **BACKGROUND:**

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9 The California Street and Highways Code, under Section 5610-5618 (Attachment B), and  
10 the City Municipal Code Section 12.10.020 (Attachment C) place responsibility on the  
11 abutting property owner for maintaining in safe condition the sidewalk fronting or adjacent  
12 to their property. Historically, the City of Calistoga has enforced the sidewalk repair  
13 ordinance by complaint only. The City has not actively inspected sidewalks for trip  
14 hazards.

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16 Sidewalk trip hazards may vary from small cracks to abrupt edges. Repair costs vary  
17 considerably from one type of trip hazard to another. Once a complaint is received by the  
18 City, a code enforcement letter is sent to the abutting property owner, directing a timely  
19 repair in accordance with Code Section 12.10.020. The enforcement action is typically not  
20 well received and enforcement may require significant staff time and attention.

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22 The City has been drawn into litigation on several trip-and-fall injury cases due to sidewalk  
23 trip hazards. Staff has relied upon City Municipal Code 12.10.030, which places the liability  
24 for injuries related to sidewalk maintenance upon the abutting property owner. Regardless  
25 of whether or not the City has any shared liability in such injury cases, a considerable  
26 amount of legal fees and staff-time are consumed in defending the claims and litigation.

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28 Due to the number of reported "trip and fall" claims in the City these past years, PARSAC,  
29 the City's self-insurance authority, has notified the City that it needs to take immediate  
30 steps to put a program in place for sidewalk inspection to reduce our liability. This process  
31 presumes that we follow up with some type of enforcement action or repair program.

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**DISCUSSION:**

To take on a City-wide sidewalk inspection program will require trip hazard inspection by a qualified contractor and preparation of a report that will indicate where the trip hazards exist. There is concern that this type of report may expose the City to “constructive notice” on possibly hundreds of sidewalk trip hazards, which may increase our liability. Code enforcement letters would need to be sent to abutting property owners, requiring them to make timely repairs to their sidewalks. If the property owners do not make such repairs, then California Streets and Highway Code Section 5614 directs the Public Works Department to make such repairs and place a lien on the property for the cost of the repair.

To avoid the City-wide sidewalk inspection scenario described above, staff proposes a phased inspection and repair program, with a cost share component. Such a phased program is conceptually planned over a period of 4 years, but could take longer depending upon the extent of trip hazards discovered and the degree to which abutting property owners choose to participate in the cost share component. A map of the inspection and repair sectors is shown on Attachment A. Conceptually, one sector would be inspected each of the next 4 fiscal years.

Sectors were selected and prioritized on the basis of several factors, including:

- Proximity to downtown
- More heavily used walking routes
- Proximity to schools
- Age of sidewalk infrastructure

The inspection and repair program would follow the following general steps within each sector:

- a. Sidewalks within a sector will be inspected by a qualified inspection contractor. During that inspection, small trip hazards, less than 1.75-inches in maximum height, will be repaired at City cost.
- b. The inspection contractor will provide a detailed written itemization of trip hazards greater than 1.75-inches in maximum height within that sector, but will not make those repairs. Trip hazards of this larger size typically require the sidewalk to be removed and replaced.
- c. The City Public Works Department will issue written notice to those abutting property owners for the larger trip hazards, and offer a 50/50 cost-share (up to a cost limit) to complete the trip hazard repair.
- d. Abutting property owners who have been noticed for such larger trip hazards, will have the option of, (1) Performing the sidewalk repair themselves and not participating in the 50/50 cost-share, (2) Selecting their own contractor to perform the repair and submitting the invoice for a 50/50 cost-share reimbursement, or (3)

78 Partnering with a larger aggregated City sidewalk repair contract and receiving a  
79 50/50 cost-share for their specific sidewalk improvement cost. Note: The City  
80 repair contract would need to be performed under prevailing wages, and would  
81 likely nullify any economy-of-scale savings for the property owner. In all cases a  
82 City encroachment permit will be required.

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84 e. If the noticed abutting property owner does not choose to repair the trip hazard,  
85 then the City Public Works Department is obliged by the Streets and Highway  
86 Code to make the repair and charge all costs as a lien on the property.  
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88 Public Works staff desires to attain quality inspection and concurrent repair for the smaller  
89 trip hazards under 1.75-inches in height. After thorough research, staff has determined that  
90 a "saw cut" trip hazard repair method is preferable to a "grinding" method. Concrete  
91 grinding contractors have a wide variance in quality of performance. It would be very  
92 difficult for staff to specify and monitor the quality of trip hazard grinding. Furthermore,  
93 concrete grinding leaves a less aesthetic repair, and in certain cases may leave a trip  
94 hazard in place. On the other hand, saw cutting leaves a cleaner repair, has a reliable  
95 standard of quality, and can be more accurately sloped to meet ADA standards.  
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97 A contracting company, Precision Concrete Cutting (PCC), performs this saw cut repair  
98 method for over 30 Bay Area cities, including Santa Rosa, Rohnert Park, and American  
99 Canyon. Under the Uniform Construction Cost Accounting Procedures, and because of  
100 PCC's patented methods, the City can legally sole source their services up to \$35,000  
101 annually. Staff has determined that the cost per linear foot of trip hazard repair for PCC  
102 saw cutting (\$30 per inch-foot) is approximately the same, or possibly lower than the less-  
103 aesthetic grinding repair method cost. An "inch-foot" is equivalent to repairing a 1-inch high  
104 and 1-foot long trip hazard, or for example, a 0.5-inch high and 2-foot long trip hazard.  
105 PCC performs the sidewalk inspection of trip hazards as part of the scoping process to  
106 perform saw cut repairs. As such, trip hazard inspection is a minor cost element of the  
107 inspection and repair process. Therefore, Staff proposes using PCC to perform the  
108 inspection and repair of smaller trip hazards.  
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110 A small pilot project with PCC was performed in July 2011 to gauge their effectiveness and  
111 workmanship. A sampling of PCC's recent saw-cutting repairs can be seen around the  
112 Community Center and City Hall. An executive summary report of the pilot project in  
113 included as Attachment D.  
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115 While some municipalities will allow asphalt or grout repairs to sidewalk trip hazards, staff  
116 recommends against this practice. First, most trip hazards need to be feathered to nearly a  
117 "zero taper". This is difficult with asphalt or grout and cannot be expected to last for many  
118 years. Also, thin asphalt or grout is prone to breakage and spalling, which is unattractive in  
119 appearance and perpetuates the underlying trip hazard. Additionally, the better quality of  
120 asphalt is "hot mix", which must be obtained from either Napa or Santa Rosa. It is not  
121 typically sold in small batches, and is not often "hot" after being transported for such a  
122 distance in a small batch.  
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124 Funding for 50/50 cost shares will be disbursed on a first-come, first-served basis. Until the  
125 trip hazard inspection for a particular year's sector is complete, it will be difficult to know  
126 whether funding will be available for all. However, requested cost-share reimbursements  
127 are proposed to be provided on the next available budget appropriation for this purpose.  
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129 While staff desires that all property owners will choose the 50/50 cost-share for larger trip  
130 hazards, it is likely that some will not comply. For those trip hazard repairs on "non-  
131 compliant" properties, staff proposes to issue one aggregated contract to make such  
132 repairs, itemizing the costs for each repair. The City may not have adequate budget to  
133 fulfill their obligation to make repairs and then lien the noticed property. Therefore, some  
134 lower priority trip hazard repairs may need to wait until the following fiscal year, when new  
135 funding can be budgeted.  
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137 Staff proposes to issue a \$25,000 contract to PCC to perform inspection and saw cutting  
138 repair of trip hazards in "Sector A" during the fall of 2011. The remainder of available  
139 budget will be used to fund 50/50 cost-shares with property owners for larger trip hazards,  
140 fund City-owned sidewalk repairs, and fund the cost to effect repairs of large trip hazards at  
141 non-compliant properties. Staff is also investigating the use of Community Development  
142 funding (formerly CDBG grant funds) to lower repair expenses for low-income residents.  
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144 If this conceptual approach, to sidewalk trip hazard inspection and repair, is acceptable to  
145 Council, then staff will prepare a policy issue for Council deliberation in the near future.  
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147 **FISCAL IMPACT:**  
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149 The sidewalk trip hazard inspection and repair program is budgeted for \$60,000 in  
150 FY11/12. Of that amount, \$8,000 is anticipated to be provided in a grant from the City's  
151 insurance provider, PARSAC.  
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153 The staff administration of the inspection and repair contract, the code enforcement, the  
154 cost-share program, and administering tax liens on non-compliant properties, is expected to  
155 impose a substantial staff time burden on City departments.  
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157 **ATTACHMENTS:**  
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- 159 A. Map of Phased Sidewalk Trip Hazard Inspection and Repair Program
- 160 B. Copy of California Street and Highways Code Section 5610-5618
- 161 C. Copy of City of Calistoga Municipal Code Section 12.10
- 162 D. Executive Summary of PCC Pilot Saw Cutting Project in July 2011