

CITY OF OAKLAND
AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2008 OCT 16 PM 6:35

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Community and Economic Development Agency
DATE: October 28, 2008

RE: **Resolution Establishing A Five-Year Prioritization Plan For The City Of Oakland's Sidewalk Repair Program And Allocating Sidewalk Repair Funds for Specific Categories Of Repair Each Year**

SUMMARY

A report was presented to the Public Works Committee and to the City Council in March 2008. That report provided a summary of the Citywide Sidewalk Condition Survey, and recommended policy changes needed to implement a comprehensive program for improving Oakland's sidewalks. Council approved a revolving fund in the amount of \$300,000.00 to enable staff to enforce private sidewalk damage repairs, and directed staff to prepare a detailed sidewalk prioritization plan and provide a further status report on the revolving fund. This report is in response to those directions.

This report recommends adoption of a resolution providing policy guidance for prioritizing expenditures of City sidewalk repair funds. The recommended policy for expending available sidewalk repair funding will provide the following:

- Responsiveness to the citizen demand for sidewalk repairs where pedestrian activity is highest;
- Compliance with the ADA requirements by selecting repair locations in a manner that supports a transit-oriented pedestrian plan and the ultimate development of accessible paths of travel for persons with disabilities;
- Reduction in the City's liability from trip and fall claims.

The proposed policy is corridor based and necessary in order to proactively address sidewalk damage along paths of travel with the highest pedestrian traffic. A recommended 5-year operational plan for FY 08-13 is presented as *Attachment A*. This report also provides the status of a revolving fund that was established earlier this year to effect private sidewalk damage repairs.

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FISCAL IMPACT

There is no direct fiscal impact to this report and resolution. The proposed resolution adopts a policy for prioritizing future sidewalk repair expenditures. The report discusses the overall extent of sidewalk damage citywide and cost to repair damage. It is estimated that at the current funding level, it will take about 35 years to correct the sidewalk damage unless additional funding is dedicated or if the City's responsibility to repair damage caused by trees is transferred to other parties. Even with additional funding, sidewalk repair is an ongoing effort, necessary to reduce liability and enhance the livability of Oakland.

Private damage is the responsibility of the property owner in accordance with State law and the Oakland Municipal Code. The \$300,000.00 revolving fund will be utilized to enforce private sidewalk damage repair.

BACKGROUND

Sidewalk Damage Condition: In 2006, the City completed a comprehensive sidewalk survey. The survey showed that approximately 84% of the sidewalks in Oakland are in satisfactory condition and only 16% are damaged. Under Section 12.04 of the City of Oakland Municipal Code and according to California Streets and Highways Code Sections 5600-5602, the fronting property owners are responsible for maintaining sidewalks and repairing damages¹. The majority of sidewalk damage (68%) is determined to be private damage. Just 32% of damage is attributed to trees—both official City trees and non-official private trees².

A sidewalk liability ordinance is being proposed by the City Attorney's Office, and will be presented to the City Council in a separate report. If Council enacts the sidewalk liability ordinance, the fronting property owners would be jointly liable for injury to persons and property resulting from sidewalk damage. The benefits of this will be discussed in that report.

Sidewalk Damage Cost: The estimated cost to repair all damaged sidewalks is approximately \$88 million. Approximately \$28 million of this repair cost is related to City tree damage. The remaining \$60 million in required repairs, due mostly to old age and deterioration, is considered to be the responsibility of the private property owners.

Sidewalk Repair Program Funding: The current funding level for sidewalk repair is \$790,000.00 per year. Funding sources typically include the Alameda County Transportation Improvement Agency (ACTIA) Funds (2211), and Measure B-Bicycle/Pedestrian Pass through Fund (2212). The following table summarizes funding over the past 5 years.

¹ Private sidewalk damage has significant implications in the development of the proposed approach to repairing identified damages because it illustrates the need to work collaboratively with private property owners to address the private damage throughout the City.

² The sidewalk survey also included a tree inventory survey. It counted approximately 42,661 "tree point" locations-- 38,416 actual trees, and 4,245 empty tree well locations. Information collected includes tree species, size and condition.

Table 1. Historic Sidewalk Repair Funding

<i>Fund</i>	<i>FY04-05</i>	<i>FY05-06</i>	<i>FY06-07</i>	<i>FY07-08</i>	<i>FY08-09</i>
Traffic Safety			\$400,000		
ACTIA (2211)	\$500,000	\$549,234		\$450,000	\$450,000
Measure B (2212)	\$225,000	\$250,000	\$250,000	\$340,000	\$340,000
Totals	\$725,000	\$799,234	\$650,000	\$790,000	\$790,000

The projected sidewalk repair funding for the next 5 years is as follows:

Table 2. Projected Sidewalk Repair Funding

<i>Fund</i>	<i>FY09-10</i>	<i>FY10-11</i>	<i>FY11-12</i>	<i>FY12-13</i>	<i>FY13-14</i>
ACTIA	\$450,000	\$450,000	\$450,000	\$450,000	\$450,000
Measure B	\$340,000	\$340,000	\$340,000	\$340,000	\$340,000
Totals	\$790,000	\$790,000	\$790,000	\$790,000	\$790,000

Sidewalk Repair Program Timeline: The above funding is proposed to be dedicated to repair damages that are the City's responsibility. At this funding level, it will take at least 35 years to repair all damaged sidewalks that are the City's responsibility.

KEY ISSUES AND IMPACTS

As the extent of sidewalk damage in Oakland far exceeds the available funding levels, it is critical that a prioritized expenditure plan is implemented to provide the most optimal use of the limited dollars. The plan will not expedite the repair cycle; however, it will ensure that all available dollars are spent judiciously and prudently. In order to achieve this, the following objectives must be addressed:

- Responsiveness to the citizen demand for sidewalk repairs where pedestrian activity is highest.
- Compliance with the ADA requirements by selecting repair locations in a manner that supports a transit-oriented pedestrian plan and the ultimate development of accessible paths of travel for persons with disabilities;
- Reduction in the City's liability from trip and fall claims.

The proposed approach will bring a comprehensive method of dealing with all sidewalk repairs whether City or private owner responsibility. Under the plan, the City can effectively enforce private sidewalk damage repairs within selected corridors concurrent with the City's work. This also means that the economy of scale will benefit property owners by providing cost savings to

property owners to fix their sidewalks simultaneously. This approach will also minimize construction disruptions to neighborhoods, while improving the overall sidewalk construction standards and has proven effective in other communities. An effective outreach program will be needed to notify impacted property owners of the proposed program.

A. Sidewalk Repair Prioritization Policy:

Staff carefully considered the factors related to use of sidewalks, potential liability and other factors and recommends adoption of a formal policy to prioritize citywide sidewalk repairs based on corridor selections, a coordinated and proactive approach, that will be implemented according to the following priorities:

Tier Number 1: Transit streets and corridors with transit centers in the following order of priority:

1. Regional transit streets;
2. Transit centers;
3. Local transit streets.

Tier Number 2: Corridors with the highest density of public facilities in the following order of priority:

1. City buildings (city offices, museums, libraries, senior centers, recreation centers, fire stations, etc.)
2. State and county buildings, including county medical centers;
3. Schools (community colleges; high school, junior high and elementary school programs with magnet programs for children with disabilities; and all other public schools);
4. Large public housing (OHA) sites and critical homeless services;
5. City parks and open space.

Tier Number 3: Corridors with the highest density of privately owned public accommodations in the following order of priority. Zoning designations are per the City of Oakland General Plan and Zoning Map, January 2008:

1. Commercial zoning areas (C1-xx) and Kaiser (KX) — (with an emphasis on doctor, medical and health offices; service sites of disability organizations; and major employment sites);
2. Special zoning areas limited to medical centers not listed above (S1); transit oriented development (S15); and housing and business mix (HBX1-3);
3. Medium to high density housing and high rise apartments (R50 – R90);
4. Other public accommodations.

Priority Number 4: Locations that do not fall into any of the above groups including, but not limited to, other residential areas.

Based on the available funding as shown in Table 2 above, a recommended operational model for the next 5 years is presented in *Attachment A*. The 2006 sidewalk condition survey was used to identify damage locations and the severity of damage. These data were used in determining how sidewalks would be prioritized for repair. Those sidewalk locations with the greatest number of pedestrian traffic and within tier one were ranked with the highest priority.

B. Sidewalk Repair Expenditure Policy

Staff recommends adoption of a formal policy to expend available citywide sidewalk repair funds according to the following target percentages:

- 65% on prioritized corridors
- 20% on selected low-priority repairs (residential areas)
- 15% on mitigating ADA complaints and trip and fall claims

Based on this recommendation, a target of 65% of the available funds will be used for prioritized corridors. For the next 5 years, the operational model as shown in *Attachment A* will be used. A target of 20% of the available funds will be utilized for low-priority locations in coordination with request from the City Council and the community. The remaining 15% will be used to mitigate ADA complaints and trip and fall claims in coordination with the Office of the City Attorney and the City Administrator's ADA Programs Division.

Under these recommended allocations, it will take five years, at an average of 125 locations per year, to complete repair of all the sidewalk damage within Tier 1 areas. This will enable the City to use available funds on the remaining priorities. Also, this is consistent with the ADA transition plan requiring repair of sidewalk damage in areas with highest pedestrian traffic to comply with the law, and reduce City's trip and fall claims. Also, during the repair of the sidewalk damage within the transit corridors some sidewalk damage in the residential areas will be captured.

Cost Sharing Option: As noted in this report, the City's current sidewalk repair backlog is approximately \$28 million. This backlog includes repair requests from many properties that have a long history over the past years. Unfortunately, under the current funding level and with the above prioritization criteria most of those locations and similar future requests will be non-priority and thus the City will be unable to respond in a timely manner. Therefore, for those non-priority locations, the City may want to establish a special fund and offer a cost-sharing program to the property owners to expedite their requests. If directed, staff can develop this option fully, identify funding sources, and bring forward a recommendation for consideration at a later date.

Revolving Fund Status: On March 18, 2008, the City Council approved a revolving fund in the amount of \$300,000.00 to allow staff to enforce private damage sidewalk repairs effectively. The Council also authorized the City Administrator to appropriate any funds received from the private property owners to pay for sidewalk repairs.

Since the approval of the revolving fund, staff has sent 133 sidewalk repair notices to property owners over the past 6-month period. About 25% of property owners have voluntarily made the needed repairs. The remaining 75% are currently undergoing abatement processes. Staff will continue to work with property owners to correct the damaged sidewalks. If the property owners fail to comply, the City will make the necessary repairs and place a lien on the properties for the costs incurred including an administrative fee. A City Council action is required to place a lien on a property. It takes about 3 months to complete an average abatement process.

A typical sidewalk repair cost for a property owner is approximately \$3,000.00. The collection of liens against properties is mostly successful at the time of property sale or change of title. Often a property's title will remain unchanged for many years resulting in delayed recovery rates of the costs incurred by the City. Staff is discussing methods to encourage compliance with sidewalk repair notices with other cities.

The total amount spent from the revolving fund to-date is \$9,154.00.

SUSTAINABLE OPPORTUNITIES

Economic: In general, sidewalks in good condition enhance the vitality of neighborhoods. Repair of the sidewalks will enhance the aesthetics of the commercial and residential corridors and result in higher property values.

All construction contracts require the payment of prevailing wages. The sidewalk contracts will offer employment to Oakland citizens and contribute to an increased quality of life. Project funds will be used within the community and assist in stimulating the economic base. Construction contracts require 50% of the work hours be performed by Oakland residents and 50% of all new hires be Oakland residents.

Environmental: The contractor will recycle removed concrete and asphalt to the extent possible. Removed trees and spurned tree roots will be taken to a green waste recycling center.

Social Equity: Targeted improvements to the City's sidewalk network will promote equal access for all pedestrians and encourage use of public transit, especially by frail seniors and people with disabilities.

DISABILITY AND SENIOR CITIZEN ACCESS

Sidewalk repair and installation of curb ramps will improve pedestrian access for frail seniors and people with disabilities. The sidewalk repair program prioritization criteria proposed herein

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was developed in cooperation with the City Americans with Disabilities Act (ADA) Coordinator. Pursuant to Barden v. Sacramento, the ADA transition plan requirement now extends to sidewalk barrier removal. Accordingly, the City is cataloging, prioritizing, and scheduling improvements necessary to ensure equal access for pedestrians with disabilities. Sidewalk repair is the most critical element of the ADA transition plan sidewalk part.

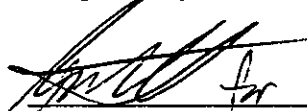
RECOMMENDATION AND RATIONALE

Staff recommends that the City Council accept this report and approve the sidewalk repair prioritization and expenditure policies proposed herein. These sidewalk repair prioritization and expenditure policies take a comprehensive approach to improving the City's pedestrian corridors, balancing expenditures between paths of travel with the highest pedestrian traffic, residential areas, and areas that are the subject of trip and fall or ADA claims. With this action, the City Council will ensure that the City fulfills its legal mandates while continuing to be responsive to resident demand for sidewalk repair.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council accept this report and approve the resolution.

Respectfully submitted,



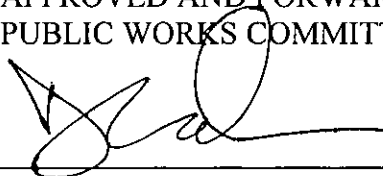
Dan Lindheim, Director
Community and Economic Development Agency

Reviewed by:
Michael Neary, P.E., Deputy Director, CEDA
Department of Engineering and Construction

Reviewed by:
Christine Calabrese, ADA Coordinator
Office of the City Administrator

Prepared by:
Marcel Uzegbu P.E., Supervising Civil Engineer
Engineering Design & R.O.W. Management Division

APPROVED AND FORWARDED TO THE
PUBLIC WORKS COMMITTEE:



Office of the City Administrator

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ATTACHMENT A

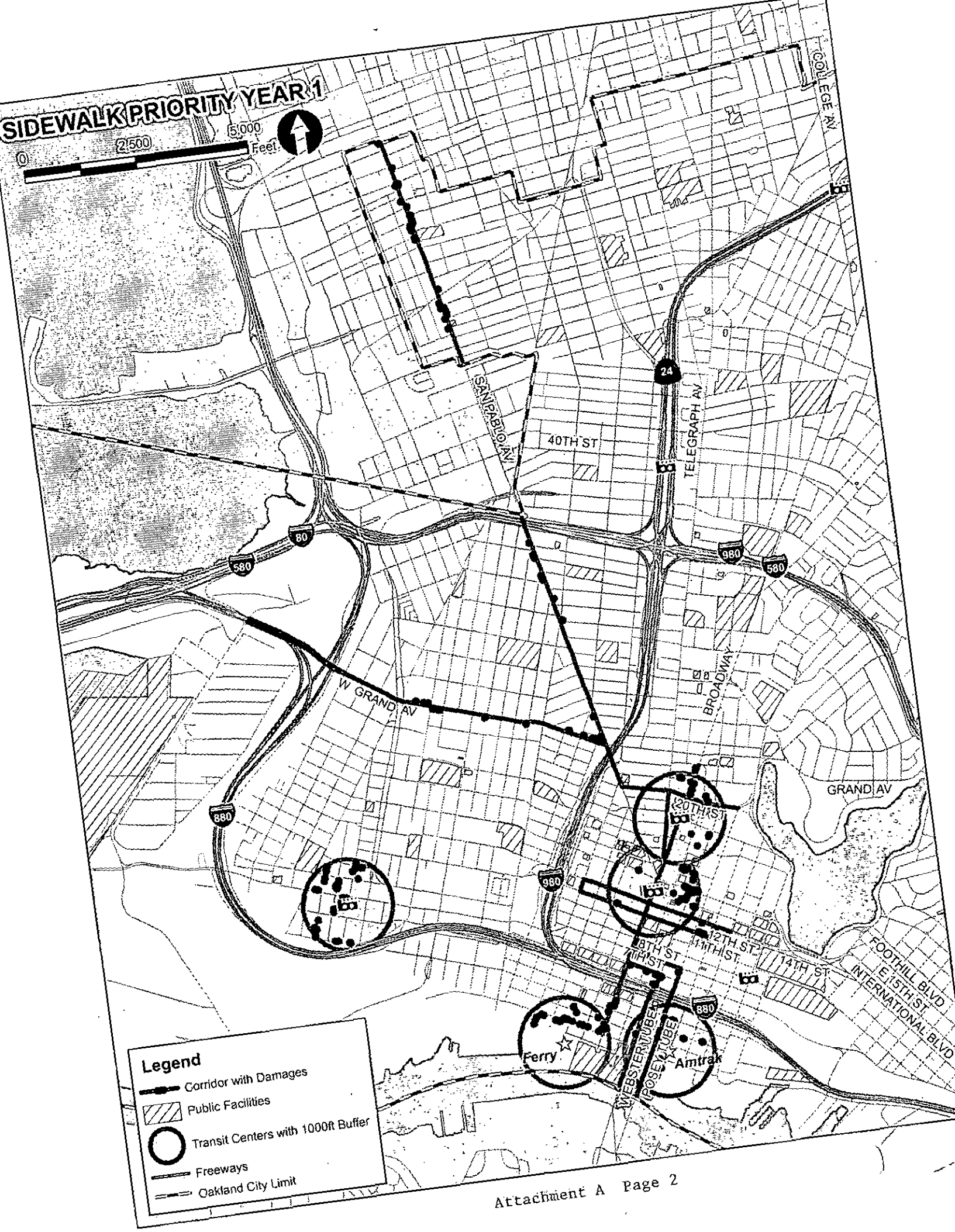
PRIORITY YEAR**	CORRIDOR DESCRIPTION	TREE DAMAGE SEVERITY 1-2	TREE DAMAGE SEVERITY 3-4	TOTAL DAMAGE	ESSENTIAL FACILITIES	CITY, COUNTY, STATE OFFICES	OTHER FACILITIES, SCHOOLS, HOSPITALS ETC	PRIVATE DAMAGE SEVERITY 1-2	PRIVATE DAMAGE SEVERITY 3-4	NUMBER OF TRANSIT CENTERS
3	Telegraph - Broadway - College - 40th St - MacArthur & Rockridge BART	7,723 sq ft	17,305 sq ft	25,028 sq ft	21	10	11	84,153 sq ft	37,944 sq ft	2
2	MacArthur - 23rd Ave - Foothill - Bancroft - upper 73rd	7,143 sq ft	17,083 sq ft	24,226 sq ft	22	13	9	104,445 sq ft	51,805 sq ft	0
5	Outer International Blvd - lower 73rd Ave - Hegenberger	11,871 sq ft	11,605 sq ft	23,476 sq ft	14	11	3	97,457 sq ft	36,947 sq ft	2
4	Grand - Park - 35th Ave - inner MacArthur, E 14th, 15th, 16th - Lake Merritt BART	13,276 sq ft	10,804 sq ft	24,080 sq ft	35	28	7	134,386 sq ft	33,491 sq ft	1
1	San Pablo - W Grand - 12th St, 19th St, W Oak BART, Ferry, Amtrak	10,165 sq ft	11,476 sq ft	21,641 sq ft	33	31	2	126,290 sq ft	37,766 sq ft	5

SIDEWALK PRIORITY YEAR 1

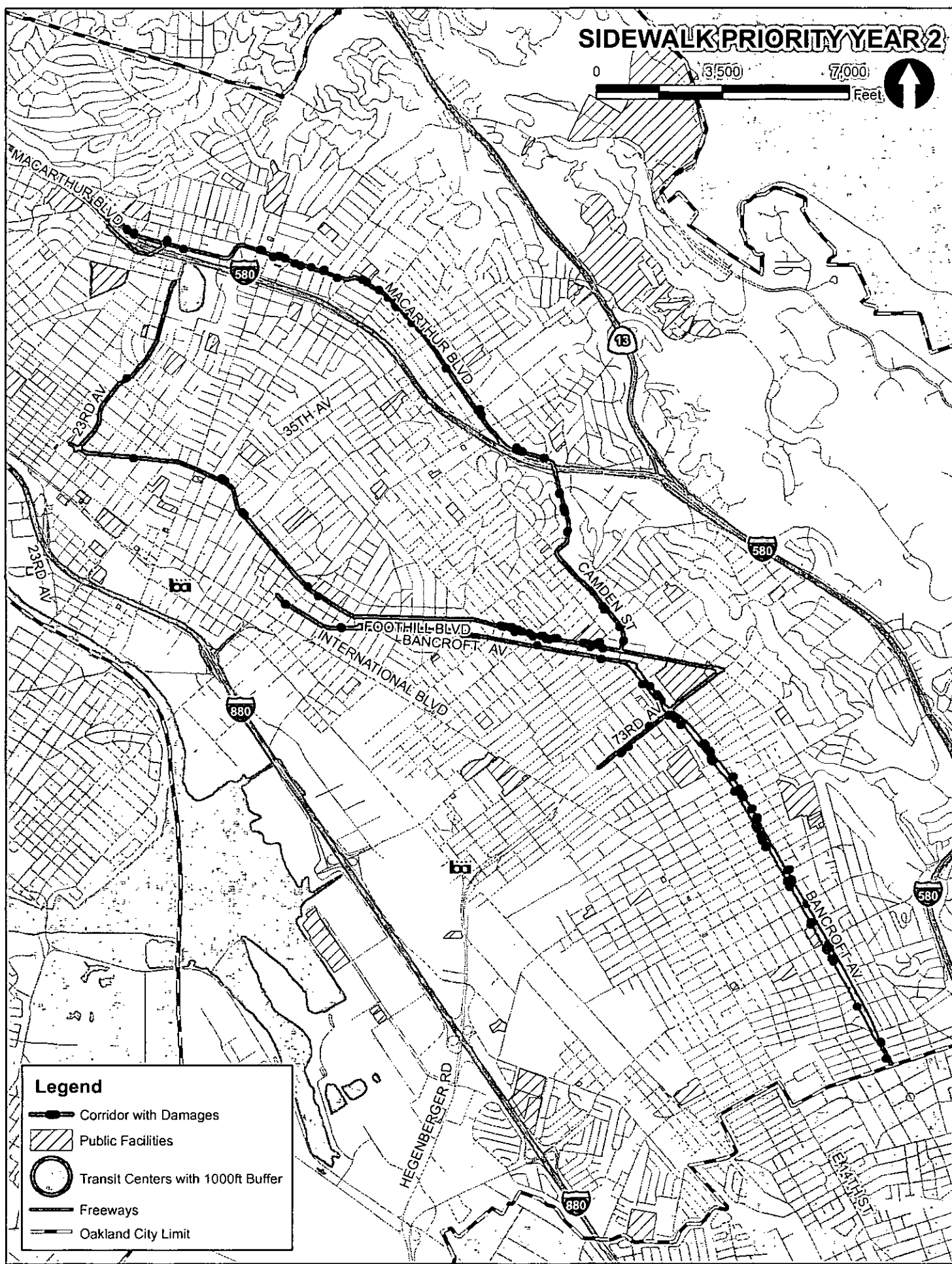
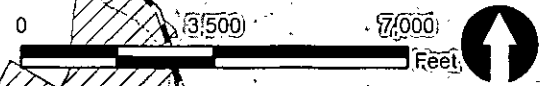


Legend

- Corridor with Damages
- Public Facilities
- Transit Centers with 1000ft Buffer
- Freeways
- Oakland City Limit



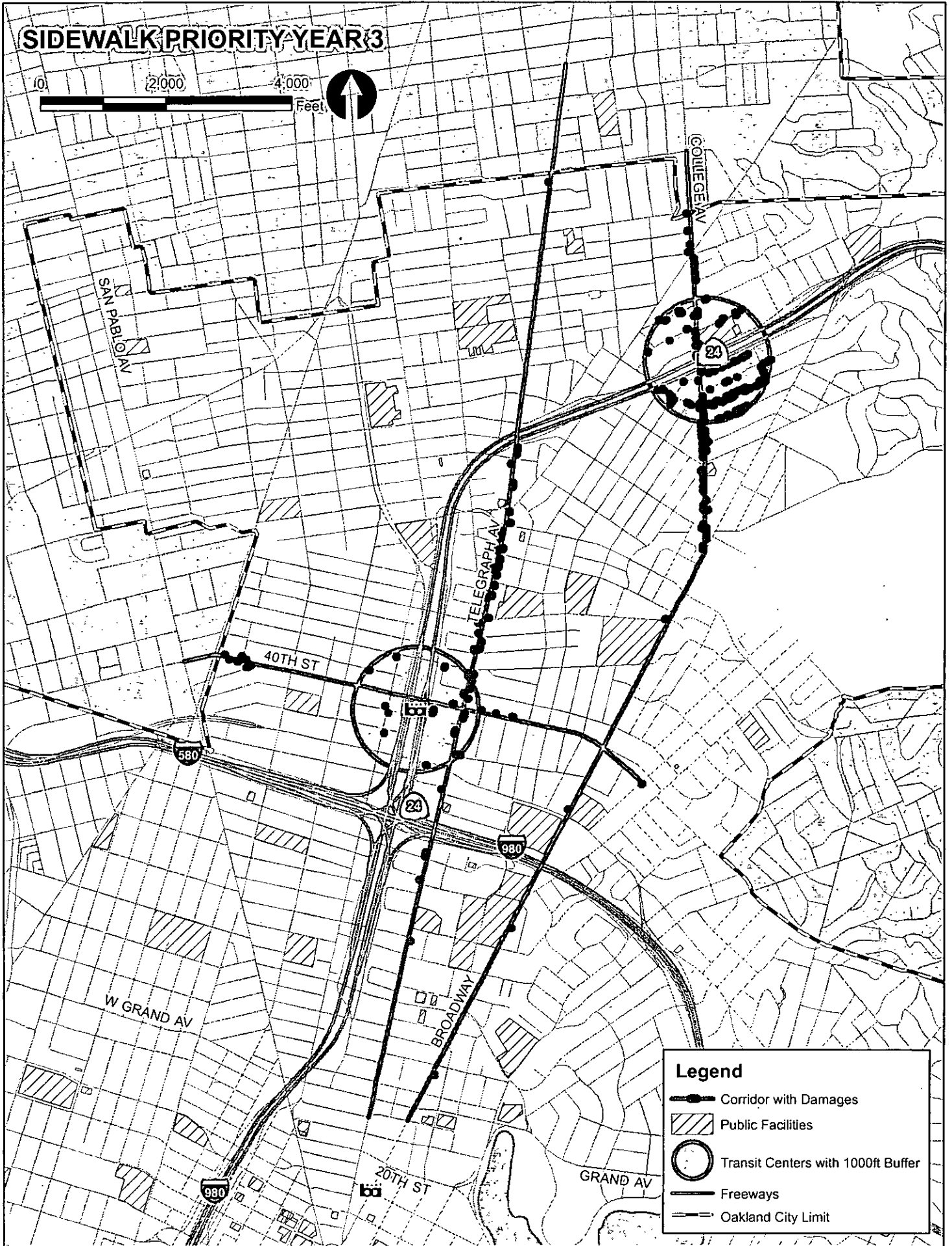
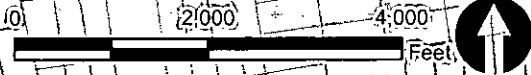
SIDEWALK PRIORITY YEAR 2



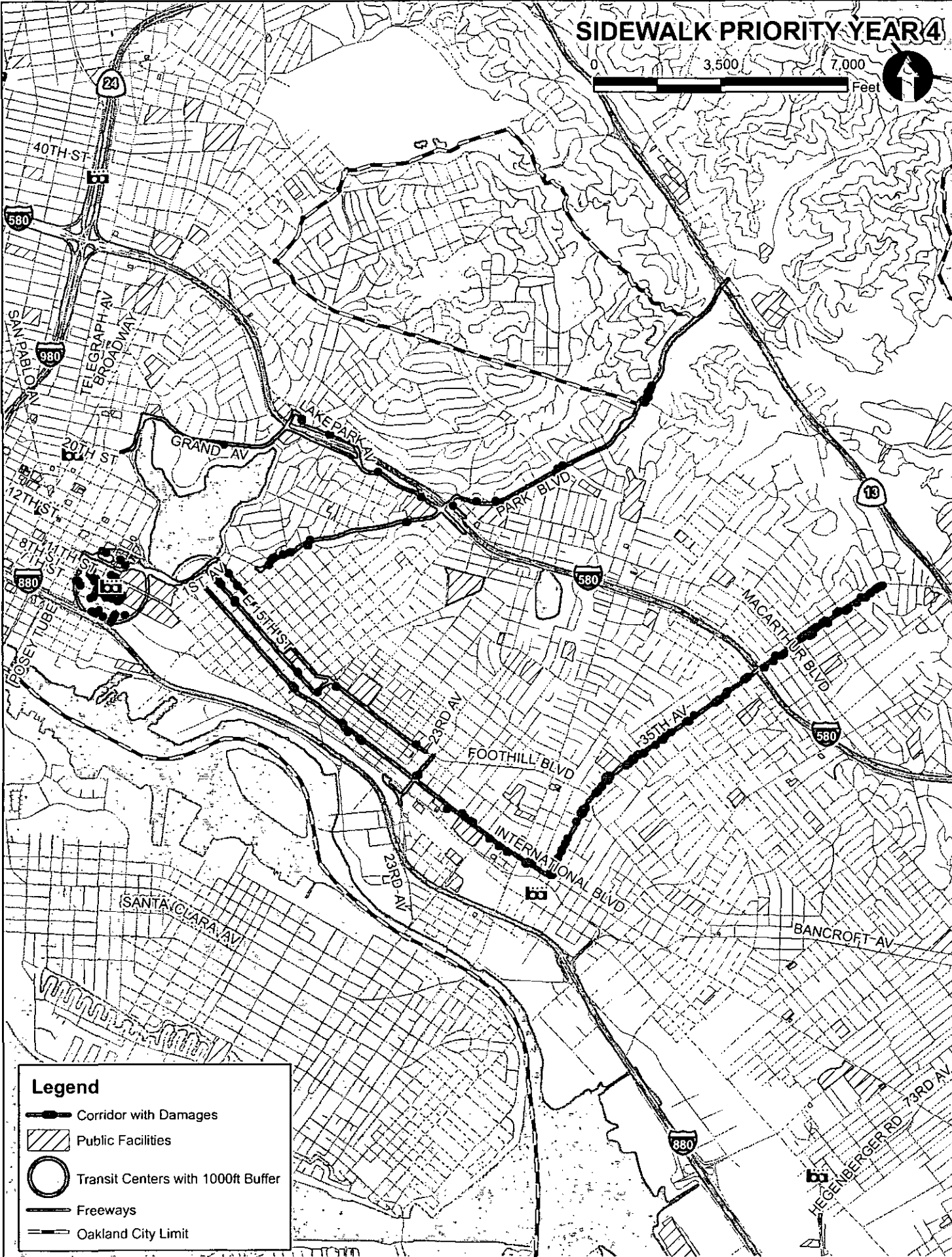
Legend

- Corridor with Damages
- Public Facilities
- Transit Centers with 1000ft Buffer
- Freeways
- Oakland City Limit

SIDEWALK PRIORITY YEAR 3



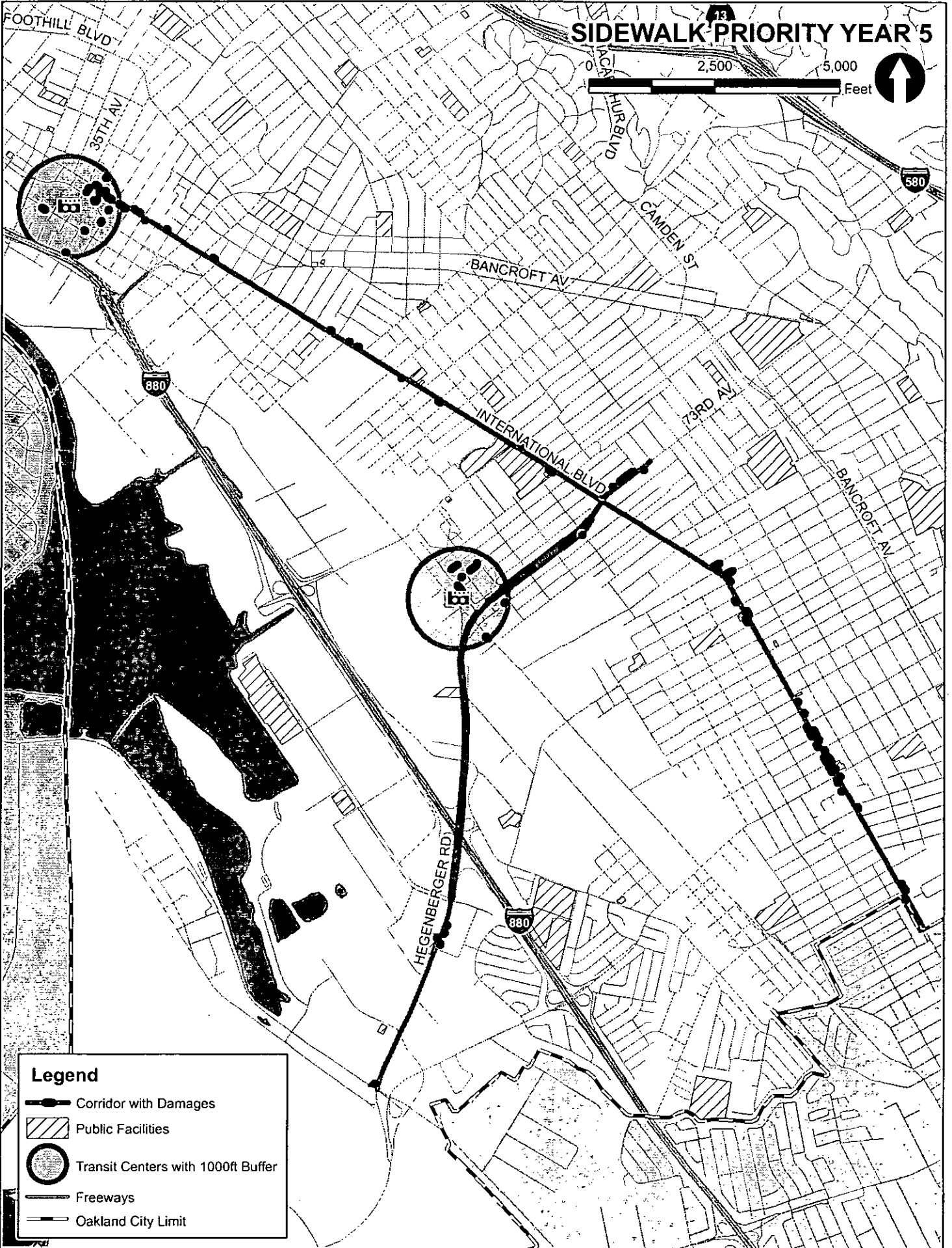
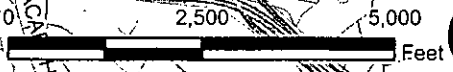
SIDEWALK PRIORITY YEAR 4



Legend

- Corridor with Damages
- Public Facilities
- Transit Centers with 1000ft Buffer
- Freeways
- Oakland City Limit

SIDEWALK PRIORITY YEAR 5



Legend

- Corridor with Damages
- Public Facilities
- Transit Centers with 1000ft Buffer
- Freeways
- Oakland City Limit

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OAKLAND CITY COUNCIL

Approved as to Form and Legality


City Attorney

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION ESTABLISHING A FIVE YEAR PRIORITIZATION PLAN FOR THE CITY OF OAKLAND'S SIDEWALK REPAIR PROGRAM AND ALLOCATING SIDEWALK REPAIR FUNDS TO SPECIFIC CATEGORIES OF REPAIR EACH YEAR

WHEREAS, the City of Oakland's sidewalk infrastructure is considered a significant asset that impacts the quality of life for those who live and work in Oakland; and

WHEREAS, the City of Oakland completed a citywide sidewalk condition survey in 2006 to plan its citywide sidewalk repair program; and

WHEREAS, the City of Oakland has limited financial resources to fund its citywide sidewalk repair program; and

WHEREAS, the anticipated annual funding level for citywide sidewalk repair for the City of Oakland is estimated to be approximately \$700,000.00 over the next five (fiscal years beginning in Fiscal Year 09/10; and

WHEREAS, the City of Oakland has established criteria to be used to prioritize corridors proposed for citywide sidewalk repairs based on the following:

Tier Number 1: Transit streets and corridors with transit centers in the following order of priority:

1. Regional transit streets;
2. Transit centers;
3. Local transit streets.

Tier Number 2: Corridors with the highest density of public facilities in the following order of priority:

1. City buildings (city offices, museums, libraries, senior centers, recreation centers, fire stations, etc.)
2. State and county buildings, including county medical centers;
3. Schools (community colleges; high school, junior high and elementary school programs with magnet programs for children with disabilities; and all other public schools);
4. Large public housing (OHA) sites and critical homeless services;
5. City parks and open space.

Tier Number 3: Corridors with the highest density of privately owned public accommodations in the following order of priority. Zoning designations are per the City of Oakland General Plan and Zoning Map, January 2008:

1. Commercial zoning areas (C1-xx) and Kaiser (KX) — (with an emphasis on doctor, medical and health offices; service sites of disability organizations; and major employment sites);
2. Special zoning areas limited to medical centers not listed above (S1); transit oriented development (S15); and housing and business mix (HBX1-3);
3. Medium to high density housing and high rise apartments (R50 – R90);
4. Other public accommodations.

Priority Number 4: Locations that do not fall into any of the above groups including, but not limited to, other residential areas.

WHEREAS, the above prioritization criteria is intended to conform with the requirements of the Americans with Disabilities Act (ADA), reduce the City's liabilities from ADA complaints and trip and fall claims; and respond to the citizen demand for sidewalk repairs where pedestrian activity is highest; now, therefore be it

RESOLVED: That, in order to optimize resources to the extent possible, the City adopts and will use the above criteria to prioritize citywide sidewalk repairs; and be it

FURTHER RESOLVED: That a minimum of sixty five percent (65%) of available citywide sidewalk repair funds each year will be dedicated to repair sidewalks that are identified by the above prioritization criteria, and that a minimum of fifteen percent (15%) of available citywide sidewalk repair funds each year will be dedicated to repair sidewalks that will reduce the City's liabilities from ADA complaints and trip and fall claims, and that the remaining twenty percent (20%) of available funds will be dedicated to repairing selected low-priority sidewalk damages.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2008

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California