

**Office of  
The City Attorney  
City of San Diego**

**MEMORANDUM**

**DATE:** April 27, 2012

**TO:** Beth Murray, Deputy Director, Economic Development Division

**FROM:** City Attorney

**SUBJECT:** Supplemental Guideline for the Use of Parking Meter Funds for Sidewalk-Related Repairs

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**INTRODUCTION**

The Office of the City Attorney issued a Memorandum of Law titled Guidelines for Use of Parking Meter Funds for Parking and Traffic-Related Purposes on September 30, 2010 (MOL). The MOL addressed the question of whether parking meter funds may be used to repair a street, among other questions. This Office has been made aware of further inquiry regarding the use of parking meter funds as it relates to sidewalk-related repairs. This memorandum is intended to supplement the MOL, which addressed many of the numerous inquiries that this Office and your Division routinely receive with regard to the appropriate uses of parking meter revenue. The MOL is attached for your reference as Attachment A.

**QUESTION PRESENTED**

To what extent can parking meter revenue be used for sidewalk-related repairs?

**SHORT ANSWER**

Parking meter revenue may only be used for sidewalk-related repairs that impact traffic or the parking of vehicles within parking meter zones.

## ANALYSIS

In general, parking meter revenue may be used to repair sidewalks located within a parking meter zone or within close proximity to a parking meter zone if such repairs affect parking or the control of traffic within a parking meter zone. As with street repairs, caution and restraint must be exercised to avoid the use of parking meter funds as a wholesale replacement for general funds. *See* Cal. Gov't Code § 50076. For example, the expenditure of parking meter revenue for general sidewalk repairs on a city-wide basis would violate state law by exceeding the regulatory purpose for which the parking meter fees were collected.

San Diego Municipal Code section 82.09 authorizes the expenditure of parking meter funds “to meet the costs and expenditures involved in the inspection, repair . . . and use of the parking spaces . . . and control of the parking of vehicles and the control of traffic, which may affect or be affected by the parking of vehicles and the control of traffic . . .” SDMC § 82.09 This section contains a list of examples constituting legitimate expenditures of parking meter funds. *See* SDMC § 82.09(b). The only reference in this section to anything associated with sidewalks relates to the cost of painting curbs and repairing curb signs; sidewalk repairs are not listed. *Id.* Nevertheless, as it relates to the control of parking and traffic, sidewalk-related repairs may be a legitimate expenditure of parking meter revenue because the list of enumerated traffic and parking control measures in San Diego Municipal Code section 82.09 is not exhaustive. Where a particular proposed expenditure is not specifically enumerated in the San Diego Municipal Code as a parking or traffic control measure, an analysis will need to be conducted in order to determine if that expenditure actually affects the control of parking or traffic.

For example, the repair of a sidewalk curb adjacent to a parking metered space or on the same street and block of parking meters could be a parking or traffic control measure. A sidewalk curb that protrudes into the street could cause a parking concern by prohibiting or otherwise deterring drivers from parking in such spaces due to safety concerns. Furthermore, such a curb protrusion may affect the flow of traffic by making one less parking space readily available, causing more traffic congestion by requiring drivers to drive around longer to find parking.

On the other hand, the expenditure of parking meter funds to repair sidewalk surfaces, as opposed to curbs, presents a more difficult situation to justify. While parking meter funds may be used to provide “pedestrian comfort and convenience” as well as “aesthetics” pursuant to Council Policy 100-18, those funds can only be expended for these purposes “provided that the activity primarily relates to parking or the control and management of traffic (including vehicular, bicycle, or pedestrian traffic) which may affect or be affected by the parking of vehicles within parking meter zones.” Council Policy 100-18 C.2.h. In order to properly expend parking meter funds to repair sidewalk surfaces, the sidewalk surface would likely have to be damaged to such an extent that it affects the ability of drivers to park their vehicles within a parking meter zone. Such a situation could arise, for example, if the sidewalk was so damaged

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that a reasonable driver would likely opt to find another parking space in order to reach his or her final destination.

### CONCLUSION

Regarding sidewalk-related repairs within or in close proximity to parking meter zones, parking meter funds may only be expended for those repairs that impact traffic or the parking of vehicles within parking meter zones. As with all analyses involving the use of parking meter funds, the proposed use of parking meter revenue for any sidewalk-related repair would have to be analyzed on its own set of specific facts to properly determine if it is an appropriate expenditure of such funds.

JAN I. GOLDSMITH, City Attorney

By /s/Kenneth So  
Kenneth So  
Deputy City Attorney

KRS:mm  
Attachment  
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