

## **EXHIBIT A**

### **Oregon City Sidewalk Replacement Assistance Program**

Updated 11/16/2022

Revised 5/1/2024

#### **OVERVIEW**

The goal of the Oregon City Sidewalk Replacement Assistance Program is to address sidewalk panels that have been lifted by street trees, to prevent the associated sidewalk trip hazards in a timely manner, and to assist property owners with the related replacement costs.

The original pilot program was approved February 2, 2022. This permanent program replaced the pilot program and was adopted on November 16, 2022. This update replaces the current program.

#### **Emphasis on Pedestrian Travel**

The City's Transportation System Plan (TSP) provides a long-term guide for City Transportation investments. With the growing need to address vehicle congestion, the city has been imposing standards and requirements that placed construction of sidewalks and pedestrian ways on all new development since the 1970's. In 2013, the TSP provided solutions for dealing with congestion by taking a multimodal network approach to enable more cost-effective solutions to increase transportation capacity and encourage multiple travel options. Oregon City Streets include 158 miles of sidewalks and over 2,600 curb ramps. Safe and accessible pedestrian ways is a major part of the City's overall transportation vision. Supporting property owner needs in maintaining the existing infrastructure is a critical element to maintain safe pedestrian access.

#### **Program Summarizing Facts**

**Program Annual Budget:** This Sidewalk Replacement Assistance Program was a new program developed as a pilot during the (2021-2023) biennial budget. This pilot was administered between February 2, 2022 and November 16, 2022. The budget allotted was \$200,000 for the period February 2, 2022 to February 1, 2023. The program was made permanent on November 16, 2022.

The permanent program allotted \$200,000 per fiscal year starting July 1, 2023 (FY24) until such time the need increases or decreases as assessed during each adopted 2-year budget at the discretion of the Public Works Director if the budget is found to be excessive or not sufficient. Funds cannot be decreased unless it is found that the amount of requests no longer sustains the need for the budget.

The capital outlay for Transportation over the two-year biennium (2021-2023) was nearly 9

million . Based on existing data and future projections, the pilot program was anticipated to expend the entire \$200,000 budget within the 12-month pilot period. This program has been absorbed within the Transportation Fund budget. The program expended \$225,438.25 from the beginning of the program on February 2022 through June 30, 2023.

During the assessment of the program in October 2022, it was recommended by the Public Works Director to continue to the program and make it permanent due to its need throughout the community and its success as a program. Additional funds were requested from the Transportation Fund to complete the Fiscal Year (February 2, 2023-June 30, 2023) and this permanent program now allots \$200,000 per fiscal year as previously described.

The program has expended \$79,139.09 from July 1, 2023 to April 1, 2024 showing interest in the program has decreased; however, at this time, the recommendation remains to budget \$200,000 per year due to the anticipated needs throughout the City for the foreseeable future.

An update to this program was made on May 1, 2024 to provide clarifications to program details as learned through the initial 2 years of the program.

## **BACKGROUND**

### **Industry Practice and Responsibility for Sidewalks**

According to the U.S. Department of Transportation Federal Highway Administration (FHWA), city charters commonly specify that the city is not liable for any accidents or injuries incurred due to sidewalk conditions. Most Oregon charters assign complete responsibility for sidewalk maintenance to the owner of the adjacent property.

Pursuant to the Oregon City Municipal Code 12.04.030-12.04.040, the City assigns sidewalk responsibility to abutting property owners. This assistance test program is in no way intended to relieve property owners of their responsibilities, but rather it is intended to assist property owners with the cost of replacing damaged sidewalks.

### **Compliance History**

Oregon City has a long history of working with property owners to uphold the sidewalk code. In the past, enforcement of trip hazards in Oregon City has been a complaint-driven process. Many property owners take the initiative to repair sidewalks before a complaint is submitted, while others wait until the sidewalk damage is reported by others.

Individual sidewalk enforcement and repair efforts have varied depending on the property owner and the disposition of the area. Often sidewalk complaints are limited to one address. In other cases, an areawide problem is reported. Regardless of the complaint, the sidewalk problem is verified, and the fronting property owner is notified of the City's code and requirements for replacement.

## Trees and Tree Impacts on Sidewalks

Oregon City recognizes that the maintenance and repair of sidewalks within the city is necessary to protect the health, safety, and welfare of residents and visitors. This program has been developed in recognition of the inherent conflict between tree roots and sidewalks, and the accompanying financial burden these public policies place upon homeowners.

Street Tree Removal and Replacement Permits are **free**. The City requires them in order to ensure that street trees are replaced if removed from the public right-of-way. Permits are also the City's way of tracking the overall change in tree canopy city-wide, which is an important component of being a designated member of Tree City USA. For permit information visit <https://www.orcity.org/1141/Remove-Replace-a-Street-Tree>. Contact the Planning Division at [ocplanning@orcite.org](mailto:ocplanning@orcite.org) or (503) 722-3789 for further information about street tree removal.

### ELIGIBILITY

1. Applications for the Sidewalk Replacement Assistance Program will only be accepted for properties with fronting sidewalks located within the public right-of-way for which the City has jurisdiction where the street tree(s) has lifted or is negatively impacting the sidewalk grade.\*  
**Note: street trees considered in the eligibility determination include street trees in tree wells or the planter strip between the curb and the sidewalk.** Sidewalks damaged by trees that are located beyond the back of sidewalk would not be eligible for the Sidewalk Replacement Assistance Program.
2. Applications will only be accepted for sidewalk replacements (removal of existing sidewalk and pouring of new sidewalk) and street tree removals (which includes stump removal) along public City streets.
3. Applicants may only apply for one grant (may include multiple sidewalk replacement "sites") for one property in a calendar year.
4. Applications will only be accepted for sidewalk panel replacements once. Sidewalk panel replacements completed under this program will be tracked by property and specific location and will not qualify for grant funding more than once.
5. Eligibility for reimbursement is contingent upon funds available within the \$200,000 annual spending limit authorized unless additional funding is approved by the City Commission or if the budget is reduced over time due to a lack of use as determined by the Public Works Director through the biennial budget process.
6. Except for work accomplished under a permit received before enactment of the program, permit applications for construction must be received and approved by the city before the sidewalk work begins and prior to application of the Sidewalk Replacement Assistance Program.
7. Grant funds are only eligible for the applicant who owned the home or applied for the grant at the time of the replacements and can provide a copy of the sidewalk replacement permit (aka right-of-way permit), documentation for payment of work including a copy of the receipt for payment, and proof the permitted work was completed under their ownership. If a tree was removed, a tree removal and replacement permit is also required. Evidence of a previous permit or application of a new permit is acceptable.
8. Applications for sidewalk replacement cost and tree removal reimbursements that are

retroactive to the enactment of this Program will be considered for sidewalk replacements and tree removals that were permitted by the City and determined in compliance with sidewalk standards.

9. Applicants must sign the application form including a statement that they are able to pay for the work out of pocket as the Sidewalk Replacement Assistance Program is an assistance program created as a cost reimbursement to the applicant.

\*Negatively affecting sidewalk grade shall be defined as a tripping hazard of minimum ¼" (changes of level between sidewalk panels of ¼" or more) or the heaving of a sidewalk with a running slope of more than 5.0% running slope and cross slope exceeding 2.0% as designated by the Americans with Disabilities Act (ADA) as determined by the Standards for Accessible Design.

Work completed under the Sidewalk Replacement Assistance Program must be completed within 120 days of permit application approval. If this deadline is not able to be met, applicant may apply for a one-time 30-day extension. Applicant must contact the city at least 14 days prior to the work deadline if an extension is necessary. Time extensions beyond 150 days may be approved on a limited basis by the Public Works Director, or their designee, conditioned upon monthly update communication undertaken by the applicant with the permitting staff and will result in a reduced grant of up to 50% of the panel rate for all work required

## PROCEDURES

### Use of Funds

1. Grant funds must be used for the replacement of existing sidewalk sections **that have been damaged by the growth of street tree roots or street tree trunk.**
2. Grant funds can be applied to costs associated with the removal of the street tree and street tree roots, including stump removal.
3. Grant funds are only eligible for sidewalk removal and replacement displaced or damaged by the growth of the street tree; adjacent sidewalk replacement not displaced or damaged by the street tree will not be considered a reimbursable expense.
4. Grant funds can be applied to costs associated with the street tree damaged sidewalk such as creation of safe work zones, creation of temporary pedestrian routes, traffic control, demolition, disposal, root removal, subgrade preparation, forming, pouring, and finishing sidewalk, protection from adverse weather and security of the finished sidewalk.
5. Grant funds can be used for applicant costs incurred for sidewalk replacement work associated with permitted sidewalk replacements that have been deemed complete and compliant with City standards.

### Eligibility for a Grant

1. Applicants are responsible for obtaining and complying with the conditions of the City's Sidewalk/ROW permit for jobs that require sidewalk replacement.
2. Applicant must show tree roots caused or likely caused the out of compliance condition of the sidewalk. While tree removal is not required, if a tree is removed, a

tree removal and replacement permit application shall be sought.

3. To be eligible, applicants must first submit a complete and signed right-of-way permit application.
4. Applications submitted by applicants not self-performing the sidewalk replacement work must include at least two price quotes from a qualified contractor to complete the work; self-performed work should include an equipment and materials cost estimate.
5. Competitive bids help applicants choose the most rational way to proceed, helps the city ascertain industry cost trends for the program for future budgeting needs, and ensures the City extends the funds in a cost efficient manner reimbursing the lowest of bids no matter the chosen contractor; two competitive bids are required.
6. Work not self-performed must include verification that the work is performed by an Oregon licensed contractor who is also maintaining a current Oregon City or Metro business license.
7. The maximum grant reimbursement will be in accordance with the funding assistance section listed below.
8. For jobs where sidewalk replacement is not the preferred treatment, such as grinding or sidewalk lift, no grant reimbursement will be provided.
9. All grant awards and reimbursements will be made on a first-come, first-served basis, subject to the availability of funds as allocated and approved by the City Commission. Once the program budgeted amount has been expended, no further applications will be approved without further spending authority provided by the City Commission.

#### Notes:

1. The lack of sufficient funds to cover the number of applications received by the City in any given year will not excuse the homeowner from the responsibility of maintaining the adjoining sidewalk in a safe condition nor create any liability to the City for any unsafe sidewalks.
2. The lack of sufficient funds in the program or material and contractor availability does not excuse the homeowner from the responsibility of following any code enforcement requests. The City will work with applicants to the degree reasonable to guide the applicant through the code enforcement process.
3. Permitting costs and installation of any new street trees are not eligible for reimbursement.
4. Existing street trees are not required to be removed when removing and replacing sidewalk. The property owner has the option to risk the impact of the existing street tree to the new sidewalk and lifespan of the existing street tree understanding that the reimbursement program is a one time allowance.

## FUNDING ASSISTANCE

### Grant Rates

Annual Sidewalk Replacement Assistance Program Grant Award **unit rate**:

Up to a maximum of \$1,500 per each “site”. A site is comprised of the street tree damaging the sidewalk and the associated damaged sidewalk area.

Example grant scenarios:

- 1) One property owner who has one tree which damages five sidewalk panels. This would constitute one site and the property owner would qualify for one grant award for the cost of the tree/root removal and sidewalk replacement work up to \$1,500.
- 2) One property owner who has one tree which damages 1 sidewalk panel. This would constitute one site and would qualify for one grant award for the cost of the tree/root removal and sidewalk replacement work up to \$1,500.
- 3) One property owner has three trees damaging sidewalk. One tree damages one sidewalk panel, another tree damages two sidewalk panels, and the third tree damages five sidewalk panels. This scenario constitutes three sites, and the property owner would qualify for the cost reimbursement of the tree/root removal and sidewalk replacement work of up to \$1,500 each site for a total maximum grant amount of \$4,500.
- 4) One property owner has one tree damaging one sidewalk panel on their property and two sidewalk panels on their neighbor’s property. This scenario constitutes one site for each property owner, and one property owner would qualify for the cost reimbursement of the tree/root removal and sidewalk replacement work of up to \$1,500 each site for a total maximum grant amount of \$1,500 and the other property owner would qualify for the cost sidewalk replacement work of up to \$1,500 each site for a total maximum grant amount of \$1,500.
- 5) A tree is located on the property line in the right-of-way exactly between two properties. One property owner has two sidewalk panels on their property and the other property owner has two sidewalk panels on their property. This scenario constitutes one site for each property owner, and one property owner would qualify

for the cost reimbursement of the tree/root removal and sidewalk replacement work of up to \$1,500 each site for a total maximum grant amount of \$1,500 and the other property owner would qualify for the cost sidewalk replacement work of up to \$1,500 each site for a total maximum grant amount of \$1,500. Only one property owner can qualify for the tree removal itself if it is removed. Property owners may choose to work together whereby the tree removal could be split 50/50 as part of the reimbursable cost.

**Note:** Grant award will be based on documentation provided by the applicant which includes the quotes (estimates if self-performed) and final receipt for services performed (equipment and materials if self-performed). Final grant amount will be the actual cost of the work as documented in receipt up to a maximum grant listed above unless the applicant chooses the higher bid. In the event the applicant chooses the higher bid, the maximum grant amount will be based on the low bid.

Example 1:	1 site, Bid 1: \$1,600, Bid 2 : \$1,800
Allowed Reimbursement:	Up to \$1,500
Maximum Reimbursement:	\$1,500

Example 2:	2 sites, Bid 1 : \$2,500, Bid 2 : \$3,200
Allowed Reimbursement:	Up to \$3,000
Maximum Reimbursement:	\$2,500

## Exclusions

Items not reimbursable under the City of Oregon City Sidewalk Replacement Assistance Program include the following:

1. Reimbursable funds may only be used for the removal of the street tree and associated roots and replacement of existing sidewalk panels that have been damaged by the roots of street trees and are considered out of compliance with tripping hazards or slopes as defined by the Standards for Accessible Design. Funds are not allowed for street tree replacement installations or sidewalk which is not a hazard as defined by ADA.
2. Work performed without prior City authorization as described under Procedures.
3. Work not completed in compliance with the City's standard requirements for construction.
4. Short-term repair work including, but not limited to, sidewalk grinding or sidewalk lifting.
5. Extended root removal or property damages onto private property.
6. Adjacent concrete repair beyond the original sidewalk width.

7. Adjacent concrete panels beyond the tree-lifted panels.
8. Landscape restoration, repairs, or extra cosmetics (shrubs, rocks).
9. New tree installation\*
10. Broken, damaged, or new sprinkler or irrigation systems or other utility appurtenances.

\*Abutting property owners are responsible for replanting trees that are removed. Property owners may be able to obtain a high-quality replacement street tree at a discount through the City's partnership with Friends of Trees. Contact Friends of Trees to sign up: <https://friendsoftrees.org/get-a-tree/>.

## Procedures

### **Sidewalk work complete and eligible for look back reimbursement:**

- Step 1** Submit the Sidewalk Grant Program Application with completed IRS W-9 Form
- Step 2** Submit copies of the right of way permit, tree permit (if applicable), final receipt for services performed, documentation that the final payment was made by the current applicant.
- Step 3** City confirms prior permit(s) obtained, confirm sidewalk work resulting from tree root damage, and confirm permit closed as complete.
- Step 4** City to confirm applicant was in ownership at time of permitted work.
- Step 5** Upon verification that Steps 2, 3, and 4 are confirmed the application will be deemed approved and routed to Finance for issuance of a reimbursement payment.
- Step 6** Grant check will be prepared within **10 business days** and mailed to applicant.

### **Sidewalk Work required and yet to be completed:**

- Step 1** Applicant (might be citizen/property owner, might be contractor) applies for a sidewalk permit
- Step 2** Permit Staff reviews reason sidewalk is being replaced
  - a. If sidewalk is being replaced for a non-tree reason, no further process exists, and sidewalk reimbursement program does not apply
  - b. If sidewalk is being replaced for a tree reason, move on to Step 3
- Step 3** Permit Staff informs the applicant of a sidewalk reimbursement program and provides them with a paper application (form)
  - a. If the applicant is a contractor, permit staff ask contractor to provide this form to their citizen/property owner with a business card to contact them with questions
  - b. If the applicant is a citizen/property owner, permit staff provides the form
- Step 4** Before proceeding, the property owner reviews the Oregon City Sidewalk Replacement Assistance Program webpage for program understanding.
- Step 5** Before the work begins, property-owner submits:
  - i. A Right of Way Permit application and fee. Permit applications may be submitted by a contractor on behalf of the property owner.



*Application may be emailed to [OCpublicworks@orcify.org](mailto:OCpublicworks@orcify.org), mail to Oregon City Permitting at 13895 Fir Street, Oregon City Oregon 97045, or submit in person at 13895 Fir Street – 2<sup>nd</sup> floor.*

\* Assistance Program application form along with support documentation can submitted with the sidewalk permit (Step 5) or when the work has been completed (Step 8).

**Step 6** Upon verification that the sidewalk has been damaged by the roots of protected trees, the Sidewalk Replacement Reimbursement Application may be submitted. The applicant will be notified that the work is eligible to receive funds and that their work permit is ready for applicant signature.

**Step 7** Work begins. With approved permit in hand, the work must then be completed within 120 days. If the work is unable to be completed within the 120 days due to unforeseen circumstances, the applicant may request a one-time 30-day extension. Applicant must contact the city for an extension prior to permit expiration. Time extensions beyond 150 days may be approved on a limited basis by the Public Works Director or their designee conditioned upon monthly update communication undertaken by the applicant with the permitting staff and will result in a reduced grant of up to 50% of the panel rate for all work required.

**Step 8** Work is completed. Property owner pays contractor and then submits proof of payment and a reimbursement request with project documentation which at a minimum must include a final invoice from the contractor with a signature indicating the work was paid in full.

**Step 9** Upon verification that all prior steps are confirmed the application will be deemed approved and routed to Finance for issuance of a reimbursement payment.

**Step 10** Grant check will be prepared within **5 business days** and mailed to applicant.

### Document Checklist

- |  |   |                         |
|--|---|-------------------------|
| ___ Right-of-Way Permit Application incl.:                               | ___ Site Plan                                 | ___ Ex. Sidewalk Photos |
| ___ Tree Permit Application (if required) incl.:                         | ___ Site Plan                                 | ___ Ex. Tree Photos     |
| ___ Sidewalk Reimbursement Program Grant Application incl.               | ___ W-9 Form                                  |                         |
| ___ Approved Right-of-Way permit incl.                                   | ___ Licensed Contractor (CCB, and Metro/City) |                         |
| ___ Approved Tree Removal permit (if required)                           |   |                         |
| ___ Evidence of Two Bids (or effort to get two bids)                     |   |                         |
| ___ Evidence of Invoice or paid work                                     |   |                         |
| ___ Proof of Property Ownership (tax bill, utility bill, or other proof) |   |                         |