

**RESOLUTION NO. 07-2017**

**A RESOLUTION OF THE CITY OF MADRAS ESTABLISHING A DOWNTOWN SIDEWALK GRANT PROGRAM FOR CONSTRUCTION OR RECONSTRUCTION OF SIDEWALKS OR THE ADDITION OF ADA RAMPS IN THE URBAN RENEWAL DISTRICT (SUPERSEDES AND REPLACES RESOLUTION NO. 13-2015)**

**WHEREAS**, the City of Madras ("City") recognizes that the maintenance of sidewalks within City is necessary to protect the health, safety, and welfare of City's residents and visitors; and

**WHEREAS**, City's sidewalk ordinance, Ordinance No. 426, provides that the owner or occupant of land adjoining a street must maintain adjacent sidewalks in good repair and condition and must remove any obstructions from such sidewalks; and

**WHEREAS**, City is aware that certain sidewalks that are in need of construction and or reconstruction; and

**WHEREAS**, City recognizes the potential financial burden that may be placed on owners and occupants needing to construct or reconstruct sidewalks and or ADA ramps to meet current ADA standards and specification; and

**WHEREAS**, City desires to alleviate some of the financial burden of constructing and/or reconstructing sidewalks or adding ADA ramps may impose on owners and occupants by providing owners financial assistance through the Downtown Sidewalk Grant Program (the "Program") established under this Resolution No. 07-2017 (this "Resolution").

**NOW, THEREFORE, BE IT RESOLVED**, by and through the Madras City Council meeting in regular session, the following:

SECTION 1: Findings. The above-stated findings contained in this Resolution are hereby adopted.

SECTION 2: Program Establishment. City hereby approves and establishes the Program. Program funds will be used for the construction/reconstruction of sidewalks or adding ADA ramps meeting or satisfying the following criteria and conditions: (a) the construction or reconstruction of sidewalk and ADA ramps must be located within the Urban Renewal District; (b) any other conditions contained in this Resolution and/or that the Department may impose from time to time.

SECTION 3: Applications.

3.1 Commencing on July 1, 2017, an owner of a property located in the Urban Renewal District desiring to obtain Program funds must apply for the funds on forms and in such manner as the Department may prescribe. An owner may only apply for one Program grant per property, per calendar year. Each Program application (the "Application") must be filed with the Department and must contain the following minimum information:

(a) The date of the Application and the owner's/applicant's name, address, contact information, photo of sidewalk or area needing construction/reconstruction or the addition of ADA ramps and signature; and

(b) The address of the subject property and the name and address of the business(es) adjacent to the sidewalk; and

(c) A brief description of sidewalk construction/reconstruction or ADA ramps requiring completion, including an estimation of the size of the sidewalk project (i.e., total square footage) and a general description of the probable cause of the sidewalk damage or need for construction; and

(d) The amount of Program funds requested for the contemplated sidewalk replacement or repairs along with bids from qualified contractors which support the requested amount of Program funds (the bids must be attached to the submitted Application); and

(e) A completed City right-of-way permit along with a check payable to City for the applicable right-of-way permit fee; and

(f) Any other information that the Public Works Director (the "Director") deems necessary or appropriate to enable the Department to review the Application and determine whether the subject sidewalk project qualifies for Program funds.

3.2 Applications must be received and approved by the Director prior to the commencement of any construction or reconstruction of sidewalk or ADA ramp work. City will not accept any retroactive applications. First-time applicants will be given priority over previous applicants.

#### SECTION 4. Application Review.

4.1 Completed Applications will be reviewed by the Director. The Director is authorized to make an investigation of the sidewalk project and will review the Application and conduct whatever investigation the Director deems necessary or appropriate to determine whether the Application is complete and whether the subject sidewalk project qualifies for Program funds.

4.2 After the Director completes his or her review of the Application, the Director will determine whether the sidewalk project qualifies for Program funds. If the sidewalk project qualifies for Program funds, the Director will issue written notice of approval to the applicant, which approval will be conditioned and subject to available Program funds and the applicant's and project's compliance with all Program requirements. If, on the basis of the review of the Application, the Director determines that the sidewalk project does not qualify for Program funds, the Director will notify the applicant in writing that the Application has been denied, which notice will generally identify the reason for the denial.

SECTION 5: Program Grant; Contractors. Subject to the availability of Program funds and the terms and conditions contained in this Resolution, City will grant Program funds to an applicant satisfying all Program requirements in an amount equal to the lesser of the following: (a) \$1,000.00 of the lowest and approved bid from a qualified contractor; or (b) \$1,000.00 of the actual amount invoiced under the approved bid from a qualified contractor. Each applicant must provide written bids for the applicant's sidewalk construction/reconstruction or ADA ramp from qualified contractors. Contractors must be licensed and in good standing with the Oregon Construction Contractors Board ("CCB"). Contractors must be insured and bonded and possess a current City business license.

SECTION 6: Sidewalk Construction/reconstruction and or ADA Ramps. Sidewalk construction/reconstruction and or ADA ramps must be satisfactorily completed within ninety (90) days after the Director's issuance of written notice to the applicant that the applicant's sidewalk project has been conditionally approved. Sidewalk construction/reconstruction and or ADA ramps must be completed in a good and workmanlike manner and in compliance with any and all applicable laws, ordinances, rules, regulations, orders, and regulations of any public, private, or governmental entity having jurisdiction, including, without limitation, any applicable building and safety codes and zoning ordinances that may be in or come into effect.

SECTION 7: Request for Program Funds.

7.1 After the sidewalk project has been properly completed, the applicant must submit a request for reimbursement ("Reimbursement Request") on forms and in such manner as the Department may prescribe which Reimbursement Request must be accompanied with the actual invoice from the qualified contractor who performed the sidewalk construction/reconstruction and or ADA ramps. Reimbursement Requests will be reviewed by the Director. The Director is authorized to make an investigation of the completed sidewalk construction/reconstruction and or ADA ramps and will review the Reimbursement Request and conduct whatever investigation the Director deems necessary or appropriate to determine whether the sidewalk construction/reconstruction and or ADA ramps are complete and whether the reimbursement should be issued; provided, however, the Director's review of the sidewalk construction/reconstruction and or ADA ramps will be completed solely to protect City's interests and City will not be a guarantor of, nor responsible for, the sidewalk replacement or repairs.

7.2 If the Reimbursement Request is approved, the Director will mail the approved Program funds to the applicant subject to the terms and conditions of this Resolution. If, on the basis of the review of the Reimbursement Request, the Director determines that the Reimbursement Request should be denied, the Director will notify the applicant in writing that the Reimbursement Request has been denied and the reasons for the denial.

SECTION 8: Applicants are responsible for obtaining and complying with the conditions of City's right-of-way permit for jobs that require sidewalk construction/reconstruction and or ADA ramps. All grant awards and reimbursements will be made on a first-come, first-served basis, and will be subject to the availability of funds in the approved City budget. Once the budgeted amount has been expended, no further applications will be approved and/or reimbursements issued. The lack of sufficient funds to cover the number of applications received by City in any given year will not excuse property owners and/or occupants from the responsibility to maintain adjoining sidewalks in a safe condition nor create any liability to City for any unsafe sidewalks. Notwithstanding anything contained in this Resolution to the contrary, City's approval of an Application and/or Reimbursement Request is not intended to nor will it be construed in any way as an admission by City that a City tree caused damage to the subject sidewalk and/or of any liability whatsoever and will not be used as evidence of liability or wrongdoing on the part of City.

SECTION 9: Each owner/applicant will defend, indemnify, and hold City and City's officers, employees, agents, and contractors harmless for, from, and against any and all damages, costs, expenses, fines, losses, and/or liabilities of any kind, including, without limitation, attorney fees, arising out of or related to, whether directly or indirectly, the owner's/applicant's performance (or causing another to perform) of any sidewalk construction/reconstruction and or ADA ramps, including, without limitation, any damage to City's sidewalk and/or trees and any injury, death, and/or damage to person or property.

SECTION 10: This Resolution will be deemed effective on March 28, 2017; provided, however, the Program will not become effective until July 1, 2017. The provisions of this Resolution are severable. If any section, subsection, sentence, clause, and/or portion of this Resolution is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Resolution.

ADOPTED by the Council and signed by the Mayor on this 28<sup>th</sup> day of March, ~~2015~~ 2017

Ayes: 5  
Nays: 0  
Abstentions: 0  
Absent: 0  
Vacancies: 1



Royce Embanks, Mayor

ATTEST:

Karen J. Coleman  
Karen J. Coleman, City Recorder

Exhibit A  
Urban Renewal District

