

Oregon Parks and Recreation Department

Local Government Grant Program Agreement

THIS AGREEMENT (“Agreement”) is made and entered into by and between the State of Oregon, acting by and through its **Oregon Parks and Recreation Department**, hereinafter referred to as “OPRD” or the “State” and the **Tillamook County**, hereinafter referred to as the “Grantee”.

OPRD Grant Number: LG23-013
Project Title: Kiwanda Corridor Project-Cape Kiwanda Parking Lot
Project Type (purpose): Development
Project Description: The Project will redevelop the Kiwanda Parking Lot to improve traffic flow, add a beach overlook including benches and kiosk, and prepare for a new restroom building at Pacific City, Oregon. The Project is further described in Attachment A - Project Description and Budget.

Grant Funds /
Maximum Reimbursement: \$ 750,000 (14.05%)
Grantee Match Participation: \$4,588,800 (85.95%)
Total Project Cost: \$5,338,800

Grant Payments / Reimbursements: Grant funds are awarded by the State and paid on a reimbursement basis, and only for the Project described in this Agreement, and the Project Description and Budget included as Attachment A. To request reimbursement, Grantee shall use OPRD’s online grant management system accessible at oprdgrants.org. The request for reimbursement shall include documentation of all project expenses plus documentation confirming project invoices have been paid. Grantee may request reimbursement as often as quarterly for costs accrued to date.

Fiscal Year-End Request for Reimbursement: Grantee must submit a Progress Report and a Reimbursement Request to OPRD for all Project expenses, if any, accrued up to **June 30**, of each fiscal year. The Fiscal Year-End Reimbursement Request must be submitted to OPRD by **July 31**.

Reimbursement Terms: Based on the estimated Project Cost of **\$5,338,800**, and the Grantee’s Match participation rate of **85.95%**, **the reimbursement rate will be 14.05%**. Upon successful completion of the Project and receipt of the final reimbursement request, the State will pay Grantee the remaining Grant Funds balance, or **14.05%** of the total cost of the Project, whichever is less.

Matching Funds: The Grantee shall contribute matching funds or the equivalent in labor, materials, or services, which are shown as eligible match in the rules, policies and guidelines for the Local Government Grant Program. Volunteer labor used as a match requires a log with the name of volunteer, dates volunteered, hours worked, work location and the rate used for match, to be eligible.

Progress Reports: Grantee shall submit Progress Reports with each Reimbursement Request or, at a minimum, at **three month intervals**, starting from the effective date of the Agreement. Progress Reports shall be submitted using OPRD’s online grant management system accessible at oprdgrants.org.

Agreement Period: The effective date of this Agreement is the date on which it is fully executed by both parties. Unless otherwise terminated or extended, the Project shall be completed by **December 31, 2025**. If the Project is completed before the designated completion date, this Agreement shall expire on the date final reimbursement payment is made by OPRD to Grantee.

Retention: OPRD shall disburse up to 90 percent of the Grant Funds to Grantee on a cost reimbursement basis upon approval of invoices submitted to OPRD. OPRD will disburse the final 10 percent of the Grant Funds upon approval by OPRD of the completed Project, the Final Progress Report and the submission of five to ten digital pictures of the completed project site.

Final Request for Reimbursement: Grantee must submit a Final Progress Report, a Final Reimbursement Request and five to ten digital pictures of the completed project site to OPRD within 45 days of the Project Completion Date.

Project Sign: When project is completed, Grantee shall post an acknowledgement sign of their own design, or one supplied by the State, in a conspicuous location at the project site, consistent with the Grantee's requirements, acknowledging grant funding and the State's participation in the Project.

Agreement Documents: Included as part of this Agreement are:

- Attachment A: Project Description and Budget
- Attachment B: Standard Terms and Conditions
- Attachment C: Inadvertent Discovery Plan

In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents is as follows, listed from highest precedence to lowest precedence: this Agreement without Attachments; Attachment B; Attachment A; Attachment C.

Contact Information: A change in the contact information for either party is effective upon providing notice to the other party:

Grantee Administrator
 Rachel Hagerty
 Tillamook County
 201 Laurel Ave.
 Tillamook, OR 97141
 503-842-3404
 rhagerty@co.tillamook.or.us

Grantee Billing Contact
 Rachel Hagerty
 Tillamook County
 201 Laurel Ave.
 Tillamook, OR 97141
 503-842-3404
 rhagerty@co.tillamook.or.us

OPRD Contact
 Mark Cowan, Coordinator
 Oregon Parks & Rec. Dept.
 725 Summer ST NE STE C
 Salem, OR 97301
 503-951-1317
 mark.cowan@oregon.gov

Signatures: In witness thereof, the parties hereto have caused this Agreement to be properly executed by their authorized representatives as of the last date hereinafter written.

GRANTEE

**STATE OF OREGON
Acting By and Through Its
OREGON PARKS AND RECREATION DEPT.**

By: _____
Signature

By: _____
Daniel Killam, Deputy Director of Administration

Printed Name

Date

Title

Approval Recommended:

Date

Oregon Department of Justice (ODOJ) approved for legal sufficiency for grants exceeding \$150,000:

By: _____
Michele Scalise, Grants Section Manager

By: Jeffrey B. Grant, AAG
ODOJ Signature or Authorization

Date

Printed Name/Title

By: _____
Mark Cowan, Grant Program Coordinator

by email on September 25, 2023
Date

Date

Attachment A: Project Description and Project Budget

OPRD Grant Number: LG23-013
Project Title: Kiwanda Corridor Project-Cape Kiwanda Parking Lot
Grantee Agency: Tillamook County

Project Description:

The Project will redevelop the Cape Kiwanda Parking Lot to improve traffic flow, add a beach overlook including benches and kiosk, and prepare for a new restroom building at Pacific City, Oregon.

Project Budget

Construct Restroom Building	\$ 1,284,695
Construct Multi-use Path - North Lot	\$ 139,791
Install Site Furnishings - North Lot	\$ 105,025
Construct Plank Storage and Refuse Collection Area	\$ 180,000
Demolish Old Restroom	\$ 265,000
Pave Asphalt and install Utilities - North Lot	\$ 800,458
Construct Civic Overlook	\$ 629,060
Construct Entry Plaza	\$ 489,268
Construct Multi-use Path - South Lot	\$ 139,791
Install Site Furnishings - South Lot	\$ 105,025
Pave Asphalt and install Utilities - South Lot	\$ 1,200,687
Total Project Costs	\$ 5,338,800

Match Funding

Travel & Lodging Tax	\$ 4,068,800
Day Use Fees	\$ 490,000
Public Works / Force Account	\$ 30,000
Total Match from Grantee	\$ 4,588,800

Summary

Total Project Costs	\$ 5,338,800
Total Match from Grantee	\$ 4,588,800
Grant Funds Requested	\$ 750,000

Attachment B – Standard Terms and Conditions

Oregon Parks and Recreation Department Local Government Grant Program Agreement

1. **Compliance with Law:** Grantee shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to implementation of the Project, including without limitation, OAR chapter 736, Division 6 (the Local Government Grant Program administrative rules).
2. **Compliance with Workers Compensation Laws:** All employers, including Grantee, that employ subject workers who provide services in the State of Oregon shall comply with ORS.656.017 and provide the required Worker's Compensation coverage, unless such employers are exempt under ORS 656.126. Employer's liability insurance with coverage limits of not less than \$500,000 must be included.
3. **Amendments:** This Agreement may be amended only by a written amendment to the Agreement, executed by the parties.
4. **Expenditure Records:** Grantee shall document, maintain and submit records to OPRD for all Project expenses in accordance with generally accepted accounting principles, and in sufficient detail to permit OPRD to verify how Grant Funds were expended. These records shall be retained by the Grantee for at least six years after the Agreement terminates. The Grantee agrees to allow Oregon Secretary of State auditors and State agency staff access to all records related to this Agreement for audit and inspection and monitoring of services. Such access will be during normal business hours, or by appointment. Grantee shall ensure that each of its subgrantees and subcontractors complies with these requirements.
5. **Equipment:** Equipment purchased with Local Government Grant Program funds must be used as described in the Project Agreement and Application throughout the equipment's useful life. The Grantee will notify the State prior to the disposal of equipment and will coordinate with the State on the disposal to maximize the equipment's ongoing use for the benefit of the Local Government Grant Program.
6. **Use of Project Property:** Grantee warrants that the land within the Project boundary described in the Application (Attachment B) shall be dedicated and used for a period of no less than 25 years from the completion of the Project. Grantee agrees to not change the use of, sell, or otherwise dispose of the land within the Project boundary, except upon written approval by OPRD. If the Project is located on land leased from the federal government, the lease shall run for a period of at least 25 years after the date the Project is completed. If the Project is located on land leased from a private or public entity, other than the federal government, the lease shall run for a period of at least 25 years after the date the Project is completed, unless the lessor under the lease agrees that, in the event the lease is terminated for any reason, the land shall continue to be dedicated and used as described in the Project Application for a period of at least 25 years after the date the Project is completed.

Land acquired using Local Government Grant funds shall be dedicated, by an instrument recorded in the county records, for recreational use in perpetuity, unless OPRD or a successor agency consents to removal of the dedication.

7. **Conversion of Property:** Grantee further warrants that if the Grantee converts lands within the Project boundary to a use other than as described in the grant application or disposes of such land by sale or any other means ("Converted Land"), the Grantee must provide replacement land acceptable to OPRD within 24 months of the date of the conversion or disposal or, if the conversion

or disposal is not discovered by OPRD until a later date, within 24 months after the discovery of the conversion or disposal.

If replacement land cannot be obtained within the 24 month period, the Grantee will provide payment of the grant program's prorated share of the current fair market value of the Converted Land to the State. The prorated share is measured by that percentage of the original grant (plus any amendments) as compared to the original Project cost(s). The replacement land must be equal to the current fair market value of the Converted Land, as determined by an appraisal. The recreation utility of the replacement land must also be equal to that of the Converted Land.

If conversion occurs through processes outside of the Grantee's control such as condemnation or road replacement or realignment, the Grantee must pay to the State a prorated share of the consideration paid to the Grantee by the entity that caused the conversion. The State's prorated share is measured by the percentage of the original grant (plus any amendments) as compared to the original Project cost(s).

The warranties set forth in Section 6 and this Section 7 of this Agreement are in addition to, and not in lieu of, any other warranties set forth in this Agreement or implied by law.

8. **Contribution:** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which the State is jointly liable with the Grantee (or would be if joined in the Third Party Claim), the State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the Grantee in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of the Grantee on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the State on the one hand and of the Grantee on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.

With respect to a Third Party Claim for which the Grantee is jointly liable with the State (or would be if joined in the Third Party Claim), the Grantee shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the State in such proportion as is appropriate to reflect the relative fault of the Grantee on the one hand and of the State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the Grantee on the one hand and of the State on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The Grantee's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

Grantee shall take all reasonable steps to cause its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Grantee's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the contractor from and against any and all Claims.

9. **Inspection of Equipment and Project Property:** Grantee shall permit authorized representatives of the State, the Oregon Secretary of State, or their designees to perform site reviews of the Project, and to inspect all Equipment, real property, facilities, and other property purchased by Grantee as part of the Project.
10. **Public Access:** The Grantee shall allow open and unencumbered public access to the completed Project to all persons without regard to race, color, religious or political beliefs, sex, national origin or place of primary residence.
11. **Condition for Disbursement:** Disbursement of grant funds by OPRD is contingent upon OPRD having received sufficient funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow OPRD, in the exercise of its reasonable administrative discretion, to make the disbursement and upon Grantee's compliance with the terms of this Agreement.
12. **No Third Party Beneficiaries.** OPRD and Grantee are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly, to a third person unless such a third person is individually identified by name herein and expressly described as intended beneficiary of the terms of this Agreement.
13. **Repayment:** In the event that the Grantee spends Grant Funds in any way prohibited by state or federal law, or for any purpose other than the completion of the Project, the Grantee shall reimburse the State for all such unlawfully or improperly expended funds. Such payment shall be made within 15 days of demand by the State.
14. **Termination:** This Agreement may be terminated by mutual consent of both parties, or by either party upon a 30-day notice in writing, delivered by certified mail or in person to the other party's contact identified in the Agreement. On termination of this Agreement, all accounts and payments will be processed according to the financial arrangements set forth herein for Project costs incurred prior to date of termination. Full credit shall be allowed for reimbursable expenses and the non-cancelable obligations properly incurred up to the effective date of the termination.
15. **Governing Law:** The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Agreement, including, without limitation, its validity, interpretation, construction, performance, and enforcement. Any party bringing a legal action or proceeding against any other party arising out of or relating to this Agreement shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum. In no event shall this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court.

16. **Entire Agreement:** This Agreement constitutes the entire Agreement between the parties. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, Agreements, or representations, oral or written, not specified herein regarding this Agreement. The Grantee, by signature of its authorized representative on the Agreement, acknowledges that the Grantee has read this Agreement, understands it, and agrees to be bound by its terms and conditions.
17. **Notices:** Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, email, or mailing the same, postage prepaid, to Grantee contact or State contact at the address or number set forth in this Agreement, or to such other addresses or numbers as either party may hereinafter indicate. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine, and to be effective against State, such facsimile transmission must be confirmed by telephone notice to State Contact. Any communication by email shall be deemed to be given when the recipient of the email acknowledges receipt of the email. Any communication or notice mailed shall be deemed to be given when received, or five days after mailing.
18. **Counterparts:** This agreement may be executed in two or more counterparts (by facsimile or otherwise), each of which is an original and all of which together are deemed one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart.
19. **Severability:** If any term or provision of this agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular term or provision held to be invalid.

ATTACHMENT C

ARCHAEOLOGICAL INADVERTENT DISCOVERY PLAN (IDP)

Archaeological materials are the physical remains of the activities of people in the past. This IDP should be followed should any archaeological sites, objects, or human remains be found. Archaeological materials are protected under Federal and State laws and their disturbance can result in criminal penalties.

This document pertains to the work of the Contractor, including any and all individuals, organizations, or companies associated with the project.

WHAT MAY BE ENCOUNTERED

Archaeological material may be found during any ground-disturbing activity. If encountered, all excavation and work in the area **MUST STOP**. Archaeological objects vary and can include evidence or remnants of historic-era and pre-contact activities by humans. Archaeological objects can include but are not limited to:

- **Stone flakes, arrowheads, stone tools, bone or wooden tools, baskets, beads.**
- Historic building materials such as **nails, glass, metal** such as cans, barrel rings, farm implements, **ceramics, bottles, marbles, beads.**
- Layers of **discolored earth** resulting from hearth fire
- Structural remains such as **foundations**
- **Shell Middens** (mounds)
- **Human skeletal remains** and/or **bone fragments** which may be whole or fragmented.

If in doubt call it in.

DISCOVERY PROCEDURES: WHAT TO DO IF YOU FIND SOMETHING

1. Stop ALL work in the vicinity of the find
2. Secure and protect area of inadvertent discovery with 30 meter/100 foot buffer—work may continue outside of this buffer
3. Notify Project Manager and Agency Official
4. Project Manager will need to contact a professional archaeologist to assess the find.
5. If archaeologist determines the find is an archaeological site or object, contact SHPO. If it is determined to *not* be archaeological, you may continue work.

HUMAN REMAINS PROCEDURES

1. If it is believed the find may be human remains, stop ALL work.
2. Secure and protect area of inadvertent discovery with 30 meter/100 foot buffer, then work may continue outside of this buffer with caution.
3. Cover remains from view and protect them from damage or exposure, restrict access, and leave in place until directed otherwise. **Do not take photographs. Do not speak to the media.**

4. Notify:
 - Project Manager
 - Agency Official
 - Contracted Archaeologist (if applicable)
 - Oregon State Police - **DO NOT CALL 911** 503-378-3720
 - SHPO (State Historic Preservation Office) 503-986-0690
 - LCIS (Legislative Commission on Indian Services) 503-986-1067
 - Appropriate Native American Tribes (as provided by LCIS)
5. If the site is determined not to be a crime scene by the Oregon State Police, do not move anything! The remains should continue to be *secured in place* along with any associated funerary objects, and protected from weather, water runoff, and shielded from view.
6. Do not resume any work in the buffered area until a plan is developed and carried out between the State Police, SHPO, LCIS, and appropriate Native American Tribes, and you are directed that work may proceed.

CONFIDENTIALITY

The Agency and employees shall make their best efforts, in accordance with federal and state law, to ensure that its personnel and contractors keep the discovery confidential. The media, or any third-party member or members of the public are not to be contacted or have information regarding the discovery, and any public or media inquiry is to be reported to the Agency. Prior to any release, the responsible agencies and Tribes shall concur on the amount of information, if any, to be released to the public.

To protect fragile, vulnerable, or threatened sites, the National Historic Preservation Act, as amended (Section 304 [16 U.S.C. 470s-3]), and Oregon State law (ORS 192.501(11)) establishes that the location of archaeological sites, both on land and underwater, shall be confidential.

From: [CLEARANCE ORSHPO * OPRD](#)
To: [COWAN Mark * OPRD](#)
Subject: RE: LG23-013 Kiwanda Corridor - Tillamook Co
Date: Thursday, September 14, 2023 5:10:03 PM
Attachments: [image001.jpg](#)

THIS E-MAIL CONFIRMS RECEIPT OF AN ELECTRONIC SUBMISSION FOR AN HISTORIC RESOURCE/106 REVIEW

THIS E-MAIL DOES NOT REPRESENT CONCLUSION OF THE REVIEW/106 CONSULTATION.....

We received a clearance submission on your above referenced project. Thank you.

The assigned SHPO Case Number is 23-1113 . Refer to this case number on all future correspondence or submitting any change to the scope of work for review using the provided SHPO case number. Please retain this email for your records.

If the SHPO chooses to not respond within 30 calendar days from receipt of this submittal your responsibilities under Section 106 of the National Historic Preservation Act of 1966 as amended, Oregon Revised Statute 358.653, local permitting process, and/or other similar request are complete and the project may proceed as described in the submitted scope of work. The 30-day SHPO response period for this project ends after 09/16/23 . Federal and state laws protecting cultural resources, local permitting requirements; and necessary consultation with Native American Indian Tribes for federal, state and local government projects still apply. See <https://www.oregon.gov/oprd/OH/Pages/lawsrules.aspx> .

Do not respond to this email.

From: COWAN Mark * OPRD <Mark.COWAN@oprd.oregon.gov>
Sent: Friday, August 18, 2023 8:27 AM
To: CLEARANCE ORSHPO * OPRD <ORSHPO.Clearance@oprd.oregon.gov>
Subject: LG23-013 Kiwanda Corridor - Tillamook Co

SHPO review is requested for the following Local Government Grant Program project:

LG23-013 Kiwanda Corridor - Tillamook Co

Attachments generally include:

- Submittal Form
- Clearance Form
- Maps
- Site Plan / Construction Plan
- Photos

Thanks,

Mark Cowan | Grant Program Coordinator



Request for Reimbursement Guide

All **Progress Reports** and **Reimbursement Requests** must be submitted using OPRD's online grant application and management system. An account with OPRDgrants.org is required for access.

For detailed instruction on how to submit Progress Reports and Reimbursement Requests, see the ***Grant Reporting and Reimbursement Instructions*** at:

- > oprdrants.org
- > Grant Programs
- > Local Government
- > Management & Reporting Requirements
- > ***Grant Reporting and Reimbursement Instructions***

All files for projects benefiting from Oregon Parks and Recreation Department administered grant funds must be able to pass a State audit. When preparing to submit a Request for Reimbursement, plan on submitting the following documentation:

- Progress Report**
- Project Bills / Invoices**
- Bill Payment Confirmation** – Please submit documentation confirming that all project bills/invoices have indeed been paid. The best way to document this is with some type of **Accounts Paid Report** or **Check Ledger Report** for the project that lists **Payments, Payee, Payment Date** and **Check Number**. (This is different from an Accounts Payable Report which would only list payments pending.) If an Accounts Paid Report is not available, please submit copies of canceled payment checks (with account numbers blocked out).

Once the project is completed . . .

- Project Pictures** – Please plan to submit 5-10 digital pictures of the completed project site and specific project elements, for the project file. Digital pictures can be attached to any Progress Report or Request for Reimbursement. For **Planning Projects**, rather than pictures, please submit a digital copy of the final **Planning Document**.

- Acknowledgement Sign** - Is there any type of signage on site acknowledging OPRD grant support for the project? If not, we will send you one.

If you have questions, please contact:

Mark Cowan
Grant Program Coordinator
mark.cowan@oprdrants.org
503-951-1317
<https://www.oregon.gov/oprdrants/>