

RESOLUTION NO. 1044

**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH MULTNOMAH COUNTY FOR ROAD IMPROVEMENTS PARTIALLY FUNDED WITH COMMUNITY DEVELOPMENT BLOCK GRANT MONEY.**

**WHEREAS**, the City desires to make improvements to SE Dora Avenue and SE Harlow Avenue; and

**WHEREAS**, existing City revenues are insufficient to fully fund those improvements; and

**WHEREAS**, these streets are within an area eligible for Federal Housing and Urban Development (HUD) Community Development Block Grant (CDBG) funds for neighborhood revitalization; and

**WHEREAS**, the City held a public hearing on February 9, 1993, and adopted Resolution No. 1011 on that same date to submit grant applications for these projects; and

**WHEREAS**, Multnomah County, as the local administrator for this program, conducted a staff review, convened a Policy Advisory Board, held a public hearing, and subsequently approved a project list that included the Dora Avenue and Harlow Avenue projects; and


**WHEREAS**, it is necessary to enter into an Agreement with Multnomah County to govern the CDBG process and delineate roles and responsibilities of both parties.

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF TROUTDALE THAT:**

The Mayor is authorized to enter into and sign an "Agreement Between Multnomah County, Oregon and the City of Troutdale for the Completion of: Reconstruct SE Harlow Avenue, Project 93-3, and Reconstruct SE Dora Avenue, Project 93-4", which is attached and made a part hereof.

**ADOPTED BY THE COMMON COUNCIL OF THE CITY OF TROUTDALE THIS 13th DAY OF JULY, 1993.**

YEAS: 6  
NAYS: 0  
ABSTAINED: 0

  
Paul Thalhof, Mayor  
Dated: July 14, 1993

ATTEST:  
  
George Martinez  
Deputy City Recorder

Contract Number: \_\_\_\_\_

AGREEMENT BETWEEN  
MULTNOMAH COUNTY, OREGON

and

THE CITY OF TROUTDALE

for the Completion of

Reconstruct SE Harlow Avenue, Project (93-3)  
Reconstruct SE Dora Avenue, Project (93-4)

This agreement, entered into this \_\_\_\_ day of \_\_\_\_\_ 1993, between Multnomah County, State of Oregon (hereinafter referred to as the "County"), and the City of Troutdale (hereinafter referred to as the "City"):

RECITALS

- A. The County is an urban county applicant for block grant funds under the Housing and Community Development Act of 1974 (the Act), Pub. L. 93-383 as amended, and will receive block grant funds for the purpose of carrying out eligible community development and housing activities under the Act and under regulations promulgated by the Department of Housing and Urban Development (HUD) at 24 CFR Part 570;
- B. The County and various cities and organizations within the County, including the City, have agreed to cooperate in the undertaking of essential community development and housing assistance activities.
- C. The County desires to have certain services performed by the City as described within this agreement for the purpose of implementing eligible activities under the Act and HUD regulations;
- D. It is appropriate and mutually desirable that the City be designated by the County to undertake the aforementioned eligible activities, so long as the requirements of the Act, HUD Regulations, state law and local law are adhered to, as provided for herein;
- E. The purpose of this agreement is to provide for cooperation between the County and the City, as the parties in this agreement, in implementing such eligible activities in the manner described above;
- F. The parties are authorized and empowered to enter into this agreement by ORS 190.010 et seq. by the Constitution of the State of Oregon; and

G. In consideration of payments, covenants, and agreements hereinafter mentioned, to be made and performed by the parties hereto, the parties mutually covenant and agree as provided for in this agreement.

MULTNOMAH COUNTY

CITY OF TROUTDALE

By \_\_\_\_\_  
Housing & Community Services  
Division Director

BY *Paul Thathofer* \_\_\_\_\_  
Date Date

By \_\_\_\_\_  
Henry C. Miggins  
Multnomah County Acting Chair

\_\_\_\_\_  
Date

REVIEWED:  
LAURENCE KRESSEL, County Counsel  
for Multnomah County, Oregon

By \_\_\_\_\_  
Date

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PART I. GENERAL CONDITIONS

1. SCOPE OF AGREEMENT

The Agreement between the parties will consist of the signature page, the general conditions; the federal, state and local program requirements; the evaluation and record keeping requirements; each and every project exhibits incorporated in the Agreement; all matters and laws incorporated by reference herein; and any written amendments made according to the general conditions. This Agreement supersedes any and all former agreements applicable to projects attached as exhibits to this Agreement.

2. SCOPE OF SERVICES

The City will perform and carry out in a satisfactory and proper manner the services set forth in Exhibits A and B attached hereto. In the case of multiple projects, each project will correspond to separate exhibits. The Agreement may be amended from time to time in accordance with the general conditions for the purpose of amending the scope of work or for any other lawful purpose.

3. COMMENCEMENT AND TERMINATION OF PROJECTS

- A. Upon release of project-related funds by HUD pursuant to 24 CFR Pt. 58, the County will furnish the City with written notice to proceed. No work on the project shall occur prior to the notice to proceed without written approval from the County.
- B. All project monies will be either obligated or expended within the program year they are authorized unless specifically authorized to extend into the next year by the County Housing and Community Services Division.

4. ADMINISTRATION

The City will appoint a liaison person who will be responsible for overall administration of block grant funded project(s) and coordination with the County's Housing and Community Services Division. The City will also designate one or more representatives who will be authorized to sign the Invoice for Services Provided and any other forms which may be required. The names of the liaison persons and representatives will be specified in the exhibits.

The City will furnish to Multnomah County, its employer identification number, as designated by the Internal Revenue Service.

5. OPERATING BUDGET

The City will apply the funds received from the County under this Agreement in accordance with the budget summary submitted by the City to, and approved by, the County. Such budget summary is attached to this Agreement as an exhibit. No line-item expense in the budget will be expended in excess of 10% without an equal underexpenditure in

another line item. Any line items that will be expended in excess of 10% require a budget revision approved by the Housing and Community Services Division. The budget revisions will specifically state the reasons for the requested increase and a justification for the corresponding decrease in another line item.

6. COMPENSATION, METHOD OF PAYMENT AND TERM OF AGREEMENT

- A. The County will compensate the City for the services specified in Exhibits A-1 and A-2 in an amount not to exceed:

|                              |             |
|------------------------------|-------------|
| Reconstruct SE Harlow Avenue | \$34,350.00 |
| Reconstruct SE Dora Avenue   | \$50,650.00 |

Total compensation for the above listed projects is \$85,000 for the period of July 1, 1993 through June 30, 1995. The County certifies that sufficient funds exist in its Letter of Credit with the Federal Treasury to cover its contribution under this Agreement.

- B. Payment will be requested by the City on a reimbursement basis by submitting an Invoice for Services Provided and a monthly summary of program progress and accomplishments, the forms to be signed by the City's authorized representative in a manner prescribed by the County.
- C. This contract is subject to future appropriations by the Multnomah County Board of Commissioners.
- D. The County will make payment to the City as soon as practicable but not more than thirty (30) days after said invoice is received and approved by the Housing and Community Services Division unless specific other payment arrangements are agreed to by County and City.

7. FUNDING ALTERNATIVES AND FUTURE SUPPORT

- A. The City shall comply with the program income requirements set forth in 24 CFR 504(C). The receipt and expenditure of program income as defined in 24 CFR 570.500(a) shall be recorded as part of the financial transactions of the project(s) funded under this Agreement. Program income shall be reported with each voucher request and substantially disbursed for the benefit of the project(s) funded by this Agreement in accordance with the principles of paragraph (b)(2)(i) and (ii) of 24 CFR 570.504. Program income which is not used to continue or benefit such project(s) shall revert back to the Block Grant Fund for reallocation by the County. The County shall determine whether income is being used to continue or benefit a project or projects authorized by this Agreement. Program income on hand when the Agreement expires or received after the Agreement's expiration shall be repaid to the County.

- B. The County makes no commitment to future support and assumes no obligation for future support of the activities contracted for herein, except as expressly set forth in this Agreement.
- C. Should anticipated sources of revenue not become available to the County for use in the Housing and Community Development Program, the County will immediately notify the City in writing and the County will be released from all contracted liability for that portion of the Agreement covered by funds not received by the County.

8. OPERATION/MAINTENANCE

The City agrees to maintain and operate the Project for eligible activities pursuant to HUD regulations. In the event the City fails to so maintain and operate the Project, the County may, at its option, take possession of the Project and operate and maintain the Project for any lawful purpose. The subcontracting of any operation and maintenance functions is subject to the provisions of paragraph 11 below.

9. AMENDMENTS

Either party may request modifications in the scope of services, terms or conditions of this Agreement. Proposed modifications which are mutually agreed upon will be incorporated by written amendment to this Agreement.

A written amendment may affect a project or projects authorized by this Agreement or may be of general application.

10. ASSIGNMENT AND SUBCONTRACTING

- A. The City will not assign any portion of this Agreement without the written consent of the County, and it is further agreed that said consent must be sought by the City not less than 15 days prior to the date of any proposed assignment.
- B. Any work or services assigned or subcontracted hereunder will be subject to each provision of this Agreement and proper bidding procedures contained therein. The City agrees that it is as fully responsible to the County for the acts and omissions of its subcontractors and of their employees and agents, as it is for the acts and omissions of its own employees and agents.
- C. The City agrees not to enter into any contract or subcontract or any other agreement under this Agreement without the prior written approval of the County.

11. HOLD HARMLESS INDEMNIFICATION, and WORKERS COMPENSATION

- A. The City further agrees that it is financially responsible (liable) for any audit exception which occurs due to its negligence or failure to comply with the terms of the Agreement or County Block Grant Program Policy.

- B. The City agrees to protect and save the County, its elected and appointed officials, agents, and employees while acting within the scope of their duties as such, harmless from and against all claims, demands, and causes of action of any kind or character, including the cost of defense thereof, arising in favor of the City's employees or third parties on account of personal injuries, death or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the City and/or its agents, employees, subcontractors or representatives under this Agreement. This indemnification is subject to the limitations of public body liability set forth in Oregon Constitution and Oregon Tort Claims Act.
- C. The City shall maintain Workers Compensation insurance coverage for all non-exempt workers, employees, and subcontractors either as a carrier insured employer or a self-insured employer as provided in Chapter 656 of Oregon Revised statutes. Out-of-state employers must provide Oregon Workers compensation coverage for their workers who work at a single location within Oregon for more than thirty (30) days in a calendar year. Contractors who perform the work without assistance of labor of any employee need not obtain such coverage.

12. CONFLICT OF INTEREST

- A. Interest of Officers, Employees, or Agents - No officer, employee, or agent of the County or City who exercises any functions or responsibilities in connection with the planning and carrying out of the Block Grant Program, or any other person who exercises any functions or responsibilities in connection with the Program, will have any personal financial interest, direct or indirect, in this Agreement, and the City will take appropriate steps to assure compliance.
- B. Interest of Subcontractor and Their Employees - The City agrees that it will incorporate into every subcontract required to be in writing and made pursuant to this Agreement the following provisions:

The Contractor covenants that no person who presently exercises any functions or responsibilities in connection with the Block Grant Program, has any personal financial interest, direct or indirect, in this Contract. The Contractor further covenants that he presently has no interest and will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of his services hereunder. The Contractor further covenants that in the performance of this Contract no person having any conflicting interest will be employed. Any interest on the part of the Contractor or his employees must be disclosed to the City and the County.

13. ENFORCEMENT

- A. Remedies for noncompliance. If the City materially fails to comply with any term of this Agreement whether stated in a Federal statute or regulation, a notice of award, or elsewhere, the County may take one or more of the following actions, as appropriate in the circumstances:

- (1) Temporarily withhold cash payments pending correction of the deficiency by the City or more severe enforcement action by the County.
  - (2) Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance.
  - (3) Wholly or partly suspend or terminate the current award for the City's program.
  - (4) Withhold further awards for the program, or
  - (5) Take other remedies that may be legally available.
- B. Hearings, Appeals. In taking an enforcement action, the County will provide the City an opportunity for such hearing, appeal, or other administrative proceeding to which the City is entitled under any statute or regulation applicable to the action involved.
- C. Effects of Suspension and Termination. Costs of the City resulting from obligations incurred by the City during a suspension or after termination of an award are not allowable unless the County expressly authorizes them in the notice of suspension or termination or subsequently. Other City costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if:
- (1) The costs result from obligations which were properly incurred by the City before the effective date of suspension or termination, are not in anticipation of it, and, in the case of a termination, are noncancellable, and,
  - (2) The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.
- D. Relationship to Debarment and Suspension. The enforcement remedies identified in this section, including suspension and termination, do not preclude the City being subject to "Debarment and Suspension" under E.O. 12549.

14. TERMINATION

- A. This Agreement is subject to immediate termination upon written notice by the Housing and Community Services Division should:
- (1) The City mismanage or make improper or unlawful use of Agreement funds;
  - (2) The City fail to comply with the terms and conditions or to provide work or services expressed herein or the applicable regulations and directives of the Federal Government, State, or County;

- (3) Block Grant funds become no longer available from the Federal Government or the County;
  - (4) City fail to obligate project funds, extenuating circumstances withstanding, subject to an extension granted under Section 3, B by no later than the last day of the program year (September 30th) in which program year the award was made; or
  - (5) The City fail to submit reports or submit incomplete or inaccurate reports in any material respect.
- B. This Agreement is subject to termination upon 30 days written notice by the City should:
- (1) The County fail in its commitment under this Agreement to provide funding for services rendered, as herein provided; or
  - (2) Block Grant funds become no longer available from the Federal Government or through the County.
- C. Otherwise this Agreement will terminate on the latest termination date specified herein and will be subject to extension only by mutual agreement and amendment in accordance with this Agreement.
- D. Upon termination of this Agreement any unexpended balance of Agreement funds will remain with the County.
- E. In the event that termination occurs under paragraph A(1) of this section, the City will return to the County all funds which were expended in violation of the terms of this Agreement.

15. REVERSION OF ASSETS

Upon expiration the City shall transfer to the County any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. It shall also include provisions designed to ensure that any real property under the City's control that was acquired or improved in whole or in part with CDBG funds in excess of \$25,000 is either:

- A. Used to meet one of the national objectives in §570.901 until five years after expiration of the agreement.
- B. Disposed of in a manner that results in the County being reimbursed in the amount of the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property.