

RESOLUTION NO. 1919

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF TROUTDALE AND THE SANDY DRAINAGE IMPROVEMENT COMPANY FOR THE SALMON CREEK WEIR IMPROVEMENT PROJECT

THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:


1. The 2007 update to the North Troutdale Storm Drainage Master Plan includes the Salmon Creek Weir Improvement project to improve the functioning of upstream drainage elements.
2. The proposed location of the project is on Port of Portland property north of the Troutdale Airport and within the boundaries of the Sandy Drainage Improvement Company (SDIC).
3. The City and SDIC desire to create a partnership for accomplishing the project and for its ongoing operation and maintenance.
4. The Intergovernmental Agreement approved by this resolution creates such a partnership and explains the roles and responsibilities of each party.

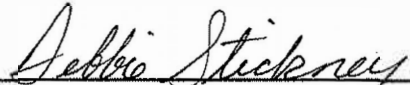
NOW THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TROUTDALE

Section 1. The Intergovernmental Agreement between the City of Troutdale and the Sandy Drainage Improvement Company for the Salmon Creek Weir Improvement project, in substantially the form contained in Attachment 1, is approved.

Section 2. This resolution is effective immediately upon adoption.

YEAS: 6
NAYS: 0
ABSTAINED: 0


Paul A. Thalhofer, Mayor
March 12, 2008
Date


Debbie Stickney, City Recorder
Adopted: March 11, 2008

**Intergovernmental Agreement
between the City of Troutdale and
the Sandy Drainage Improvement Company
for the Salmon Creek Weir Improvement Project**

This Intergovernmental Agreement ("Agreement") is made and entered into by the City of Troutdale, a municipal corporation in the State of Oregon ("City"), and the Sandy Drainage Improvement Company, an Oregon Non-Profit Improvement District ("District") which is a special purpose governmental entity, for the purpose of permitting, designing, constructing, operating, and maintaining the Salmon Creek Weir Improvement project ("Project"). The City and the District are collectively referred to as the "Parties".

I. Recitals:

- A. The Parties are authorized under the provisions of ORS 190.003 to 190.030 to enter into intergovernmental agreements for the performance of any or all functions that a party to the agreement has authority to perform.
- B. The City and the District each have the authority to acquire real property interest in land, design and construct drainage improvements, and operate and maintain drainage facilities.
- C. The City commissioned an update of its North Troutdale Storm Drainage Master Plan ("Plan") by Otak, Inc. in 2006. The Plan, finalized in 2007, includes the Project, which is intended to improve the function of all upstream drainage elements. The preferred location of the Project is on land currently belonging to the Port of Portland ("Property").
- D. The Parties wish to improve drainage by accomplishing the Project.
- E. The purpose of this Agreement is to assign responsibilities for the acquisition of real property interest, permits, and other permission that may be necessary for the Project, for the design and construction of the Project, and for the ongoing operation and maintenance of the Project.

THE PARTIES AGREE AS FOLLOWS:

II. Terms and Conditions:

- A. The District will do the following:
 - 1. Obtain in the District's name the necessary easement(s) or other interest in the Property, permits, and permissions necessary to design, construct, access, operate and maintain the Project.
 - 2. Design the Project and provide design documents to the City for review and comment.
 - 3. Construct the Project with in-house forces and/or with contract forces in accordance with applicable public contracting procedures.

4. Perform all testing, monitoring, sampling, reporting, or other related tasks required under applicable local, state, or federal laws, codes, and regulations.
5. Retain ownership of the Project and operate and maintain it after construction.

B. The City will do the following:

1. Promptly review design documents and provide comments to the District.
2. Reimburse District for actual costs incurred in performing the tasks in Paragraphs II A.2 through II A.4 above within thirty (30) days after receipt of an invoice from the District. The amount of the reimbursement shall not exceed \$150,000.

C. Early Termination:

The Parties may terminate this agreement by mutual written consent. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

D. Dispute Resolution:

In the case of a dispute under this Agreement, the Parties shall attempt to resolve the dispute informally. If the dispute cannot be resolved through this process, the Parties shall submit their dispute to intergovernmental arbitration pursuant to ORS 190.710 through 190.800. Each of the Parties shall bear its own expense of attorney fees and arbitration.

E. Amendment:

This Agreement may be amended by mutual written agreement of the Parties. Amendments shall be valid only when reduced to writing, approved as required and signed.

F. Term:

This Agreement shall be effective upon the date that it has been executed by all Parties and shall remain in effect until the Project is completed and the City reimburses the District unless terminated earlier in accordance with Paragraph II C.

G. Indemnification:

Subject to the conditions and limitation of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, each Party shall indemnify, defend and hold harmless each other from and against all liability, loss, and costs arising out of or resulting from acts of that Party, its officers, employees, and agents in the performance of this Agreement.

H. Insurance:

Each Party shall each be responsible for providing worker's compensation insurance as required by law. No Party shall be required to provide or show proof of any other insurance coverage.

I. Adherence to Law:

Each Party shall comply with all federal, state, and local laws and ordinances applicable to this Agreement.

J. Access to Records:

Each Party shall have access to the books, documents and other records of the other which are related to this Agreement for the purpose of examination, copying and audits, unless otherwise limited by law.

K. Subcontracts and Assignments:

No Party will subcontract or assign any part of this Agreement without the written consent of the other Party except that District may subcontract for the design and/or construction of the Project.

L. Entirety of Agreement:

This Agreement constitutes the entire Agreement between the Parties on this subject. No waiver, consent, modification, or changes of the terms of the Agreement shall bind either party unless made in writing and signed by all Parties.

M. Severability:

The Parties agree that 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 constructed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

SANDY DRAINAGE IMPROVEMENT COMPANY

CITY OF TROUTDALE

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

Approved as to form:

Approved as to form:

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

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SANDY DRAINAGE IMPROVEMENT COMPANY

CITY OF TROUTDALE

By: Bob Eator

By: Paul Holbrook

Title: Executive Director

Title: Mayor

Date: 3/24/08

Date: 3/14/08

Approved as to form:

Approved as to form:

By: _____

By: _____

Title: _____

Title: City Attorney

Date: _____

Date: 3/18/08