

RESOLUTION NO. 2446

A RESOLUTION AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF TROUTDALE AND THE SANDY DRAINAGE IMPROVEMENT COMPANY FOR COORDINATION OF DEVELOPMENT REVIEW SERVICES

THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. The Sandy Drainage Improvement Company (SDIC) is the primary agency responsible for flood protection and levee preservation for a significant portion of the City of Troutdale, including the majority of industrial properties in the city.
2. The SDIC Board has formalized the review process carried out by the Multnomah County Drainage District (MCDD) staff and authorized a fee structure to better serve the development review process and have a measure of cost recovery.
3. The City of Troutdale and MCDD currently work together in an agreeable fashion on coordinating development review within the SDIC district boundary but desire to formalize the relationship through an intergovernmental agreement.

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 Coordination of Development Review as presented in Attachment A is hereby adopted.

YEAS: 7

NAYS: 0

ABSTAINED: 0



Casey Ryan, Mayor

Date: April 14, 2019



Sarah Skroch, City Recorder

Adopted: April 9, 2019

INTERGOVERNMENTAL AGREEMENT

Coordination of Development Review

This Intergovernmental Agreement (this "Agreement") is authorized by ORS 190.010 and is made and entered into as of _____ (the "Effective Date") by and among the City of Troutdale, a municipal corporation of the State of Oregon (the "City"), and Sandy Drainage Improvement Company ("SDIC" or "District"), a special purpose local government organized under ORS Chapter 554 (collectively, the "Parties," and each individually a "Party").

RECITALS

- A. SDIC, in conjunction with Multnomah County Drainage District ("MCDD"), Peninsula 1 Drainage District, and Peninsula 2 Drainage District, operates and maintains a water conveyance and flood risk reduction system, which includes levees, drainage facilities, pump stations and other assets (the "System"), along and in the vicinity of the Columbia River in north Multnomah County. Through intergovernmental agreement, MCDD has general management and administrative authority over SDIC and other two Districts. The Executive Director of MCDD serves as executive director of SDIC pursuant to intergovernmental agreement.
- B. Some of the lands protected by SDIC are also within the jurisdictional boundaries of the City (the "Joint Territory"). (Map attached as Exhibit A.) The City benefits from SDIC's operation and maintenance of the System. SDIC's activities are necessary to maintain certification of the levees by the United States Army Corps of Engineers ("USACE") and accreditation of the levees by Federal Emergency Management Agency ("FEMA"). Accreditation is required in order for properties at risk of flooding to participate in the National Flood Insurance Program ("NFIP"). Loss of NFIP could have negative economic consequences to properties within the City protected by the levees. SDIC's operation and maintenance of the System within the Joint Territory provides a service that could otherwise be the responsibility of the City's stormwater utility.
- C. The City has jurisdiction over land use planning and development review within this overlapping territory. Uncoordinated development within the Joint Territory can impact the SDIC's System, such as encroaching upon the levee in violation of applicable USACE regulations and/or impairing SDIC's drainage facilities.
- D. The Parties desire to coordinate development review to ensure that the District has notice of, and opportunity to participate in, the City development review processes so that potential impacts to the System are identified, , analyzed, and eliminated, minimized, or mitigated.

TERMS

The Parties agree as follows:

1. City Obligations.

1.1 Notice and Opportunity to Comment. The City will provide written notice to SDIC and give an opportunity to comment prior to approval of any development within the Joint Territory subject to review and approval of a land use application, building, public works, or event permit or any other development that is subject to approval by the City under the City's municipal code or zoning regulations and that could impact the District's System or access to its System.

1.1.1 For the purposes of this Agreement, "development" means any change to improved or unimproved real property or any real property interest, as defined in the City's Development Code.

1.1.2 The City may impose a reasonable time limitation for submission of comments by SDIC in the same manner as it would for other internal or external agency comments in similar circumstances.

1.1.3 The City will inform SDIC of any substantial modifications to a proposed development under review.

1.2 Notice. The written notice of Section 1.1 will be addressed as follows and transmitted either by electronic or regular mail:

Email with the subject line "SDIC Development Review": reviews@mcdd.org.

Regular mail:

SDIC Development Review
C/O MCDD
1880 N.E. Elrod Drive
Portland, Oregon 97211

1.3 Response to SDIC Comments. The City agrees to consider and implement SDIC's comments pursuant to the applicable City development review process.

1.3.1 If SDIC comments that the proposed development requires independent review and approval by SDIC, including without limitation review under 33 USC 408 ("Section 408") and USACE regulations and process, the City agrees to impose a condition of approval requiring the applicant for development to obtain such approval prior to the issuance of building permits for or approval of construction of the proposed development in accordance with City Standards.

1.3.2 If SDIC requests a specific condition of approval relating to design, location, or siting of the proposed development in order to protect the System from the impacts of the proposed development, the City agrees to impose such condition subject to any constitutional, statutory, or City code limitations, and subject to SDIC's submission of sufficient factual information to support imposition of the condition. The City will require compliance with such conditions no later than issuance of a certificate of completion or equivalent authorization.

1.3.3 The City agrees to consider other SDIC comments as part of the City's approval process as described under Section 1.1.2 above.

1.3.4 Training. If a City has a specific software program or other platform for submission of comments on development reviews, the City agrees to provide SDIC access to and training with regard to the platform.

1.4 On-Going Coordination. The City agrees to notify SDIC of any proposed changes to its development review process or substantive standards that could impact SDIC's levee or drainage systems within the Joint Territory.

2. SDIC Obligations.

2.1 Timely Submission of Comments. SDIC agrees to provide its comments to the City within the time limits established by the City in the notice. SDIC understands that the City's obligations under Section 1 of this Agreement are contingent upon timely comments by SDIC.

2.2 Substantial Evidence. SDIC understands that the imposition of a condition of approval must be supported by substantial evidence directed to an applicable criterion adopted by the SDIC Board of Directors. The City's obligations under Section 1 of this Agreement are contingent upon SDIC providing a sufficient evidentiary and legal basis for the requested condition in its comments.

2.3 Appeals and Other Legal Challenges. If a City decision imposing a condition at the request of SDIC is appealed, faces a legal challenge, or is subject to a regulatory complaint or investigation arising from or as a result of such condition, SDIC agrees to intervene in such matter and defend the City's decision to include the condition.

2.4 Training. If the City has a specific software program or other platform for submission of comments on development reviews, SDIC agrees to train on and submit comments through this platform. If granting access to this platform requires the City to pay an additional licensing or other fee, SDIC agrees to reimburse the City for such costs.

2.5 On-Going Coordination. SDIC agrees to notify the City of any proposed changes to its development review process or substantive standards that could impact the City's review of development within the Joint Territory.

3. General Requirements.

3.9 Execution. This Agreement may be executed in counterparts. Delivery of this executed Agreement by facsimile or e-mail will be sufficient to form a binding agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

CITY OF TROUTDALE

Approved as to form:

By: _____

Title: _____

Date: _____

City Attorney

SANDY DRAINAGE IMPROVEMENT
COMPANY

By: _____

Title: _____

Date: _____