

City of Sherwood, Oregon

Resolution No. 98-773

A RESOLUTION AMENDING RESOLUTION NO. 98-728 AND AUTHORIZING SUPPLEMENT NO. 1 ENHANCEMENT PROGRAM PROJECT (CEDAR CREEK GREENWAY TRAIL), AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, City Council passed Resolution No. 98-728 on February 10, 1998, in order to receive enhancement funds through a cooperative agreement with the Oregon Department of Transportation (ODOT); and

WHEREAS, the City of Sherwood proposes to use the enhancement funds to construct pedestrian paths from Stella Olsen Park to the City library, the Senior Center, and several arterial roadways; and

WHEREAS, ODOT has amended the original enhancement fund amount from \$83,000 to \$88,000 for the project known as the Cedar Creek Greenway Trail and added contractual language to clarify obligations of both the City and the State.

NOW, THEREFORE, THE CITY RESOLVES AS FOLLOWS:

Section 1. Approval and Adoption: That the City of Sherwood approve and adopt Supplement No. 1 Enhancement Program Project (Cedar Creek Greenway Trail), attached hereto as Exhibit A.

Section 2. Effective Date: This Resolution shall be effective upon its approval and adoption.

Duly passed by the City Council this 10th day of November 1998.

ATTEST:



Bill Boyle, Mayor



Jon Bormet, City Manager-Recorder

SUPPLEMENT NO. 1
ENHANCEMENT PROGRAM PROJECT
Cedar Creek Greenway Trail

The State of Oregon, acting by and through its Department of Transportation (State), and City of Sherwood, acting by and through its City Officials, hereinafter referred to as "Agency", entered into Local Agency Agreement No.13,225 on February 26, 1998. Said agreement covers an enhancement project to construct an off street system of pedestrian by-ways connecting several arterial roadways (Cedar Creek Greenway Trail), hereinafter referred to as "Project."

It has now been determined by State and Agency that the agreement referenced above, although remaining in full force and effect, shall be amended by this agreement to add additional Enhancement funds to the project as follows:

Page 1, paragraph No. 4 which reads:

4. The project shall be conducted as a part of the Enhancement Program under Title 23, United States Code, and the Oregon Action Plan. The Enhancement Funds are limited to \$83,000. Agency shall be responsible for the match for the federal funds and any portion of the project which is not covered by federal funding.

Shall be amended to read:

4. The project shall be conducted as a part of the Enhancement Program under Title 23, United States Code, and the Oregon Action Plan. The Enhancement Funds are limited to \$88,000. Agency shall be responsible for the match for the federal funds and any portion of the project which is not covered by federal funding.

The following paragraphs shall be added:

7. This agreement may be terminated by mutual written consent of both parties.

State may terminate this agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:

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CITY OF SHERWOOD

- a. If Agency fails to provide services called for by this agreement within the time specified herein or any extension thereof.
- b. If Agency fails to perform any of the other provisions of this agreement, or so fails to pursue the work as to endanger performance of this agreement in accordance with its terms, and after receipt of written notice from State fails to correct such failures within 10 days or such longer period as State may authorize.
- c. If Agency fails to provide payment of its share of the project costs.
- d. If State fails to receive funding, appropriations, limitations or other expenditures authority at levels sufficient to pay for the work provided in the agreement.
- e. If Federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this agreement is prohibited or if State is prohibited from paying for such work from the planned funding source.

Any termination of this agreement shall not prejudice any rights or obligations accrued to the parties prior to termination.

8. Agency, as a recipient of grant funds, pursuant to this agreement with the State, shall assume sole liability for Agency's breach of the conditions of the grant, and shall, upon Agency's breach of grant conditions that requires the State to return funds to the Federal Highway Administration, the grantor, hold harmless and indemnify the State for an amount equal to the funds received under this agreement; or if legal limitations apply to the indemnification ability of Agency, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this agreement.

9. This agreement and attached exhibits constitutes the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. No waiver, consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of ODOT to enforce any provision of this agreement shall not constitute a waiver by ODOT of that or any other provision.

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IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their seals as of the day and year hereinafter written.

This project was approved by the Oregon Transportation Commission on October 15, 1997 as a part of the 1998-2001 Statewide Transportation Improvement Program, page 3.

On June 18, 1998, the Oregon Transportation Commission adopted Subdelegation Order No. 2 in which the Director grants authority to the Deputy Director/Chief Engineer to approve and execute agreements over \$50,000 when the work is related to a project included in the STIP.

APPROVAL RECOMMENDED

By Kay Van Aukel
Region 1 Manager

Date 10-14-98

STATE OF OREGON, by and through
its Department of Transportation

By Thomas D. Wiley
Deputy Director

Date 12/21/98

CITY OF SHERWOOD, by and through
Its Elected Officials

By Bill Boyer
Mayor

By Jan Barnett
Recorder

Date 11.13.98

APPROVED AS TO LEGAL
SUFFICIENCY

By Allyson M. Peterson
City Attorney

Date 12/3/98