



City of Sherwood, Oregon

Resolution 2001-977

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH WASHINGTON COUNTY AND TVWD FOR WATERLINE IMPROVEMENTS IN THE VICINITY OF OREGON STREET

WHEREAS, ORS 190.003 through 190.110 authorizes agencies to enter into intergovernmental agreement for the performance of any or all functions and activities that a party to the agreement has the authority to perform; and

WHEREAS, Washington County voters, in May 1995, approved a Major Streets Transportation Improvement Program – Six year Serial Levy for Roads (MSTIP3), and in May 1997, the voters approved Measure 50, which converted the MSTIP3 levy to a part of the County's permanent rate; and

WHEREAS, one of the MSTIP3 projects is construction of improvements to SW Oregon Street, which is a County collector road between Old Murdock Road and SW Tualatin Sherwood Road, hereinafter referred to as the "County Project"; and

WHEREAS, the section of SW Oregon Street from Old Murdock Road to SW Tualatin Sherwood Road is under Washington County jurisdiction; and

WHEREAS, the City desires to construct improvements to its water system in the vicinity of the County Project, and said City waterline improvements are hereinafter referred to as "Waterline Project," and

WHEREAS, TVWD is the Capital Projects Manager for the City and designated as the City's representative for this Waterline Project; and

WHEREAS, the City has requested that the Waterline Project be added to the County's Project where the City agrees to pay for such requested work according to Resolution Number 2001-950, and

WHEREAS, under the cited authority, it is the mutual desire of County, City and TVWD to enter into such an Agreement to cooperate in the design, construction, and inspection of Waterline Work; and

WHEREAS, the total project cost is \$270,486, which includes the Washington County construction bid for the waterline work in the amount of \$225,405 and \$45,081 for county administration costs. Final payment to Washington County is based upon final payment to the Contractor, and

WHEREAS, a contingency of 20% is recommended by Staff for this project, and

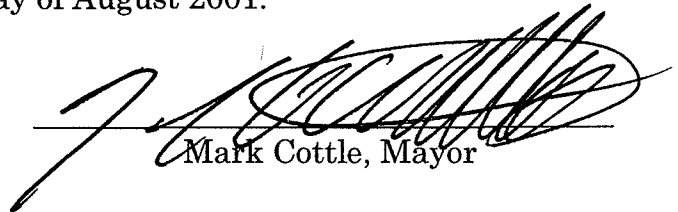
WHEREAS, the City has budgeted \$200,000 and proposes to transfer other needed funds from city water SDC funds (022 or 029) to cover the project cost.

NOW, THEREFORE, THE CITY RESOLVES AS FOLLOWS:

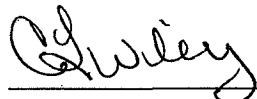
Section 1: The City Manager is directed to negotiate the final Major Streets Transportation Improvement Program Intergovernmental Agreement Between Washington County, City of Sherwood, and Tualatin Valley Water District for Construction of Waterline Work on SW Oregon Street From Old Murdock to Tualatin Sherwood Road.

Section 2: The total project cost of the waterline work in the amount of \$270,486 is approved, with a total authorization, including a contingency amount, not to exceed \$325,000.

Duly passed by the City Council this 28th day of August 2001.


Mark Cottle, Mayor

ATTEST:



C.L. Wiley, Recorder

**MAJOR STREETS TRANSPORTATION IMPROVEMENT PROGRAM
INTERGOVERNMENTAL AGREEMENT BETWEEN WASHINGTON
COUNTY, CITY OF SHERWOOD, AND TUALATIN VALLEY WATER
DISTRICT (TVWD) FOR CONSTRUCTION OF WATERLINE WORK ON NE
OREGON STREET FROM MURDOCK ROAD TO TUALATIN SHERWOOD
ROAD**

This Agreement is made and entered into by and between Washington County, acting by and through its Elected Officials, hereinafter referred to as County, the City of Sherwood, acting by and through its City Council, hereinafter referred to as City, and the Tualatin Valley Water District, acting by and through its Board of Commissioners, hereafter referred to as TVWD.

WITNESSETH

ARTICLE 1 - RECITALS

WHEREAS, ORS 190.003 - 190.010 authorizes agencies to enter into intergovernmental agreements for the performance of any or all functions and activities that a party to the agreement has the authority to perform; and,

WHEREAS, Washington County voters, in May 1995, approved a Major Streets Transportation Improvement Program – Six Year Serial Levy for Roads (MSTIP3), and in May 1997, the voters approved Measure 50, which converted the MSTIP3 levy to a part of the County permanent rate; and

WHEREAS, one of the MSTIP3 projects is construction of improvements to NE Oregon Street, which is a County collector road between SW Murdock Road and SW Tualatin Sherwood Road, hereinafter referred to as the “Project,” as shown generally on the attached Exhibit A; and,

WHEREAS, the section of NE Oregon Street from west of SW Murdock Road to SW Tualatin Sherwood Road, is under Washington County jurisdiction; and

WHEREAS, City desires to construct improvements to its waterline system in the vicinity of the County Project, and said City waterline improvements are hereinafter referred to as “Waterline Work,” and

WHEREAS, TVWD is the Capital Projects Manager for the City and designated as the City’s representative for this Project; and

WHEREAS, City has requested that the Waterline Work be added to the County’s Project, and City agrees to pay for such requested work; and,

WHEREAS, under the cited authority, it is the mutual desire of County, City and TVWD to enter into such an Agreement to cooperate in the design, construction, and inspection of Waterline Work.

NOW, THEREFORE, the premises being in general as stated in the foregoing recitals, and in consideration of the terms, conditions and covenants set forth below, the parties hereto agree as follows:

ARTICLE 2 COUNTY OBLIGATIONS

- 2.1 County shall enter into and execute this Agreement during a duly authorized session of its Board of County Commissioners.
- 2.2 County shall, upon execution of this Agreement, assign a liaison person to be responsible for coordination of the Project with TVWD and City.
- 2.3 County shall perform or cause to be performed all actions necessary for design and construction of Project, including contract administration, and project management provided however, that County and City, and TVWD shall perform actions with respect to the Waterline Work as further set forth in this agreement. County shall advertise for, award, and administer the construction contract for the Project. County shall be responsible for acceptance of contractor's work on behalf of City.
- 2.4 County shall review Waterline plans, bid items, quantities and technical specifications provided by City, and incorporate the Waterline Work as specific bid items in its bid documents for the Project. The County reserves the right to require alignment or other design modifications to Waterline Work plans provided by City as necessary to minimize impacts to the Project.
- 2.5 County shall provide City and TVWD with the opportunity for review of final plans prior to bidding.
- 2.6 County shall, following bid opening, notify City and TVWD of the amount of the construction cost of the Waterline Work as contained in bid and provide City and TVWD with the opportunity for review of the contract bid.
- 2.7 County shall provide inspection services for Waterline trench excavation and backfill, and TVWD shall provide inspection services for Waterline installation on behalf of the City. Coordination between County and TVWD inspection services shall be as set forth under Article 3.

- 2.8 County shall perform actions regarding compensation as set forth in Article 5 - Compensation.

ARTICLE 3 CITY OBLIGATIONS:

- 3.1 City shall enter into and execute this Agreement during a duly authorized session of its City Council.
- 3.2 City, upon execution of this Agreement, hereby designates TVWD to be responsible for coordination of Project with County.
- 3.3 City, through TVWD, shall provide County with bid-ready plans, specifications, bid items and quantities, and a construction estimate for its Waterline Work. City shall provide all easements and permits necessary for installation of its Waterline Work.
- 3.4 City, through TVWD, shall provide inspection and monitoring of the Waterline Work in coordination with the County. City, through TVWD, shall monitor all "acceptance testing" conducted by the contractor as specified, which includes disinfection, pressure testing, and valve box installations. These services shall be provided at City expense.
- 3.5 City shall perform actions regarding compensation as set forth in Article 5- Compensation.

ARTICLE 4 TVWD OBLIGATIONS

- 4.1 TVWD shall enter into and execute this Agreement during a duly authorized session of its Board of Commissioners.
- 4.2 TVWD shall, upon execution of this Agreement, assign a liaison person to be responsible for coordination of Project with County.
- 4.3 TVWD, shall provide County with bid-ready plans, specifications, bid items and quantities, and a construction estimate for its Waterline Work. TVWD shall provide all easements and permits necessary for installation of its Waterline Work.
- 4.4 TVWD shall provide inspection and monitoring of the Waterline Work in coordination with the County. TVWD shall monitor all "acceptance testing" conducted by the contractor as specified, which includes disinfection, pressure testing, and valve box installations. These services shall be provided at City expense.

ARTICLE 5 – COMPENSATION

- 5.1 City shall pay to the County the County's Waterline Work construction cost, and the non-construction cost for the Waterline Work. The Waterline Work construction includes contract bid items used for the Waterline Work and an allocated share of the cost of applicable lump sum contract items (for example, mobilization and erosion control), and the cost for any extra work required for the Waterline Work. Also included are any costs associated with acquisition of easements by Washington County on behalf of the City. The non-construction cost includes the cost for County Services including project management, surveying, inspection, and contract administration, which shall be calculated at a flat rate of 20% of the Waterline Work construction costs.
- 5.2 Estimated construction cost of the Waterline Work is \$ ~~416,667~~225,405. Estimated non-construction cost of the Waterline is \$ ~~83,333~~45,081 for a total estimate of \$~~500,000~~270,486. Within thirty (30) days of execution of this agreement, City shall pay to County the sum of \$~~250,000~~135,000 (approximately one-half of the water improvements). Upon depletion of the \$~~250,000~~135,000 deposited under 5.2, the quarterly statement shall include the amount due from City for Waterline Work. City shall pay County the amount due within thirty (30) days of its receipt of the billing.
- 5.3 City and County understand that the estimated costs are used to determine project budget and deposit amounts used within this agreement. Final costs will be based on the actual contract amount of the schedule of prices and quantities used and installed. Final payments made by the City to the County related to this Project shall be based on actual bids and construction and non-construction (20% of construction) costs.
- 5.4 County shall provide the City with a final statement of Waterline Work expenses within ninety (90) days of the completion of the construction contract, and bill the City for any remaining costs to be paid by the City in excess of deposits made, or refund any excess to the City.

ARTICLE 6 - GENERAL PROVISIONS

6.1 Laws of Oregon

The parties agree to abide by all applicable laws and regulations regarding the handling and expenditure of public funds. This Agreement shall be governed by the laws of the State of Oregon. All provisions required by ORS Chapter 279 to be included in public

contracts are hereby incorporated by reference and made a part of this Agreement as if fully set forth herein.

6.2 Default

Either party shall be deemed to be in default if it fails to comply with any provision of this Agreement. City, TVWD, and County agree time is of the essence in the performance of any of the obligations within this Agreement. Complaining party shall provide the other party with written notice of default and allow thirty (30) days within which to cure the defect. City shall pay the County for costs incurred for satisfactorily completed and authorized work up to the time of default. Each party shall be liable for all costs and damages arising from default by the other party.

6.3 Indemnification

This Agreement is for the benefit of the parties only. Each party agrees to indemnify and hold the other harmless, to include their respective officers, employees, agents and representatives, from and against all claims, demands and causes of actions and suits of any kind or nature for personal injury, death or damage to property on account of or rising out of services performed, the omission of services or in any way resulting from the acts or omissions of the parties so indemnifying and/or its officers, employees, agents or representatives. Indemnification is subject to and shall not exceed the limits of liability of the Oregon Tort Claims Act (ORS 30.260 through 30.300). In addition, each party shall be responsible for any contract claims, delay damages or similar items caused by the action or inaction of the party.

6.4 Documents are Public Property

All records, reports, data, documents, systems, and concepts, whether in the form of writings, figures, graphs, or models which are prepared or developed in connection with this Project shall become public property.

6.5 Modification of Agreement

No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing, signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in specific instances and for the specific purpose given.

6.6 Dispute Resolution

The parties agree to use their best efforts to resolve any dispute arising out of this Agreement by mediation. If mediation is not successful within 30 days, the parties are free to utilize any legal remedy they may have.

6.7 Severability

If any terms or provisions of this Agreement or the application thereof to any person or circumstance shall, to any extent, be determined by a court to be invalid or unenforceable, the remainder of this Agreement and the application of those terms and provisions shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

6.8 Nondiscrimination

No person shall be denied or subjected to discrimination in receipt of the benefits of any services or activities made possible by or resulting from this Agreement on the grounds of race, color, religion, gender, sexual orientation, national origin, disability, age or marital status. Any violation of this provision shall be considered a material defect and shall be grounds for cancellation, termination or suspension in whole or in part by the County.

6.9 Integration

This Agreement includes the entire agreement of the parties and supersedes any prior discussions or agreements regarding the same subject. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this contract.

6.10 Standards

TVWD standards shall apply to Waterline Work. County standards apply to all other work. In case of conflict as to which standards apply, County standards shall prevail.

ARTICLE 7 - TERM OF AGREEMENT

7.1 The term of this Agreement shall be from the date of execution for three years or until completion of all obligations, whichever is sooner.

7.2 This Agreement may be amended or extended for periods of up to one year by consent of the parties, subject to provisions of this Agreement. Except for breach, it may be canceled or terminated for any reason beyond the control of the parties.

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

DONE AND DATED this _____ day of _____, 2001.

CITY OF SHERWOOD

WASHINGTON COUNTY, OREGON

City Manager

Chair, Board of Commissioners

City Recorder

Recording Secretary

Date: _____

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM

City Attorney

Loretta S. Skurdahl
Senior Assistant County Counsel

TUALATIN VALLEY WATER
DISTRICT

President

Attest: _____

Secretary

Date: _____

APPROVED AS TO FORM:

District Counsel