



Resolution 2003-087

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH WASHINGTON COUNTY FOR LANDSCAPING ON NE OREGON STREET AT MURDOCK ROAD

WHEREAS, ORS 190.003 to 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, the City desires to construct landscaping improvements at the intersection of NE Oregon Street and Murdock Road; and

WHEREAS, the County desires to assist in funding these improvements as part of its Oregon Street improvement project; and

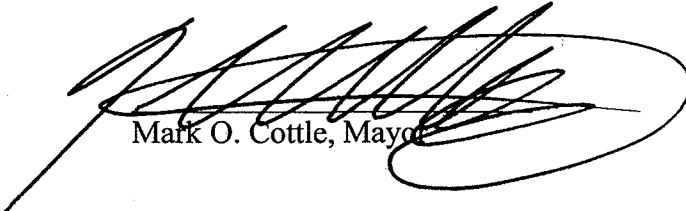
WHEREAS, the County and City mutually desire to enter into an agreement to cooperate in the installation of landscaping work at this location.

NOW, THEREFORE, THE CITY RESOLVES AS FOLLOWS:

Section 1: The City Manager is authorized to finalize and sign the Major Streets Transportation Improvement Program Intergovernmental Agreement for the Installation of Landscaping on NE Oregon Street at Murdock Road.

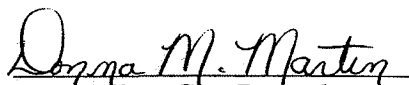
Section 2: This Resolution shall be effective upon its approval and adoption.

Duly passed by the City Council this 28th day of October 2003.



Mark O. Cottle, Mayor

ATTEST:



~~C.L. Wiley, City Recorder~~
Dm Martin, Deputy Recorder

DRAFT

**MAJOR STREETS TRANSPORTATION IMPROVEMENT
PROGRAM INTERGOVERNMENTAL AGREEMENT**

BETWEEN

WASHINGTON COUNTY AND THE CITY OF SHERWOOD

FOR INSTALLATION OF:

LANDSCAPING ON NE OREGON STREET AT MURDOCK 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", and the City of Sherwood, acting by and through its City Council, hereinafter referred to as "City".

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 install new landscaping at the new roundabout at SW Murdock Road and adjacent areas that were recently constructed as part of the NE Oregon Street improvement project, and said City landscaping improvements are hereinafter referred to as "Landscaping Work," and

WHEREAS, City has requested that the County delete that portion of landscaping work from the NE Oregon Street Improvements project and instead,

deposit an amount equal to these costs with the City to be used in their Landscaping Work for the new roundabout and immediate area.

WHEREAS, under the cited authority, it is the mutual desire of County and the City to enter into such an Agreement to cooperate in the installation of the Landscaping 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 WASHINGTON 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 the City.
- 2.3 County shall perform actions regarding compensation as set forth in Article 4 - Compensation.

ARTICLE 3 CITY OF SHERWOOD 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 agrees to assign a liaison person to be responsible for coordination of the Project with the County.
- 3.3 City shall perform or cause to be performed all actions necessary for the design and construction of Project, including contract administration, and project management provided however, that County and City shall perform actions with respect to the Landscaping Work as further set forth in this agreement.
- 3.4 City shall advertise for, award, and administer the construction contract for the Project. City shall be responsible for acceptance of contractor's work on behalf of City and the County.
- 3.5 City shall obtain and provide all easements and permits necessary for installation of its Landscaping Work.
- 3.6 City shall provide inspection and monitoring of the Landscaping Work in coordination with the County. City shall monitor all "acceptance testing"

conducted by the contractor as specified, which may include irrigation line testing and plant certification. These services shall be provided at City expense.

- 3.7 City shall perform actions regarding compensation as set forth in Article 4-Compensation.

ARTICLE 4 COMPENSATION

- 4.1 County shall pay to the City an amount equal to the County's landscaping costs for that area that has been deleted from the County's NE Oregon Street Improvements project. These costs include an allocated share of the irrigation costs and contract bid items that would have been used.
- 4.2 Costs of the landscape work deleted from the County's NE Oregon Street Improvement project are approximately \$26,501. Within thirty (30) days of execution of this agreement, County shall pay to City the sum of \$26,501 (approximate County costs of the landscape improvements that would have been installed as part of the road improvement project).
- 4.3 City shall only use these funds for the landscaping of the NE Oregon Street roundabout and immediate area.

ARTICLE 5 GENERAL PROVISIONS

5.1 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.

5.2 Default

Either party shall be deemed to be in default if it fails to comply with any provision of this Agreement. City 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.

5.3 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.

5.4 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.

5.5 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.

5.6 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.

5.7 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.

5.8 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.

5.9 Integration

This Agreement includes the entire agreement of the parties and supersedes any prior discussions or agreements regarding the same subject. There are not understandings, agreements, or representations, oral or written, not specified herein regarding this contract.

5.10 Standards

City of Sherwood standards shall apply to Landscaping Work. County standards apply to all other work. In case of conflict as to which standards apply, County standards shall prevail.

ARTICLE 6 TERM OF AGREEMENT

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

6.2 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 _____, 2003.

CITY OF SHERWOOD

WASHINGTON COUNTY, OREGON

City Manager

Chair, Board of Commissioners

City Recorder

Recording Secretary

Date: _____

Date: _____

APPROVED AS TO FORM

Loretta S. Skurdahl
Senior Assistant County Counsel