



Resolution 2005-048

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH SHERWOOD VILLAGE HOMEOWNERS ASSOCIATION FOR MAINTENANCE OF LANGER PARK

WHEREAS, the developer of Sherwood Village dedicated certain lands in the development as a park to be maintained by the Sherwood Village Homeowners Association; and

WHEREAS, the City of Sherwood has had an ongoing agreement with the Homeowners Association; and

WHEREAS, the City of Sherwood has adopted maintenance Standards by Resolution 2004-041; and

WHEREAS, the City of Sherwood has drafted a ten (10) year agreement with three (3) five (5) year renewal periods,

WHEREAS, the Public Works Director recommends adoption of an agreement,

NOW, THEREFORE, THE CITY RESOLVES AS FOLLOWS:

Section 1. The City Manager is authorized to enter into an agreement with Sherwood Village Homeowners' Association for a ten (10) year period with three (3) five (5) year renewals for maintenance of Langer Park.

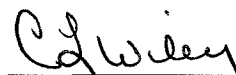
Section 2. This Resolution shall be effective upon its approval and adoption.

Duly passed by the City Council this day of August 16, 2005.



Keith S. Mays, Mayor

ATTEST:



C.L. Wiley, City Recorder

Resolution 2005-
Langer Park Maintenance Agreement
August 16, 2005

MAINTENANCE AGREEMENT
Between
CITY OF SHERWOOD, OREGON
And
SHERWOOD VILLAGE HOMEOWNER'S ASSOCIATION

This Agreement is entered into this _____ day of _____, 2005 by and between the CITY OF SHERWOOD (Sherwood) and the SHERWOOD VILLAGE HOMEOWNERS' ASSOCIATION (the Association).

WHEREAS, the developer of the Sherwood Village dedicated certain land to Sherwood to be used as a park for residents of the city as well as Sherwood Village, which park is known as Langer Park; and

WHEREAS, under the terms of the dedicatory document, an April 25, 1995 agreement between Sherwood and The Langer Company, and the "Declarations of Conditions, Covenants and Restrictions for Sherwood Village Nos. 1, 2 and 3," the obligation to maintain Langer Park and any improvements therein falls to the Association; and

WHEREAS, Sherwood and the Association desire to memorialize the Association's continuing obligation to maintain Langer Park in an updated and restated agreement;

NOW THEREFORE, based on the foregoing, Sherwood and the Association agree as follows:

Term

The Initial Term of this Agreement shall be from the date noted above continuing then for a term of ten (10) years. At any point within the last year of said Initial Term, the Association and Sherwood may extend the Agreement for an additional five (5)-year term and thereafter, in like fashion, for two (2) additional five (5)-year terms for a total of twenty-five years.

Association's Maintenance Responsibility.

The Association shall be responsible for maintenance and care of Langer Park, the improvements located therein (including, but not limited to, existing or future play structure(s), irrigation systems, plantings) and the adjacent open space along Century Drive (all collectively referred to herein as the Park) consistent with the terms of Sherwood's most current maintenance standards for city parks. A copy of the standards currently in effect are attached to this Agreement as Exhibit "A".

It is understood and agreed by the Association that in the event Sherwood's Public Works Department (Department) adopts newer or different maintenance standards for city parks which the Department believes should apply to the Park, then those newer standards shall thereafter apply to the Park's maintenance, and the Association shall be responsible for complying with those revised standards.

Department's Inspection.

The Department, by and through the Department's Director (or their designate) shall have the right (although not the obligation) to make inspections of the Park on a not less than quarterly

basis to ensure that the Association is maintaining the Park at a level consistent with Sherwood's then most current specifications.

Cure of Deficiencies in Park.

If, as a result of the inspection, Sherwood believes the Park or any of the improvements located therein to be unsafe, otherwise unsuitable for use, or in need of repair, Sherwood shall give to the Association written notice of the nature of the deficiencies and the scope of the remedy that Sherwood deems necessary to cure said deficiencies. In the event the Association fails to effect the cure identified by Sherwood within sixty (60) days of the date of Sherwood's written notice, the Department may (but is not required to) make the repairs or other cure, and the costs associated therewith shall be the responsibility of the Association and its members. Sherwood or the Department shall send a statement of the costs to the Association, and the Association shall thereafter pay said charges to Sherwood within thirty (30) days of the date of Sherwood's billing.

Notices.

All notices required under this Agreement shall be deemed to be properly served if sent by certified mail, return receipt requested, to the last address previously furnished by the parties hereto. Until hereafter changed by the parties by notice in writing, notices shall be sent:

To Sherwood: Public Works Director
 City of Sherwood
 15527 S.W. Willamette
 Sherwood, Oregon 97140

To Association: Sherwood Village Homeowner's Association
 ATT: President

 Sherwood, Oregon 97140
 (503) 925-0199

The date of service of such notice is the date such notice is deposited in a post office of the United States Post Office Department, postage prepaid.

Indemnification.

The Association agrees to protect, defend, indemnify and hold harmless Sherwood, its officers, agents, departments, employees and insurers against any and all liabilities, claims, damages, penalties, causes of action, costs and expenses (including reasonable attorney fees) arising out of or in connection with maintenance of the Park. In the event the Association enters into any contracts concerning the maintenance work affecting the Park, the Association's obligation towards Sherwood as stated in this Agreement shall remain intact. Additionally, in the event that the Association contracts with a private entity to perform the maintenance work, the Association agrees to require that such entity obtain a comprehensive general liability insurance policy in an amount satisfactory to Sherwood and naming Sherwood as an additional insured and including a provision that Sherwood will be notified in writing at least thirty (30) days in advance of any cancellation of the policy. It is expressly understood by the parties to this Agreement that the indemnification provided herein by the Association shall not extend to any negligent acts or omissions by Sherwood, its agents, employees or others acting on behalf of Sherwood, in the event that Sherwood elects to perform the maintenance work as provided in this Agreement.

Insurance Requirement

The Association shall maintain an occurrence form commercial general liability policy for the protection of the Association and Sherwood, insuring the Association and Sherwood against liability for damages because of personal injury, bodily injury, death or damage to property (including the loss of use thereof) occurring on or in any way related to the Association's obligations under the terms of this Agreement. Such coverage shall name Sherwood as an additional insured with coverage being in an amount of not less than ONE MILLION DOLLARS (\$1,000,000.00) combined single limit per occurrence for bodily injury and property damage for all coverage.

No Third Party Beneficiary.

Sherwood and the Association are the only parties to this Agreement and, as such, are the only parties entitled to enforce its terms. Nothing in this Agreement gives or shall be construed to give or provide any benefit, direct, indirect or otherwise to any third party(ies) unless third persons are expressly described as intended to be beneficiaries of its terms.

Modification.

Any modification of this Agreement shall be mutually agreed upon and reduced to writing and may be done for Sherwood by the Public Works Director.

CITY OF SHERWOOD

SHERWOOD VILLAGE
HOMEOWNER'S ASSOCIATION

By: _____

By: _____

Its _____

Its _____