



Home of the Tualatin River National Wildlife Refuge

RESOLUTION 2007-043

A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF SHERWOOD (the "CITY") AND THE SHERWOOD SCHOOL DISTRICT (the "DISTRICT")

WHEREAS, In November 2006, the voters approved a general obligation bond that allows the District to, among other things, construct an elementary and middle school in the area known as Study Area 59; and

WHEREAS, In order to provide adequate school facilities for the rapidly growing school-age population within the District boundaries in a timely manner; and

WHEREAS, In order to mitigate the monthly escalation of local and regional construction costs, which are currently significantly higher than the general rate of inflation, the District has expedited the site development and building construction schedule for the new schools; and

WHEREAS, The expedited nature of the site development and building construction schedule puts an extraordinary burden on City staff and resources for planning, engineering, and building coordination and review that would not otherwise be fully recovered by the City's standard development and review fees; and

WHEREAS, The City and District believe it is in the best interest of the Sherwood community for the City to facilitate the construction of the new schools in Study Area 59 on the accelerated schedule desired by the District, but both entities also believe that the City should be reimbursed for the additional costs that the City will incur as a result of that accelerated schedule.

NOW, THEREFORE, THE CITY RESOLVES AS FOLLOWS:

Section 1. The City Manager is hereby authorized to sign the intergovernmental agreement attached as Exhibit "A," between the City and the District.

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

Duly passed by the City Council this 15th day of May 2007.

Dave Grant, Council President

ATTEST:

Sylvia Murphy, City Recorder

EXHIBIT A

Intergovernmental Agreement For Provision of Development Review Services

This agreement (the "Agreement") is entered into by and between the City of Sherwood (the "City") and the Sherwood School District (the "District"), both municipal corporations of the State of Oregon, pursuant to ORS Chapter 190 (Intergovernmental Cooperation).

RECITALS

- A. In November 2006, the voters approved a general obligation bond that allows the District to, among other things, construct an elementary and middle school in the area known as Study Area 59.
- B. In order to provide adequate school facilities for the rapidly growing school-age population within the District boundaries in a timely manner, and in order to mitigate the monthly escalation of local and regional construction costs, which are currently significantly higher than the general rate of inflation, the District has expedited the site development and building construction schedule for the new schools.
- C. The expedited nature of the site development and building construction schedule puts an extraordinary burden on City staff and resources for planning, engineering, and building coordination and review that would not otherwise be fully recovered by the City's standard development and review fees.
- D. The City and District believe it is in the best interest of the Sherwood community for the City to facilitate the construction of the new schools in Study Area 59 on the accelerated schedule desired by the District, but both entities also believe that the City should be reimbursed for the additional costs that the City will incur as a result of that accelerated schedule..

AGREEMENT

Now, therefore, based on the foregoing, the signatories agree as follows:

1. Definitions. As used herein, the following words and phrases mean:
 - 1.1. "District" is the governmental entity requesting and obtaining expedited and extraordinary staff assistance and review from the City.
 - 1.2. "Development Review Services" ("DRS") are review services related to urban and suburban planning, engineering, building, and construction disciplines as it relates to the District's applications for development in Study Area 59.
 - 1.3. "City" is the entity providing the expedited and extraordinary staff assistance and review to the District related to DRS.
 - 1.4. "Reimbursement Costs" are those charges related to staff assistance and review as set forth in fee schedule included here as Appendix A-Fee Schedule. The charges are set out as an hourly rate which reflects (among other costs) costs relating to salary, payroll and other taxes, medical, dental and other insurance for said staff assistance and review, employer-paid retirement contributions for said employee, vacation, sick leave and other benefits(s) which are part of the compensation package for the staff assistance and review for the City. Billable hours shall not include travel time to and from the City's and District's sites.
 - 1.5. "Staff Assistance" is the City's staff assistance and review to the District under the Agreement.
- 2.. Requested Use of Staff Assistance. The City shall make available to the District its employees providing DAS, to the extent these employees are (in the opinion of the City) available for Staff Assistance. The District shall inform the City, that it desires Staff Assistance related to DAS from the City stating the number of positions and the minimum qualifications of the staff required. The request shall also set out when the Staff Assistance would be needed and an estimate of the duration for the need.
3. Response to Request for Use. The City shall promptly provide the District with the name(s) of employee(s) that are available and a brief description of the employees' qualifications. It shall be in the sole discretion of the City to select the employees subject to the Agreement. This process is to be quick and responsive such that the District may make a request in the morning and receive the Staff Assistance that same day.
4. Payment for Staff Assistance. The City shall invoice the District on a monthly basis. The invoice shall reflect the number of hours worked times the hourly rate defined above at subsection 1.4. The District shall pay the City the amount billed within forty-five (45) days of receiving the invoice. Not later than thirty (30) days from the end of the Staff Assistance to the District, the City shall provide the District with a final invoice for the Reimbursement Costs of the Staff Assistance. Either party may request a change in the reimbursement rate provided such request is made in writing no later than May 1. Any rate change mutually agreed to by the parties shall be incorporated in Appendix A-Fee Schedule and shall be effective July 1 of that year until modified or as otherwise provided. If the parties are unable

to agree on a rate change, the existing rate shall remain in effect unless and until a party terminates the Agreement as provided for herein.

5. Duration of Staff Assistance. The District shall request the Staff Assistance as needed for the duration of the Contract per conditions noted above.

6. Status of City Employees Providing Staff Assistance. The status of a City employee providing Staff Assistance to the District shall:

- 6.1. Account for the number of hours in service to the District;
- 6.2. Remain an employee of the City continuing to be paid and receiving employee benefits therefrom without entitlement or claim to any salary, compensation or other benefits from the District;
- 6.3. Continue working the number of hours specified in his or her contract of employment with the City, while providing Staff Assistance to the District, unless the City and the City staff person agree otherwise;
- 6.4. In the event of any dispute between the City staff person and the District about the performance of services under the Agreement, the City staff person shall be subject to the exclusive direction and control (including personnel actions and discipline) of the City.

7. Obligations of the District. The District shall provide a City staff person with all material(s) and work space necessary to perform the requested DAS, if warranted. If the City staff person is unable to meet the needs of the District, the District's sole recourse shall be to provide a written explanation to the City explaining the circumstances and requesting Staff Assistance that will meet the District's needs.

8. Obligations of the City. In addition to its other obligations set out elsewhere in the Agreement, the City shall be responsible for provision of any official motor vehicle necessary for performance of the Staff Assistance.

9. General Provisions.

- 9.1. Compliance with Laws. Every party shall comply with all applicable federal, state and local laws, including those related to discrimination in employment because of race, color, ancestry, national origin, religion, sex, sexual orientation, marital status, age, medical condition or disability and all applicable laws and regulations regarding the handling and expenditure of public funds.
- 9.2. Oregon Law. The Agreement shall be construed and enforced in accordance with the laws of the State of Oregon.
- 9.3. Time is of the Essence. Time is of the essence in the performance of the Agreement.
- 9.4. Default. A party shall be deemed in default if it fails to comply with any provision of the Agreement. A non-defaulting party shall provide defaulting party written notice of the default and an explanation thereof and allow the defaulting party thirty (30) days within which to cure.
- 9.5. Indemnification. The Agreement is for the benefit of the parties only. Each party to a transaction involving Staff Assistance agrees to indemnify and hold harmless the other party

to that transaction and its officers, employees, and agents, 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 arising out of services performed, the omission of services or in any way resulting from the negligent or wrongful acts or omissions or unlawful policies or laws of the indemnifying party and its officers, employees and agents. In addition, each party shall be solely responsible for any contract claims, delay damages or similar items arising from or caused by the action or inaction of the party under the Agreement. Each party shall give the other parties to the Agreement notice of any claim made or case filed that relates to the Agreement or services performed under the Agreement.

- 9.6 Insurance. Each party agrees to maintain liability and workers compensation insurance, or to self-insure, in accordance with statutory requirements at levels necessary to protect against liabilities allowed by law. The City shall maintain workers compensation coverage for any City staff person providing Staff Assistance under the Agreement.
- 9.7 Modification. No waiver, consent, modification or change of terms of the Agreement shall be binding unless in writing and signed by all parties.
- 9.8 Dispute Resolution. The parties shall first attempt to informally resolve any dispute concerning the Agreement. A neutral party may be used to facilitate those negotiations. In the event of an impasse, the issue shall be submitted to the respective governing bodies for a recommendation or resolution.
- 9.9. Enforcement. Subject to the provisions in paragraph 9.8, any party may institute legal action to cure, correct or remedy any default, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation of the Agreement.
- 9.10 Excused Performance. In addition to the specific provisions of the Agreement, performance by any party shall not be in default where delays or default is due to war, insurrection, strikes, walkouts, riots, floods, drought, earthquakes, fires, casualties, acts of God, governmental restrictions imposed or mandated by governmental entities other than the parties, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulation, litigation or similar bases for excused performance that are not within the reasonable control of the party to be excused.
- 9.11 Termination. A party may terminate its participation in the Agreement, with or without cause and at any time, by providing thirty (30) days written notice to the other parties to the Agreement.
- 9.12. Severability. If anyone or more of the provisions contained in the Agreement is invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of the Agreement will not be affected or impaired in any way.
- 9.13. Entire Agreement. The Agreement is the entire agreement of the parties on its subject and supersedes any prior discussions or agreements regarding the same subject.
10. Term of Agreement. The Agreement shall be in effect from February 1, 2007 through October 31, 2008. The Agreement may be extended by mutual agreement of the signatories. Provided that neither party is in breach, either party may cancel the Agreement by giving the other party at least thirty (30) days advance

written notice of cancellation. In the event that a party shall fail to comply with any term or condition or fulfill any obligation of the Agreement, the other party may terminate the Agreement by giving fifteen (15) days written notice to the defaulting party.

11. Amount of Agreement. The amount of Staff Assistance under the agreement shall not exceed \$100,000.00(one-hundred thousand dollars).

12. Contact Persons. Communications about the Agreement and any notice sent under its terms shall be sent by and to the City Manager.

Jurisdiction

Contact Person

Sherwood School District

Dan Jamison, Superintendent

City of Sherwood

Ross Schultz, City Manager

13. Appropriations Clause. The obligations of the parties are subject to appropriations by their governing bodies. This Agreement is subject to the debt limitations in Oregon Constitution, Article XI, section 10 and any debt limitations contained in a city charter.

CITY OF SHERWOOD, OREGON

SHERWOOD SCHOOL DISTRICT,
OREGON

Title:

Title:

Date: _____

Date: _____

Approved as to form:

Approved as to form:

APPENDIX A
FEE SCHEDULE IN HOURLY RATES

Division Director	\$92.00
Department Manager	\$69.00
Sr. Planner	\$63.00
Civil Engineer	\$69.00
Associate Planner	\$55.00
Engineering Associate	\$55.00
Permit Specialist/ Project Coordinator	\$46.00