



## RESOLUTION 2009-045

### **A RESOLUTION AUTHORIZING THE CITY MANAGER ENTER INTO AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF SHERWOOD AND THE CITIES OF CORNELIUS AND TIGARD RELATING TO THE ARRA PAVEMENT PRESERVATION PROJECTS**

**WHEREAS**, the Federal American Recovery and Reinvestment Act of 2009 made supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for the year ending September 30, 2009, and for other purpose, and

**WHEREAS**, the City applied for and received authorization for ARRA monies in the amount of \$430,000.00 to perform a pavement overlay on Sherwood Boulevard between 3<sup>rd</sup> Street and 12<sup>th</sup> Street, and

**WHEREAS**, the City has entered into an agreement with the State of Oregon Department of Transportation (Agreement #25474) to receive said monies and must comply with the requirements of said agreement, and

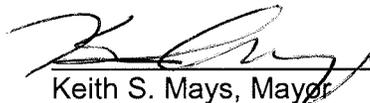
**WHEREAS**, it is in the City of Sherwood's best interest to combine engineering design and construction management services for the above referenced overlay project with the City's of Cornelius and Tigard ARRA approved projects.

### **NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:**

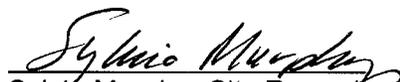
**Section 1:** The City Council authorizes the City Manager to enter into an Intergovernmental Agreement (IGA), between the Cities of Sherwood, Cornelius, and Tigard relating to the ARRA Pavement Preservation Projects. A draft copy of the IGA is attached as Exhibit A. Upon final review and approval of the IGA by the City Attorney, a final IGA will be forwarded to the City Manager for signature.

**Section 2:** This Resolution shall be in effect upon its approval and adoption.

**Duly passed by the City Council this 2nd day of June 2009.**

  
Keith S. Mays, Mayor

ATTEST:

  
Sylvia Murphy, City Recorder

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## INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITIES OF CORNELIUS, SHERWOOD, AND TIGARD RELATING TO THE ARRA PAVEMENT PRESERVATION PROJECTS

THIS AGREEMENT is authorized by ORS 190.010 and is made and entered into by and between the Cities of Cornelius, Sherwood, and Tigard, hereinafter referred to as the "Cities." THIS AGREEMENT refers to the family of pavement preservation projects in the Cities, hereinafter referred to as the "Projects," funded by the American Recovery and Reinvestment Act of 2009 (ARRA).

### RECITALS

1. The Cities have Projects similar in type and scope of work funded under the ARRA.
2. The ARRA funding for the Projects will be managed by the Oregon Department of Transportation (ODOT) with the Cities directing the engineering and providing coordination of the construction activities.
3. Specific agreements between each City and ODOT are:
  - a. Tigard: Misc. Contract and Agreement No. 25475
  - b. Cornelius: Misc. Contract and Agreement No. 25495
  - c. Sherwood: Misc. Contract and Agreement No. 25474
4. To avoid duplication and to use limited resources most effectively, the Cities are electing to combine their individual Projects into a single Project.
5. The Cities seek to share the cost of the Projects in a fair and proportional manner.
6. The ARRA funding allocated to each City for the Projects is:
  - a. Cornelius - \$350,000 – 18.46%
  - b. Sherwood - \$430,000 – 22.68%
  - c. Tigard - \$1,116,000 – 58.86%

NOW, THEREFORE, the premises being in general as stated in the foregoing RECITALS, it is agreed by and between the parties hereto as follows:

### Section 1 - Costs

- A. The Cities will pay for their internal staff costs from their allotments of ARRA funds.
- B. The Cities will pay for engineering, ODOT support, and other non-construction costs on a proportional basis, based on the allocations shown in Section 6 of the Recitals.
- C. Each City is responsible for Project costs that surpass their allotment of ARRA funds.
- D. If a City Project is completed for less than their ARRA funding allotment, that City may elect to allow one of the other Cities to utilize the excess funds for their Project. Use of ARRA funds in this manner must be approved by ODOT.

### Section 2 – Decision Making

- A. The City of Tigard will be the designated representative of the Cities in dealing with ODOT.
- B. Significant decisions that impact the Projects must be unanimously decided by the Cities.

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## **Section 3 – Scope of Projects**

Each City, with ODOT's concurrence and after engineer's cost estimates are available, will determine the final Project boundaries within their City.

## **Section 4 - Term**

- A. The agreement shall become effective upon signing by all parties. The agreement will terminate when final payments on construction and consultant contracts are completed and costs for ODOT support are satisfied.
- B. The agreement may be terminated with the concurrence of all the parties to this agreement.
- C. The agreement may be terminated by any party to this agreement if funding at the levels identified in Section 5 of the Recitals does not materialize.

## **Section 5 – Indemnification**

Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, the Cities shall indemnify, defend and hold harmless each other from and against all liability, loss, and costs arising out of or resulting from the acts of the individual City, their officers, employees and agents, including intentional or willful misconduct, in the performance of this agreement. If any aspect of this indemnity shall be found to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this indemnification. The term "costs" as used in this indemnification section shall include attorney fees at arbitration, mediation, trial or on appeal.

## **Section 6 – Insurance**

The Cities agree to each maintain insurance or self insurance consistent with provisions of the Oregon Tort Claims Act, ORS 30.270 and customary for public agencies of the same size and type.

## **Section 7 – Adherence to Law**

Each party shall comply with all federal, state and local laws and ordinances applicable to this agreement.

## **Section 8 – Access to Records**

Each party shall have access to the books, documents and various records of the other party which are related to this agreement for the purpose of examination, copying, and audit, unless otherwise limited by law.

## **Section 9 – Entire Agreement**

This agreement constitutes the entire and integrated agreement between the Parties and may be modified or amended only by the written agreement of the Parties.

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## ACCEPTANCE AND EXECUTION OF THE AGREEMENT:

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed on the day and year hereafter written.

### CITY OF CORNELIUS, OREGON

\_\_\_\_\_  
Dave Waffle, City Manager

\_\_\_\_\_  
Date

### CITY OF SHERWOOD, OREGON

\_\_\_\_\_  
Jim Patterson, City Manager

\_\_\_\_\_  
Date

### CITY OF TIGARD, OREGON

\_\_\_\_\_  
Craig Prosser, City Manager

\_\_\_\_\_  
Date