



Home of the Tualatin River National Wildlife Refuge

RESOLUTION 2009-077

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF SHERWOOD AND CLACKAMAS COUNTY TO PROVIDE PLAN REVIEW SERVICES AND INSPECTION COORDINATION

WHEREAS, ORS 190.003 – 190.110 encourages intergovernmental cooperation and authorizes local government entities to delegate to each other authority to perform their respective functions as necessary; and

WHEREAS, ORS 190.010 authorize the parties to enter into this Agreement for the performance of any and/ or all functions and activities that a party to the Agreement has authority to perform; and

WHEREAS, Clackamas County has a need to ensure materials and services that are used on this project meet design standards; and

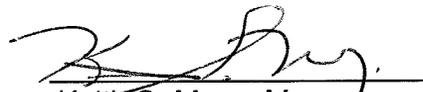
WHEREAS, the City has hired Emery & Sons to install a 48 inch water transmission main in Clackamas County right of way.

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

Section 1. The City Manager is authorized to sign the Intergovernmental Agreement, Exhibit A, with Clackamas County to provide plan review services and inspection coordination.

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

Duly passed by the City Council this 20th day of October 2009.


Keith S. Mays, Mayor

Attest:


Sylvia Murphy, City Recorder

AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF SHERWOOD AND CLACKAMAS COUNTY TO PROVIDE PLAN REVIEW SERVICES AND INSPECTION COORDINATION

This is an Intergovernmental Agreement (the "Agreement"). It is entered into by and between the City of Sherwood, an Oregon municipality ("City"), and Clackamas County, an instrumentality of the State of Oregon, acting by and through its Department of Transportation ("DTD"). Its purpose is to provide plan review services and inspection coordination during the installation of a 48" transmission line for domestic water supply.

RECITALS

1. The City desires to install a 48" water supply transmission line extending from the City of Wilsonville Willamette River Water Treatment Plant down Kinsman Road to connect with the City to provide domestic water service ("Project").
2. It is in the best interest of the City and DTD for the City to pay the actual costs for DTD plan review services and inspection coordination during construction of the water transmission line.
3. ORS 190.003 *et seq.*, allows for intergovernmental agreements to achieve efficiencies and economies obtained thereby.

NOW, THEREFORE, IT IS AGREED BY THE PARTIES AS FOLLOWS:

1. **Term.** This Agreement shall be effective upon execution, and shall expire upon the termination of the three year performance warranty provided by the City to cover Project work in Clackamas County's jurisdiction.
Special Note: The City understands contractor's warranty of the Project only extends two years after completion of the Project, and that the City shall be responsible for the balance of the term.
2. **Project Summary.**
 - A. The Project shall consist of the installation of 3.4 miles, more or less, of 48" diameter steel pipe running between the City of Wilsonville and the City of Sherwood through unincorporated Clackamas County, beginning at the Tooze Road intersection with Grahams Ferry Road and ending at the Baker Road intersection with the City of Sherwood incorporated City limits.
 - B. Said line shall consist of a high pressure water transmission line and appurtenances (such as, but not exclusively, iron fittings, butterfly valves, gate valves, air release valve assemblies, and blow offs).
 - C. Construction of said line may, among other elements, require removal and replacement of concrete culverts, removal and replacement of asphaltic concrete ("AC") pavement, and re-establishment of roadway shoulders and drainage.

3. Obligations of DTD:

- A. DTD shall provide plan review and limited inspection services to the City for construction of the Project.
 - B. DTD shall provide invoice breakdowns monthly for reimbursement throughout the duration of the Project. DTD shall bill City once a month for the actual costs for performing plan review and inspection services. Current billing rates are as follows:
 - i. IGA Preparation (\$41.36 per hour; 4 hours estimated.);
 - ii. Plans Examination (\$51.56 per hour; 20 hours estimated.);
 - iii. Traffic Control Plan Review (\$55.48 per hour; 35 hours estimated.);
 - iv. Inspection Services (\$37.82 per hour; 780 hours estimated.);
 - v. Inspection Vehicle Rate (\$9.05 per hour; 312 hours estimated.);
 - vi. The City shall reimburse Clackamas County Surveyors Office ("CCSO") for costs associated with the following (see attached "Exhibit A"):
 - CCSO shall charge the City actual costs for the replacement of any public land survey corners that are disturbed or removed during the project to cover the replacement of survey monumentation.
 - CCSO shall perform preliminary office research to locate record monuments according to the following billing rates with reimbursement from the deposit.
 - Deputy County Surveyor (\$101.00 per hour; 2 hours estimated);
 - Lead Surveyor (\$95.00 per hour; 2 hours estimated).
 - Other survey services may be required as set out in Exhibit A.
 - vii. Pre-Construction Meeting (\$254.91 per hour; price covers vehicle, plans examiner, traffic engineer, inspector, and deputy surveyor).
- Special Note: DTD has estimated all the above costs (i-vii) at \$45,500.
- C. DTD shall review, and upon approval, stamp the construction plans and specifications and issue appropriate permits.
 - D. DTD shall review engineer report submittals and perform limited Project inspections throughout the duration of the Project. These inspections may include:
 - i. Spot inspections;
 - ii. Reading reports;
 - iii. Contact with consulting engineers regarding Project;
 - iv. Final inspection;
 - v. Road closures for traffic control; and
 - vi. Unforeseen conditions (complaints or call outs from consulting engineers).
 - E. DTD shall perform road restoration inspections, and City shall perform any required restoration.
 - F. DTD shall reimburse the City upon approval of the final warranty inspection and completion of any noted corrections if the initial deposit of funds has not been depleted.

4. Obligations of the City:

- A. City shall adhere to conditions outlined in any and all DTD development permit and related documents issued in conjunction with Project.
- B. City, at its own expense, shall complete and file a preconstruction monument recovery survey prior to construction.

- C. City shall require its consulting engineers to perform full time inspection and testing services in the field. City will ensure its consulting engineers provide all reports to DTD inspector or inspectors for review.
- D. City shall pay the actual cost reimbursement to DTD for plan review and inspection services throughout construction of the Project.
 - 1) City shall provide DTD an initial deposit of \$45,500 to cover plan review and inspection services.
 - 2) City shall reimburse DTD monthly upon receiving itemized billings from DTD if and when the initial deposit of funds have been depleted
- E. City shall provide a performance warranty guaranteeing the Project work performed for a minimum of three years from the date the development permit receives a final inspection.
- F. City shall provide to DTD any changes from the approved plans that result in pipe realignment, placement of appurtenant facilities, or different road restoration.

5. Work Plan and Scheduling of Work. City intends to begin construction of the Project in the fall of 2009. Project completion is anticipated 18 months after the start of construction.

- A. Nothing herein shall prevent the parties from meeting to mutually adjust the schedule or the contents of the Project. Each party shall use best efforts to coordinate with the other to minimize conflicts.
- B. In the event of changes to the plans or specifications the City and DTD will meet to discuss the change(s) and agree upon the appropriate course of action.

6. Indemnity. To the extent permitted by law under ORS 30.260 – 30.300, and subject to Oregon Constitution Article XI, Section 11, each party shall indemnify and defend the other, its Board, officers, agents, and employees from any claim, loss, or liability arising out of or related to any activity of that party on the facilities or any condition of the facilities caused by the sole negligence or act of a party.

7. Termination. If either party shall fail to perform any term or condition of this Agreement, then upon seven days' written notice, either party may terminate the Agreement and have no further obligation hereunder save for costs incurred prior to termination or Section 6 which shall survive termination.

8. General Provisions.

- A. **Merger Clause.** This Agreement embodies the entire Agreement and understanding between the parties hereto and supersedes all prior agreements and understandings relating to the subject matter hereof.
- B. **Assignment.** No party shall have the right to assign its interest in this Agreement (or any portion thereof) without the prior written consent of all other parties.
- C. **Severability.** In case any one or more of the provisions contained in this Agreement should be invalid, illegal, or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be effected or impaired thereby.
- D. **Jurisdiction of Circuit Court.** Any dispute or claim shall be settled in the Circuit Court of the State of Oregon for Clackamas County.

E. Notices. Any notice herein required or permitted to be given shall be given in writing and shall be effective when actually received, and may be given by hand delivery or by United States mail, first-class postage prepaid, addressed to the parties as follows:

Attn: Public Works Director
City of Sherwood
22560 SW Pine Street
Sherwood, OR 97140

Attn: Development Review Coordinator
Clackamas County
Department of Transportation and Development
150 Beaver Creek Road
Oregon City, OR 97045

- F. Attorney's Fees. If a dispute should arise between the parties regarding any term or portion of this Agreement, the prevailing parties shall be entitled to such reasonable attorney's fees as a trial court may award and on any appeal therefrom.
- G. Each party is an independent contractor with regard to the work of the other. No party is an agent or employee of the other. No party or its employee is entitled to participate in any pension plan, insurance, bonus, or benefit provided by the other.
- H. Modifications to this Agreement shall be in writing and signed by all parties.
- I. Each party shall give the other immediate written notice of any action or suit filed or any claim made that may result in litigation in any way related to this Agreement.
- J. This Agreement is expressly subject to the debt limitation of Oregon counties set forth in Article XI section 10 of the Oregon Constitution, and is contingent upon funds being appropriated therefore.

10. Counterparts. This Agreement may be executed in any number of counterparts and by the parties on separate counterparts, any one of which shall constitute an agreement among the parties.

IN WITNESS HEREOF, the parties have executed this Agreement by the date set forth opposite their names below.

City of Sherwood

Clackamas County

James Patterson,

Lynn Peterson,

City Manager

Chair

Witness

Mary Raethke,
Recording Secretary

October _____, 2009

October _____, 2009