

**RESOLUTION NO. 2020-50**

**RESOLUTION AUTHORIZING THE MAYOR TO ENDORSE AN INTERGOVERNMENTAL AGREEMENT BETWEEN WASHINGTON COUNTY AND CITY OF FOREST GROVE FOR ROAD, WATER AND SANITARY SEWER IMPROVEMENTS ASSOCIATED WITH THE HIGHWAY 47/MARTIN ROAD PROJECT**

**WHEREAS**, Oregon Revised Statutes(ORS) 190.010 authorizes agencies to enter into intergovernmental agreements (IGA) 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 has undertaken development of a project to improve a section of Martin Road including a new roundabout at its intersection with Highway 47; and

**WHEREAS**, the City of Forest Grove desires to partner with Washington County on this project; and

**WHEREAS**, Washington County has developed an Intergovernmental Agreement that reflects each agency's duties and financial obligations; and

**WHEREAS**, the City considers this project a high priority and beneficial to its residents.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY OF FOREST GROVE AS FOLLOWS:**

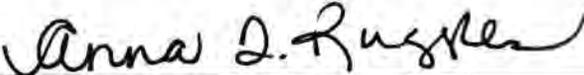
**Section 1.** The City Council of the City of Forest Grove hereby approves the Intergovernmental Agreement between Washington County and City of Forest Grove for the Highway 47/Martin Road Improvements in the attached Exhibit A.

**Section 2.** The Mayor is authorized to execute the Intergovernmental Agreement on behalf of the City.

**Section 3.** The City of Forest Grove is prepared to comply with the obligations as specified in the Agreement.

**Section 4.** This resolution is effective immediately upon enactment by the City Council.

**PRESENTED AND PASSED** this 26<sup>th</sup> day of May, 2020.

  
\_\_\_\_\_  
Anna D. Ruggles, City Recorder

**APPROVED** by the Mayor this 27<sup>th</sup> day of April, 2020.

  
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Peter B. Truax, Mayor

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**INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
Washington County and City of Forest Grove**

**FOR ROAD IMPROVEMENTS, WATERLINE INSTALLATION, AND  
SANITARY SEWER IMPROVEMENTS**

THIS INTERGOVERNMENTAL AGREEMENT is entered into between Washington COUNTY, a political subdivision of the State of Oregon, acting by and through its elected officials, hereinafter referred to as "COUNTY"; and City of Forest Grove, a municipal corporation, acting by and through its City Council, hereinafter referred to as "CITY".

**RECITALS**

1. ORS 190.010 authorizes agencies to enter into intergovernmental agreements for the performance of any or all activities and functions that a party to the agreement has the authority to perform.
2. COUNTY has an approved and funded a Major Streets and Transportation Improvement Program (MSTIP 3e) project to construct improvements to NW Martin Road from Nehalem Highway – OR 47 to 1804 NW Martin Road, hereinafter "ROAD WORK".
3. NW Martin Road is a rural arterial subject to the jurisdiction and control of COUNTY and the project area located within the CITY limits from Nehalem Highway – OR 47 to Council Creek.
4. CITY has committed to provide \$740,000.00 toward completion of the ROAD WORK.
5. In addition, CITY desires to include additional public improvements within the road right of way and within or near the location of the ROAD WORK as follows: installation of a new waterline and sanitary sewer, hereinafter "WATERLINE and SANITARY SEWER WORK".
6. CITY has requested and COUNTY has agreed that the WATERLINE and SANITARY SEWER WORK be added to the ROAD WORK and constructed as a single public improvement project as further detailed in this agreement.

NOW, THEREFORE, in consideration of the terms, conditions and covenants set forth below, the parties hereto agree as follows:

## **ARTICLE I – PROJECT DESCRIPTION**

- 1.1 The ROAD WORK shall include improvements to NW Martin Road from Nehalem Highway – OR 47 to 1804 NW Martin Road, including construction of two vehicle lanes, widening shoulders, a new bridge over Council Creek and intersection improvements at NW Martin Road and Nehalem Highway – OR 47.
- 1.2 The WATERLINE and SANITARY SEWER WORK shall include the design and installation of approximately 200 feet of 10-inch diameter ductile iron waterline within the right-of-way and approximately 150 feet of 8-inch diameter sewer line. The waterline will be designed and installed according to the Oregon Standards for Construction and American Water Work Association Standards. The sewer line shall be designed to Clean Water Design and Construction Standards.
- 1.3 The PROJECT shall consist of the ROAD WORK, and WATERLINE RELOCATION and SANITARY SEWER WORK.

## **ARTICLE II - COUNTY OBLIGATIONS**

- 2.1 Assign a liaison (Project Manager) responsible for coordinating the PROJECT with CITY. The liaison for County shall be Renus Kelfkens. COUNTY's liaison shall be responsible for coordination of ROAD WORK, and WATERLINE and SANITARY SEWER WORK with CITY.
- 2.2 COUNTY shall perform or cause to be performed all tasks needed to implement ROAD WORK, together with WATERLINE and SANITARY SEWER WORK, including but not limited to project design, right-of-way acquisition, utility impacts, construction, construction management, ROAD WORK inspection and administration.
- 2.3 COUNTY shall prepare WATERLINE and SANITARY SEWER WORK design plans and technical specifications. Final plans and specifications for WATERLINE and SANITARY SEWER WORK shall be incorporated as specific bid items in the bid documents for the PROJECT.
- 2.4 COUNTY shall provide CITY with the opportunity to review and comment on design plans and specifications for ROAD WORK within CITY limits, and WATERLINE and SANITARY SEWER WORK. In general, review comments shall be returned to COUNTY within two weeks following receipt of draft design documents. COUNTY shall incorporate CITY comments, which do not significantly impact PROJECT budget or schedule and shall consult with CITY to resolve differences.

- 2.5 COUNTY shall advertise, award, and administer the construction contract for the PROJECT.
- 2.6 COUNTY shall, following bid opening, notify CITY of the amount of the construction cost of the WATERLINE and SANITARY SEWER WORK as contained in the bid, and provide CITY with the opportunity for review of the contract bid. The CITY shall have 14 calendar days from bid opening to request the WATERLINE and SANITARY SEWER WORK bid schedules be deleted from the contract. COUNTY shall have the right, in its discretion, to award or reject bids for the PROJECT in accordance with applicable law and rules.
- 2.7 COUNTY shall coordinate inspection services with CITY as set forth in Article III.
- 2.8 COUNTY shall coordinate amendments to design contract and Construction Change Orders associated with the WATERLINE and SANITARY SEWER WORK with the City.
- 2.9 COUNTY shall be responsible for acceptance of the WATERLINE and SANITARY SEWER WORK on behalf of CITY.
- 2.10 COUNTY shall be responsible to maintain the ROAD WORK upon completion and acceptance of the Project.
- 2.11 COUNTY shall perform all actions regarding compensation as set forth in Article IV - Compensation.

### **ARTICLE III – CITY OBLIGATIONS**

- 3.1 Assign a liaison (Project Manager) responsible for coordinating the PROJECT with COUNTY. The liaison for CITY shall be Richard Blackmun. CITY liaison person shall be responsible for coordination of the WATERLINE and SANITARY SEWER WORK with COUNTY.
- 3.2 CITY shall provide any available information in its possession that may assist COUNTY in WATERLINE and SANITARY SEWER WORK.
- 3.3 CITY shall provide necessary design coordination including review of design plans for WATERLINE and SANITARY SEWER WORK as the PROJECT plans are prepared. CITY shall indicate needed revisions to the waterline design, plans and specifications, and consult with COUNTY to resolve differences.

- 3.4 CITY shall provide inspection and monitoring of WATERLINE and SANITARY SEWER WORK in coordination with COUNTY. CITY shall monitor all “acceptance testing” conducted by the contractor as specified in the construction contract, which includes disinfecting, pressure testing, manhole and valve box installations. These services shall be at CITY’s sole expense.
- 3.5 CITY shall be responsible to maintain the WATERLINE and SANITARY SEWER WORK upon completion and acceptance of the PROJECT.
- 3.6 CITY shall perform all actions regarding compensation as set forth in Article IV - Compensation.

#### **ARTICLE IV – COMPENSATION**

- 4.1 The estimated cost of the CITY’S portion of the PROJECT is \$940,240.12.
  - 4.1.1 CITY has committed \$740,000.00 for design and construction of the ROAD WORK.
  - 4.1.2 COUNTY shall be responsible for all costs to design and construct the ROAD WORK beyond the CITY contribution.
  - 4.1.3 CITY shall be responsible for all costs to design and construct the WATERLINE and SANITARY SEWER WORK.
- 4.2 COUNTY shall invoice CITY for \$740,000.00 once the construction contract has been fully executed.
- 4.3 CITY shall, within thirty (30) days of COUNTY’S invoice, pay COUNTY the full amount of CITY contribution to the ROAD PROJECT.
- 4.4 CITY shall pay to COUNTY the actual cost of engineering, drafting, construction, administration and inspection for WATERLINE and SANITARY SEWER WORK. The scope of WATERLINE and SANITARY SEWER WORK is outlined in Exhibit A of this agreement.
- 4.5 The WATERLINE and SANITARY SEWER WORK construction cost includes contract bid items used for the WATERLINE and SANITARY SEWER WORK, an allocated share of the cost of applicable lump sum contract items (for example, mobilization and erosion control), and the cost for any extra work required for WATERLINE and SANITARY SEWER WORK.
- 4.6 Administrative cost for COUNTY staff for WATERLINE and SANITARY SEWER WORK is estimated at 2.5% of the construction estimate. Administrative costs will be billed at 2.5% of actual construction costs.

4.7 The estimated cost of CITY's WATERLINE and SANITARY SEWER WORK is shown below:

Washington County Administrative Cost Estimate	\$3,989.93
Waterline and Sanitary Sewer Design and Construction Engineering	\$36,707.19
Waterline and Sanitary Sewer Construction Estimate	\$159,597.00
Total	<u>\$200,294.12</u>

CITY and COUNTY understand that estimated costs are used to determine project budget used in this agreement. Final payments made by CITY to COUNTY will be based on actual cost incurred by COUNTY for WATERLINE and SANITARY SEWER WORK.

4.8 COUNTY will invoice CITY for administrative costs, WATERLINE and SANITARY SEWER WORK upon substantial completion of the PROJECT and concurrent with the release of second notification.

4.9 CITY shall, within thirty (30) days of receiving an invoice for WATERLINE and SANITARY SEWER WORK, pay COUNTY the amount due.

## **ARTICLE V - GENERAL PROVISIONS**

### **5.1 Laws of Oregon**

The parties shall comply with all applicable laws and regulations regarding the handling and expenditure of public funds. This Agreement shall be construed and enforced in accordance with the laws of the State of Oregon. All relevant provisions required by ORS Chapter 279A and 279C to be included in public contracts are incorporated 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. COUNTY and CITY agree time is of the essence in the performance of any of the obligations within this Agreement. The 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 COUNTY for costs incurred for satisfactorily completed and authorized work up to the time of default. CITY shall be liable for all costs and damages arising from default by CITY.

### 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 arising 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 solely responsible for any contract claims, delay damages or similar items arising from or caused by the action or inaction of the party under this Agreement.

### 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 shall attempt to informally resolve any dispute concerning any party's performance or decisions under this Agreement, or regarding the terms, conditions or meaning of this Agreement. A neutral third party may be used if the parties agree to facilitate these negotiations. In the event of an impasse in the resolution of any dispute, the issue shall be submitted to the governing bodies of both parties for a recommendation or resolution.

### 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 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 no understandings, agreements, or representations, oral or written, not specified herein regarding this contract.

**ARTICLE VI - TERM OF AGREEMENT**

6.1 The term of the Agreement shall be from the date of execution until the completion of the PROJECT, but not to exceed three (3) years.

6.2 This Agreement may be amended or extended for periods of up to one (1) year by mutual consent of the parties. It may be canceled or terminated for any reason by either party. Termination or cancellation shall be effective thirty (30) days after written notice to the other party, or at such time as the parties may otherwise agree. In the event of termination, the parties shall, in good faith, agree to such reasonable provisions for winding up the PROJECT and paying for any additional costs as necessary.

6.3 Notwithstanding completion of the PROJECT, and the term stated above, this Agreement shall remain in force for the purpose of enforcing the parties' obligations to operate and maintain portions of the PROJECT; and obligations related thereto.

**WASHINGTON COUNTY, OREGON**

**CITY OF FOREST GROVE, OREGON**



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CHAIR KATHRYN HARRINGTON  
BOARD OF COUNTY COMMISSIONERS

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MAYOR,  
CITY OF FOREST GROVE

Date: \_\_\_\_\_

Date: May 26, 2020

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RECORDING SECRETARY

Approved as to Form:

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COUNTY Counsel

Date: \_\_\_\_\_