

AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PORTLAND 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 Portland, 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 gravity sewer line for domestic sewer disposal.

RECITALS

1. The City desires to install an 8" gravity sewer line along SW Terwilliger Boulevard beginning at SW Northgate Avenue in the City of Portland, running into unincorporated Clackamas County and continuing to SW Riverside Drive (State Highway OR43) near the City of Lake Oswego where it will connect to an existing City trunk sewer.
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 sewer 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:

Term.

This Agreement shall be effective upon execution, and shall expire upon the termination of the two (2) year performance warranty provided by the City to cover work on the Project (as defined below) in Clackamas County's jurisdiction.

1. Project Summary

- A. "The Project" shall consist of constructing 7,600 feet, more or less, of 8" diameter pipe running from a new manhole constructed over the existing City of Portland Tyron Creek Trunk sewer located in SW Riverside Drive (State Highway 43) in Clackamas County and terminate at a manhole located in SW Northgate Avenue located in the City of Portland.
- B. Within the area under Clackamas County jurisdiction, the Project will construct approximately 3,700 feet of 8" gravity sewer line, 17 manholes, 4 service laterals and 2 sewer main extensions.

The Project may include, among other elements, removal and replacement of asphaltic concrete ("AC") pavement, re-establishment of roadway shoulders, roadway striping, roadway drainage, (if necessary) survey monumentation and

monument recovery.

2. Obligations of DTD

- C. DTD shall provide plan review and inspection services to the City for construction of the Project.
- D. DTD shall provide invoice breakdowns monthly for reimbursement throughout the duration of the Project. DTD shall bill against the City's deposit, as required by Section 4.D.i ("the Deposit"), for the actual costs for performing plan review and inspection services. The City will be invoiced based on the Job Classifications and billing rates for employees working on the project. Average billing rates in effect at the time of execution of this Agreement are as follows; however, the City will be invoiced based on the then-current billings rates of employees working on the project.
 - i. Senior Civil Engineer (\$128.54 per hour; 25 hours estimated);
 - ii. Administrative Support (\$103.92 (avg.) per hour; 25 hours estimated);
 - iii. Traffic Engineer (\$114.42 per hour; 15 hours estimated);
 - iv. Inspectors (\$87.49 per hour; 375 hours estimated);
 - v. Inspection Vehicle Rate (\$8.73 (avg.) per hour; 375 hours estimated)

Special Note: DTD has estimated the above costs (i-v) at \$43,610.30. This estimate does not include the costs or deposits required by Clackamas County Surveyors Office ("CCSO") in Sections 3.C. and 4.D.ii.

- E. The City shall reimburse CCSO for costs associated with the following:
 - i. CCSO shall charge the City actual costs for the replacement of any public land survey corners that are disturbed or removed during the project.
 - ii. If necessary, CCSO shall perform preliminary office research to locate record monuments according to the following billing rates with reimbursement from the Deposit.
 - iii. County Surveyor (\$133.00 per hour)
 - iv. Office Manager (\$99.00 per hour)
 - v. Administrative Assistant (\$96.00 per hour)
 - vi. Office Specialist (\$86.00 (avg.) per hour)
 - vii. Land Surveyor (\$112.00 (avg.) per hour)
 - viii. Engineering Technician (\$100.00 (avg.) per hour)
 - ix. Other services and deposits as may be necessitated and required by the Project to restore any affected monumentation.
- F. DTD shall review and, upon approval, stamp the construction plans and specifications and issue appropriate permits.
- G. DTD shall review engineer report submittals, attend project meetings, and perform Project inspections throughout the duration of the Project. These inspections may include, but are not limited to:

- i. Spot inspections;
 - ii. Reading reports;
 - iii. Contact with City staff regarding the Project;
 - iv. Final inspection;
 - v. Road closures for traffic control;
 - vi. Full-time inspection during road restoration; and
 - vii. Unforeseen conditions (complaints or call outs from residents or utilities).
- H. DTD shall perform road restoration inspections and the City shall perform any required restoration.
- I. If the Deposit has not been depleted, DTD shall reimburse the City upon approval of the final warranty inspection and completion of any noted corrections.

2. Obligations of the City

- A. The City shall adhere to conditions outlined in any and all DTD development, utility permit and related documents issued in conjunction with the Project.
- B. The City, at its own expense, shall review the County's preliminary office research locating record monuments and complete and file a preconstruction monument recovery survey prior to construction.
- C. The City shall perform full time inspection and testing services in the field. The City will provide all reports to DTD for review each week throughout the duration of the project.
- D. The City shall reimburse DTD for the actual costs of plan review and inspection services throughout construction of the Project.
 - i. City shall provide DTD the Deposit, in the amount of \$44,000, to cover plan review and inspection services. If and when the Deposit has been depleted, the City shall reimburse DTD monthly upon receiving itemized billings from DTD.
 - ii. City shall provide CCSO the Deposit, in the amount of \$10,000, to cover services described in 3. C. If and when the Deposit has been depleted, the City shall reimburse CCSO monthly upon receiving itemized billings from CCSO.
- E. The City shall provide a performance warranty guaranteeing all work performed as part of the Project for a period of two (2) years from the date the development permit receives a final inspection.
- F. The City shall provide to DTD as-constructed drawings that reflect any changes from the approved plans, such as, but not limited to changes that result in pipe realignment, placement of appurtenant facilities, or different road restoration.

3. Work Plan and Scheduling

- A. The City intends to begin construction of the Project in October 2016. Project completion is anticipated to be approximately one (1) year after the start of

construction.

- B. 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.
- C. 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.

4. Indemnity. To the extent permitted by law under ORS 30.260 – 30.300, and subject to Oregon Constitution Article XI, Section 9, 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 negligence or act of that party.

5. Termination. If either party fails 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. Termination shall have no effect on the City's obligations under any of its permits.

6. 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 may assign its interest in this Agreement (or any portion thereof) without the prior written consent of the other party.
- C. **Severability.** In case any one or more of the provisions contained in this Agreement is found by a court of competent jurisdiction to 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. Mediation shall be a prerequisite to any circuit court action.
- 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:

Clackamas County - Department of Transportation and Development
Attn: Engineering, Utility Permits
150 Beaver Creek Road
Oregon City, OR 97045

City of Portland-Bureau of Environmental Services
 Attn: John Houle, PE
 1120 SW 5th Ave, Room 1000
 Portland Oregon 97204-1917

- F. Attorney's Fees. If a dispute should arise between the parties regarding any term or portion of this Agreement, each party shall pay its own attorney's fees.
- 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 both 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.

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

City of Portland

Clackamas County

 Michael Jordan, Director
 Bureau of Environmental Services

 Chair

Approved as to form:

 City Attorney's Office

 Recording Secretary

_____, 2016
 Date

_____, 2016
 Date