

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
RESOLUTION NO. 09-38

A RESOLUTION OF THE CITY COUNCIL APPROVING AN AGREEMENT WITH THE CITIES OF CORNELIUS AND SHERWOOD TO COMBINE THE THREE INDIVIDUAL PROJECTS FUNDED UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) INTO A SINGLE PROJECT FOR A MORE STREAMLINED PROCUREMENT PROCESS AND GREATER ECONOMIES OF SCALE

WHEREAS, the City has been allocated the amount of \$1,116,000 in ARRA funds for paving portions of Bonita Road, Durham Road and 72nd Avenue in the City; and

WHEREAS, the cities of Cornelius and Sherwood have likewise been allocated ARRA funding for pavement preservation in the amounts of \$350,000 and \$430,000 respectively; and

WHEREAS, the pavement preservation project for each City will have to be implemented through the Oregon Department of Transportation (ODOT) procurement process; and

WHEREAS, in the interest of more efficient use of limited resources, ODOT strongly encourages jurisdictions to combine like projects into one project to streamline the procurement process for design and construction; and

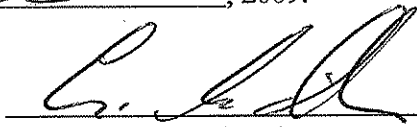
WHEREAS, the three cities have elected to combine their individual projects into a single project and need to enter into an agreement to formalize that intention.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The agreement attached as Exhibit A to this Resolution is hereby approved, and the City Manager is authorized to sign the agreement documents.

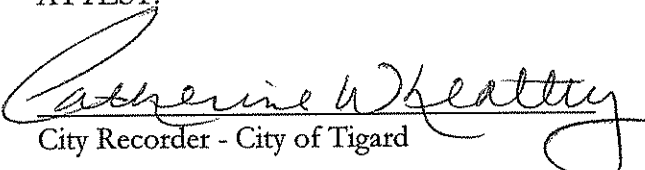
SECTION 2: This resolution is effective immediately upon passage.

PASSED: This 9th day of June, 2009.



Mayor - City of Tigard

ATTEST:



City Recorder - City of Tigard

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EXHIBIT A

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

THIS AGREEMENT is permitted by ORS 190.010, et. seq. 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 group of public improvement pavement preservation projects in each of the Cities, hereinafter referred to as "Projects," (the list of which is attached hereto as Exhibit A) funded by the American Recovery and Reinvestment Act of 2009 (ARRA).

RECITALS

- A. The Cities have Public Improvement Projects similar in type and scope funded under the American Recovery and Reinvestment Act (ARRA).
- B. ARRA funding for the Projects will be managed by the Oregon Department of Transportation (ODOT) with Cities directing the engineering and providing coordination of the construction activities.
- C. 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
- D. The Cities are electing to combine their individual Projects into a single Project in order to avoid duplication and to use the limited ARRA resources most effectively.
- E. The Cities agree to share the cost of the Projects in a fair and proportional manner.
- F. 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 their internal staff costs from their individual allotments of ARRA funds.
- B. The Cities will pay engineering, ODOT support and other non-construction costs on a proportional basis based on the allocation shown in Section F of the Recitals.
- C. Each City is responsible for Project costs that exceed their individual allotment of ARRA funds.
- D. If a City Project is completed for less than the ARRA funding allotment, that City may elect to allow one of the other Cities to utilize excess funds for their Project. Use of ARRA funds in this manner must be first approved in writing 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.

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 the 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 F 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 // Third Party Beneficiary.

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.

The Cities are the only parties to this Agreement and as such are the only parties entitled to enforce its terms. Nothing in this Agreement gives or shall be construed to give or provide any benefit, direct, indirect or otherwise to any third party(ies).

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