

RESOLUTION NO. 2439

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF TROUTDALE AND THE SANDY DRAINAGE IMPROVEMENT COMPANY ALLOWING EACH PARTY TO RETAIN THE SERVICES OF THE OTHER PARTY FOR PROJECTS AND TASKS, AND PROVIDING A MECHANISM FOR REIMBURSEMENT OF COSTS AND EXPENSES

THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. The City of Troutdale (City) and the Sandy Drainage Improvement Company (SDIC) provide related and complementary storm water management and flood protection functions within the north Troutdale drainage basin.
2. The City and SDIC have a long history of partnership, collaboration, and cooperation in executing their respective storm water management and flood protection missions, including formally partnering on appropriate projects and services. With the rapid industrial development of the north Troutdale drainage basin that is occurring, the need for the City and SDIC to formally partner and collaborate on projects and services more frequently and efficiently is increasing substantially.
3. In the past, the City and SDIC have entered into separate Intergovernmental Agreements (IGA's) for each project and each service, requiring lengthy and costly processes to draft, negotiate, review, and approve an IGA each time.
4. The authority of governmental entities to collaborate in the provision of services and to enter into IGA's is provided in ORS 190.
5. The City and SDIC desire to enter into a master framework IGA that will allow the City and SDIC to more efficiently partner on projects and retain each other's services through task orders, and provide reimbursement for such projects and services.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TROUTDALE

Section 1. The City Council authorizes the City Manager to execute an Intergovernmental agreement on behalf of the City with the Sandy Drainage Improvement Company, in substantial conformance with Attachment A.

Section 2. This resolution is effective immediately upon adoption.

**YEAS: 7
NAYS: 0
ABSTAINED: 0**



**Casey Ryan, Mayor
Date: January 23, 2019**



**Sarah Skroch, City Recorder
Adopted: January 22, 2019**

**INTERGOVERNMENTAL AGREEMENT
between
CITY OF TROUTDALE
and
SANDY DRAINAGE IMPROVEMENT COMPANY
for
Services and Projects**

SD-1807-###-IGA

This Intergovernmental Agreement ("Agreement") made by and between the City of Troutdale ("City"), a municipal corporation of the State of Oregon, and the Sandy Drainage Improvement Company ("SDIC") a nonprofit drainage improvement corporation organized under ORS Chapter 554 (collectively, the "Parties," and each individually a "Party").

RECITALS

- A. The Parties are authorized under the provisions of ORS 190.010 to enter into intergovernmental agreements for the performance of any or all functions that a party to the Agreement has authority to perform.
- B. Pursuant to ORS Chapter 554, SDIC is authorized to provide flood risk reduction and water drainage services within its jurisdictional boundaries, including through the operation and maintenance of certain levees and drainage works that are located within the City's jurisdictional boundaries. Through a current Intergovernmental Agreement ("IGA"), the Board of Directors of SDIC delegated to Multnomah County Drainage District No. 1 ("MCDD") certain management and administrative authority.
- C. The City owns and/or regulates certain real properties and owns and operates certain drainage facilities that are located within SDIC's jurisdictional boundaries.
- D. From time to time, the Parties have cooperated and worked with and for each other on various projects to support each Party's respective mission and goals, which provide critical services to the public and which sometimes complement one another and in some instances may overlap.
- E. The Parties now wish to establish in writing each Party's general responsibilities, define the methods by which the Parties will determine the specific services to be provided, together with determining the financial responsibilities of the Parties and the method for authorizing the services in a timely manner.

NOW, THEREFORE, in consideration of and subject to the mutual covenants contained herein and in the Agreement, the parties agree as follows:

TERMS

1. PURPOSE

The purpose of this agreement is to allow each Party to retain the services of the other Party for projects that support the mission of the requesting party, based on the judgment of the requesting party, and to provide a mechanism for reimbursement of costs and expenses through task orders and based on specific tasks performed by one party at the request of the other.

2. TASK ORDERS

- a. Each Party, may request the service of the other Party on a reimbursable task order basis. The party receiving the request may accept or decline the request, at its sole discretion.
- b. SDIC's Project Manager and the City's Project Manager will oversee the preparation and completion of such task orders.
- c. The task orders must be in writing and signed by both Parties prior to beginning any of the work to be performed under the Task Order, and contain the following: a time frame; cost estimate; scope of work with assumptions; and deliverables. Signed task orders are incorporated herein as part of this Agreement and must be attached and maintained as an exhibit to this Agreement.
- d. Any task order for services that are estimated to exceed \$50,000 in cost requires approval of the governing bodies.
- e. Each party shall adopt and apply a cost accounting system that substantially complies with the model cost accounting guidelines developed by the Oregon Department of Administrative Services as required for compliance with ORS 279C.310.

3. INVOICES AND PAYMENT

The Parties agree to bill monthly as services are performed, and services will be billed on a time and materials basis. Subject to the terms of this IGA, each Party must, within 30 days following receipt of each invoice, make payment for services rendered. Invoices will include an itemized accounting of the services billed. All payments by the City to SDIC must be made to SDIC. Alternative payment schedules and terms may be established a specific task order, when clearly specified in the task order and agreed upon by both parties.

4. STANDARD OF PERFORMANCE

The Parties agrees that the services it agrees to perform will be done in a safe, prudent, and reasonable manner, at the level of care and skill normally exercised by other experienced professionals rendering similar services to those contemplated by this Agreement, and in compliance with applicable laws and regulations.

5. ADMINISTRATION OF AGREEMENT

The City acknowledges that through the delegation IGA, MCDD has certain management and

administrative authority of SDIC, including the authority to administer this Agreement on behalf of SDIC. In the event that specified MCDD personnel are no longer able to administer this Agreement, the Executive Director of MCDD shall designate new MCDD staff to administer this Agreement. All Parties will be notified in writing if such change occurs. In the event that the current authorization and delegation IGA is terminated such that MCDD personnel are no longer able to administer this Agreement, SDIC's Board of Directors will designate a new administrator.

6. AMENDMENT

This Agreement may be amended by mutual written agreement of the Parties. Amendments shall be valid only when reduced to writing, approved as required, and signed.

7. TERM AND TERMINATION

This Agreement becomes effective upon the date that it has been executed by all Parties and shall remain in effect until July 31, 2022, unless terminated earlier by the Parties. This Agreement may be terminated by one Party upon ninety (90) days' notice to the other Party, or by mutual written agreement of the Parties. If the Agreement is terminated under this section, the Parties will pay for any work performed prior to the termination date.

8. NOTICES AND PROJECT MANAGERS

All notices required or permitted under this IGA will be deemed given if in writing and delivered personally, by e-mail, or mailed, postage-prepaid, by certified mail, return receipt requested, to the Project Managers identified below. Oral notices permitted under this IGA which are given by telephone must be given to the Project Manager at the telephone number below. A Party may change the information in this subsection by written notice to the other Party.

To the City:

Public Works Director
342 SW 4th Street
Troutdale, OR 97060

To SDIC:

Bill Owen, Flood Control Director
1880 NE Elrod Drive
Portland, OR 97211
bowen@mcdd.org
(503) 281-5675 x. 321

9. INDEMNIFICATION

Subject to the conditions and limitation of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, each Party agrees to indemnify, defend, and hold harmless each other from and against all liability, loss, and costs arising out of or resulting from the negligent acts of that Party, its officers, employees, consultants, contractors, and agents in the performance of this Agreement. Neither Party assumes any responsibility to the other Party for the consequences of any act or omission of any person, firm, or corporation not a Party to this Agreement.

10. INSURANCE

Each Party shall each be responsible for providing worker's compensation insurance as required by law; provided that MCDD, as the administrator for SDIC, will provide such insurance on behalf of SDIC. No Party shall be required to provide or show proof of any other insurance coverage.

11. SUBCONTRACTING

The services to be performed by a Party must be directed by that Party's Project Manager. The performing Party may not assign, subcontract, or transfer the agreed upon service to any consultant or contractor without a prior written approval from the requesting Party. The requesting Party may review and provide written approval of the performing Party's chosen consultant or contractor agreements and their insurance coverage prior to the execution of the approval. The performing Party must comply with all federal and state laws and regulations governing the selection and employment of any such consultants or contractors, and must ensure that the selected consultants or contractors have insurance coverage routinely expected of such consultants or contractors for the type of services to be provided.

12. ADHERENCE TO LAW

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

13. ACCESS TO RECORDS

Each Party shall have access to the books, documents, and other records of the other Party which are related to this Agreement for the purposes of examination, copying, and audits, unless otherwise limited by law.

14. ASSIGNMENTS

No Party will assign any part of this Agreement without the written consent of the other Party.

15. NO THIRD PARTY BENEFICIARIES

Except as expressly provided herein, this Agreement is not intended to create rights in or to grant remedies to any third party as a beneficiary of this Agreement or of any duty, obligation or undertaking established herein.

16. ENTIRETY OF AGREEMENT

This Agreement constitutes the entire Agreement between the Parties on this subject. No waiver, consent, modification, or changes of the terms of the Agreement shall bind either Party unless made in writing and signed by all Parties.

17. SEVERABILITY

The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions

shall not be affected, and the rights and obligations of the Parties shall be constructed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

18. WAIVER

A waiver by either Party of any provision, condition, or covenant of this Agreement may not be construed by the other Party as a waiver or subsequent breach of the same by the other Party.

19. COUNTERPART EXECUTION

This Agreement may be executed in multiple counterparts, each of which will be deemed to be an original, and such counterparts will constitute one and the same instrument. This Agreement will not be effective until all Parties have executed this Agreement, or a counterpart of this Agreement. Execution of this Agreement may be accomplished by electronic means.

SANDY DRAINAGE IMPROVEMENT COMPANY CITY OF TROUTDALE

Signature:

Signature:

Print Name:

Print Name:

Print Date:

Print Date:

Print Date:

Print Date:

APPROVED AS TO FORM:

Signature:

Print Name:

Print Date:
