

# **Intergovernmental Agreement**

## **Westside Pocket Area Maintenance**

The City of Portland and Multnomah County enter into this agreement pursuant to the authority granted in Chapter 190 of Oregon Revised Statutes for the purpose of efficiently providing road and drainage facility maintenance to certain areas of unincorporated Multnomah County that are west of the Willamette River.

### **PARTIES TO THE AGREEMENT**

The CITY OF PORTLAND is a municipal corporation organized and existing under the laws and constitution of the State of Oregon and is hereinafter referred to as The City.≡

The COUNTY OF MULTNOMAH is a Home Rule political subdivision of the State of Oregon organized and existing under the laws and constitution of the State of Oregon and is hereinafter referred to as The County.≡

### **RECITALS**

WHEREAS, under the Transition of Urban Services Agreement between the City and the County the City of Portland has provided road and drainage maintenance services to areas of unincorporated Multnomah County that are west of the Willamette River and inside the urban service boundary since 1984; and

WHEREAS, the Transition of Urban Services Agreement does not provide for financial remuneration to the City for road and drainage services provided in unincorporated areas until the area is annexed to the City; and

WHEREAS, annexation of the westside unincorporated areas has proceeded at a slower pace than was anticipated in 1984; and

WHEREAS, the City has informed the County that they can no longer provide road and drainage facility maintenance to westside unincorporated areas without financial remuneration; and

WHEREAS, the City and the County find that a rational and efficient method for delivery of road and drainage facility maintenance to certain westside unincorporated areas is for the City to continue to provide services; and

WHEREAS, ORS 190.010 and 190.030 provide for intergovernmental agreements between units of local government, including the City and the County, to allow the performance of functions or activities by one unit of local government for another; and

WHEREAS, ORS 190.020 requires that an intergovernmental agreement contemplating the performance of functions or activities by one unit of local government for another shall specify the responsibilities and the apportionment of funds between the parties;

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED HEREIN AND PURSUANT TO THE PROVISIONS OF ORS 190.010 - 190.030, THE CITY AND THE COUNTY AGREE AS FOLLOWS:

#### ARTICLE ONE: PURPOSE

The general purposes of this agreement are to:

1. Provide for the maintenance of County road and drainage facilities in unincorporated Multnomah County west of the Willamette River and within the Portland urban service area.
2. Provide a mutual understanding of services to be delivered by the City and the level of service to be provided.
3. Provide for monitoring the services delivered by the City.
4. Provide financial remuneration of services provided by the City.

#### ARTICLE TWO: DEFINITIONS

County Road: All public roads under the jurisdiction of Multnomah County as defined by ORS 368.001 (1), (5) and (6) which have been formally adopted and accepted or legalized by the Board of County Commissioners as County roads and designated as such by the County Engineer.

Local Access Road: A public road in an unincorporated area that is not a county road, a state highway or a federal road.

Westside Contract Maintenance Service Area: County Roads west of the Willamette River and within the Portland urban service boundary, and the following County Roads immediately adjacent to the Portland urban service boundary: NW Thompson Rd., NW 53rd Drive, SW Iron Mountain Road and SW 49th Street.

Roadway Facilities: Public improvements associated with County Roads including, but not limited to, pavement surface and subsurface, pavement markings, signs, traffic signals, shoulders, ditches, culverts, storm sewers, manholes, sumps, catchbasins, and trashracks.

Maintenance: Ordinary maintenance and repair work necessary to preserve the public infrastructure. When necessary, repairs by in-kind replacement of facilities will be made. Maintenance includes, but is not limited to, preservation overlays, minor alterations, street

sweeping and cleaning of facilities.

Improvement: Construction of new facilities, and upgrading and/or expanding existing facilities. Examples include, but are not limited to, construction of new roadways, reconstruction of failed roads, roadway widening, and expansion of drainage facilities.

Traffic Operations: Installation of new traffic control devices, markings and signs, replacement of traffic signals, and changes to timing of traffic signals as needed to improve public safety and maintain acceptable traffic operations.

Pavement Treatment: Maintenance of the pavement surface by asphalt/concrete patching, grinding, crack sealing, asphalt paving to prevent surface distortions and avoid major reconstruction.

Routine Road Maintenance: Street sweeping, guardrail maintenance and corner and curb maintenance to prevent driving hazards and maintain the general condition of the system.

Shoulder and Right of Way Maintenance: Maintenance of shoulders on all non-curbed arterial and collector roads and on maintained roads with a maintained ditch, to eliminate hazards caused by deteriorating shoulder conditions or drainage problems.

Traffic Aids Maintenance: Maintenance of pavement markings, traffic signs, and traffic signals to prevent driving hazards and maintain public safety.

Drainage Facility Maintenance: Cleaning and repair of storm sewers, manholes, catchbasins, culverts, ditches, sumps and trashracks to maintain stormwater flow and the general condition of the system.

Emergency Response: Response to events including snow and ice, wind storms, flooding, landslides and other natural or manmade incidents that require immediate action to protect people and property.

Roadway Facility Maintenance Services: Pavement Treatment, Routine Road Maintenance, Shoulder and Right of Way Maintenance, Traffic Maintenance, Drainage Facility Maintenance.

Maintained Ditch: An open drainage facility, that is in the right-of-way and adjacent to a County Road, that directs water into a stormwater conveyance system.

City Standards: Standards, policies, guidelines and/or past practices that are used by the City to maintain the roadway system.

## ARTICLE THREE: AGREEMENT

### SECTION I: ROADWAY FACILITY MAINTENANCE

A. Beginning July 1, 1998, the City shall provide the following Roadway Facility maintenance Services to County Roads within the Westside Contract Maintenance Services Area. The level of maintenance provided for each activity will be the same level provided by the City to city streets within the City limits. Maintenance services shall be provided in a manner consistent with applicable operation and maintenance best management practices as set forth in the City of Portland National Pollutant Discharge Elimination System Municipal Stormwater Permit. The level of review and services shall be provided at the same level provided by the City to other areas within the City limits

#### 1. Pavement Treatment.

- a. Overlays. Based on need, as determined through assessment of data from the pavement management system, the City will design, engineer and perform overlay projects.
- b. Hot Asphalt Concrete Patching. Based on need, as determined through assessment of data from the pavement management system and in response to citizen complaints, the City will use hot asphalt concrete for general maintenance and in preparation of pavement overlay.
- c. Asphalt/Concrete Grinder Patching. Based on need, as determined through assessment of data from the pavement management system, the City will use grinder plug cutting and profiling to repair pavement distress and remove old asphalt build-up for general maintenance and in preparation of pavement overlay.
- d. Crack sealing. Based on need, as determined through assessment of data from the pavement management system, the City will seal pavement cracks for general maintenance and in preparation of pavement overlay.

#### 2. Routine Road Maintenance.

- a. Street sweeping. Curbed streets will be swept at a frequency consistent with City street sweeping. Non-curbed streets will not be swept.
- b. Guardrail, terminal, barrier and guard post maintenance. Maintenance will be provided using the City standards.
- c. Curb and corner maintenance. Maintenance will be provided using the City standards.

#### 3. Shoulder and Right of Way Maintenance.

- a. Shoulder grading and re-rocking. Shoulder grading and re-rocking will be provided on non-curbed arterial and collector roads and on maintained roads with a maintained ditch.

- b. Shoulder potholes. Potholes in shoulders will be repaired to remove hazards on non-curbed arterial and collector roads and on maintained roads with a maintained ditch.
  - c. Roadside vegetation. Machine cutting of roadside vegetation will be provided on all roads with a maintained ditch to prevent disruption of drainage.
  - d. Herbicide Spraying. Non-residual herbicides will be applied where appropriate.
4. Traffic Aids Maintenance
- a. Pavement Markings. Maintenance of existing pavement markings and replacement of pavement markings following pavement overlays. Pavement markings includes center, turn and edge lines; stop lines; crosswalks; and legends.
  - b. Signs. Maintenance of signs and sign posts, and replacement of damaged and/or missing signs and sign posts. Traffic control signs on Local Access Roads will also be maintained by the City.
  - c. Traffic Signals. Maintenance of traffic signal systems including hardware, controllers, signal loops, pedestrian push buttons, span cable, tether cable, mast arms, poles, signal heads, and pedestrian heads. The City will also respond to calls including police, power outages, knock downs, underground locates, utilities and contractors.
  - d. Vegetation. The City will investigate complaints of vegetation that create sight distance problems and vegetation that block traffic control devices. When problems can be corrected with minor trimming the City will do so. When correction of the problem requires the installation of new traffic control devices, moving existing traffic control devices, or major pruning or removal of mature vegetation, the City will contact the County. If, after contacting the property owner, the County directs the City to conduct major pruning or tree removal the City will do so on a time and materials basis.
5. Drainage Facility Maintenance.
- a. Catchbasin Cleaning and Repair. Clean and repair catchbasins to City standards.
  - b. Culvert Cleaning and Repair. Clean and repair culverts to City standards.
  - c. Ditch Cleaning. Clean ditches to City standards.
  - d. Trashrack Cleaning and Repair. Clean and repair trashracks to City standards.
  - e. Sump Cleaning. Clean sumps to City standards as outlined in the City of Portland Stormwater Management Plan for Underground Injection Control Devices.
  - f. Storm Sewer Pipes and Manholes. Clean and repair storm sewer pipes and manholes to City standards.

- g. Drainage Facilities Inventory. Maintain inventory of drainage facilities, including type of facility, location and condition.
- h. Maintenance for drainage facilities will be limited to facilities in the right-of-way and within adequate easements when the facility is located on private property. The City will notify the County if the easement is insufficient for proper maintenance.

**B. Local Access Roads**

Adjoining property owners are responsible for maintenance of Local Access Roads. The only maintenance function the City will perform on Local Access Roads is maintenance of traffic control signs and devices.

**C. Emergency Response.**

- 1. The City will maintain 24 hour emergency response capabilities.
- 2. The City will respond to emergencies as set forth in Article Three, Section II.

**D. Public Inquiries.**

- 1. The City will maintain a APothole Hotline≡ for the public to report potholes and other hazards in the pavement and will investigate problems as notified.
- 2. The City will maintain a one-call number for public inquiries regarding general roadway maintenance and investigate problems as notified.
- 3. The City will respond to all rules of the Oregon Utility Notification Center, or AOne Call≡ service for marking and notification of the County=s underground utilities such as, but not limited to culverts and signal traffic loops.

**E. Disposal of Materials.**

- 1. The City will transport and dispose of all material arising from maintenance activities and emergency response on Roadway Facilities, except as provided for in Article Three, Section II.A.1 and Section II.A.2.
- 2. Material will be treated and/or disposed of in accordance with environmental regulations.

**SECTION II: EMERGENCY RESPONSE**

- A. The City will respond to all emergencies including snow and ice, wind storms, flooding, landslides and other natural or manmade incidents. Emergencies that would normally be handled by city crews on City streets, such as landslides, downed trees, snow and ice treatments, and flooding, will be treated by city crews according to City standards. In the event that the City determines that outside assistance is needed to respond to the event, the City will notify the County and jointly work to respond to the event. The City will handle the following emergencies as specified below:

1. Hazardous Chemical Spills.  
In the event of hazardous chemical spills in the right-of-way, the following practices will be followed:
  - a. The City will contact the City of Portland Fire Bureau for initial response to the spill.
  - b. The City will arrange for response to and clean-up of the spill by a qualified hazardous chemical contractor.
  - c. The City will provide traffic control until the contractor arrives to clean-up the spill.
  - d. The City will prepare a detailed bill of clean-up costs for the County. The bill will include, the party responsible for the spill, when known by the City.
2. Landslides and Trees
  - a. The City will move or remove landslide debris to maintain traffic movement and keep drainage facilities operational.
  - b. The City will move or remove trees that have fallen onto the right of way to maintain traffic movement and keep drainage facilities operational.
3. Road Debris and Sanding Materials
  - a. The City will remove surface debris, such as abandoned furniture and appliances, from the roadway that is a threat to public safety.
  - b. The City will clean-up sanding materials from snow routes to remove road hazards.
4. Local Access Roads  
Emergency repair of Local Access Roads is the responsibility of the adjoining property owner. The City will provide limited emergency services to local access roads only when there is a threat to public safety or health.

### SECTION III: COUNTY RESPONSIBILITIES

- A. Coordination of Operational Changes and Improvements
  1. The County will retain jurisdiction over Roadway Facilities and responsibility for Traffic Operations and Improvements to Roadway Facilities.
  2. The County will coordinate operational changes and roadway improvements in the Westside Maintenance Contract Area with the City by seeking the input of the City in the planning, designing, engineering and construction phases of traffic operation and roadway improvement projects.
  3. The County will notify the City of changes to the County Road system that are constructed as part of subdivision construction and local improvements.

4. When making operational changes and roadway improvements, the County will use materials that can be maintained by the City.
- B. Easements
  1. The County may provide an additional easement or temporary easement when the City determines that the existing easement is insufficient for proper drainage facility maintenance.
- C. Emergency Response
  1. When the City determines outside assistance is needed to respond to an emergency event, the County will work with the City to determine the best way to address the problem.
- D. Code Enforcement
  1. The County will be responsible for notification of property owners regarding enforcement of code violations, whether on private property or in the public right of way.
- E. Hazardous Chemical Spills
  1. When a party responsible for a hazardous chemical spill has been identified, the County will be responsible for sending the clean-up bill to the identified party.
  2. When the City cannot identify the party responsible for a hazardous chemical spill, the County will be responsible for paying for the clean-up.
- F. Vegetation
  1. When notified by the City that mature vegetation has created sight-distance problems or is blocking a traffic control device the County will investigate and resolve the problem.
  2. If correction of the problem requires major pruning and/or removal of vegetation, the County, after notifying the property owner, may direct the City to prune or remove the vegetation, and will pay the City on a time and materials basis.

#### SECTION IV: REPORTING

The City shall submit the following reports to the County Engineer:

1. Maintenance records will be submitted quarterly, with the City bill for maintenance services, or on request by the County. Records will be provided for Pavement Treatments, Routine Road Maintenance, Shoulder and Right of Way Maintenance, Traffic Maintenance and Drainage Facility Maintenance.

#### SECTION V: TERM

- A. The term of this agreement shall be from July 1, 2010 to and including June 30, 2011, unless sooner terminated or renewed under the provisions hereof.
- B. Termination. Each party reserves the right to terminate this agreement with 60-days written notice to the other, and may terminate this agreement for any reason(s) deemed appropriate based on the sole discretion of the party requesting termination.



C. Renewal.

1. This agreement may be renewed from year to year, by action of the governing bodies of the City and the County, specifying the amount to be paid to the City for services described in this agreement.
2. The base road mileage in the Westside Contract Maintenance Service Area is 19.11 miles. Renewal of this agreement will, among other factors, take into account additions and deletions to this base road mileage.

SECTION VI: COMPENSATION

The County agrees to compensate the City as follows:

1. For services provided by City personnel, with the exception of snow and ice response, the County will pay the City for all work on a time and materials basis when ever possible. Where it is determined to be impractical to track activities (such as street sweeping) on a time and materials basis, the County will pay the City a prorated amount of the total cost of the activity based on the amount of work performed inside the pocket areas as compared to the total work performed.
2. For services provided by contractors working for the City, the County will pay the City a prorated amount of the total contract cost based on the amount of work performed inside the pocket areas as compared to the total work performed.
3. For snow and ice response by City crews the County will pay the City an annual amount of \$3,500.
4. The City's services provided under this agreement will be billed quarterly and collected in accordance with City Code 5.48.040.
5. Up to \$100,000 for the performance of work at the rates authorized under this Agreement including the \$3,500.00 for snow and ice response in fiscal year 2011, in the Westside Contract Maintenance Service Area. The City shall not perform any services that will exceed \$100,000 in total billing under this Agreement without the County's prior written consent.
6. If this agreement is terminated by either party, the quarterly payments for Roadway Maintenance Services, will be pro-rated from the first of the quarter to the date the agreement is terminated. Services that are billed on a time and materials basis will not be pro-rated.

SECTION VII: PROJECT MANAGEMENT

A. The Citys project mangers will be:

1. Administrative Issues: Bob Bayley. Administrative issues includes contract

renegotiation, tracking of costs, and arranging for service payments to City.

2. Operational Issues: Mike Boyle. Operation issues includes day to day provision of roadway facility services.
3. Changes in City project management responsibility will be given in writing to the County.

B. The County's project managers will be:

1. Administrative Issues: Tom Hansell. Administrative issues includes contract renegotiation, tracking of costs, and arranging for service payments to the City.
2. Operational Issues: Bill Whitson. Operation issues includes day to day provision of roadway facility services.
3. Changes in County project management responsibility will be given in writing to the City.

C. Policy and Code Differences. It is understood that City and County policy and code differences, may, from time to time, preclude the City from responding to all maintenance and emergencies in the same manner that the County would if it were providing services directly. In those instances, the County and City project managers for Operational Issues will work together to determine which party will respond and how.

#### ARTICLE FOUR: GENERAL TERMS

1. Indemnification. Each party shall, subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act, defend, save and hold harmless the other from all claims, suits or actions of whatsoever nature, including intentional acts, resulting from or arising out of its activities under this agreement.
2. Insurance. City and County are self-insured for general liability and workers compensation.
3. Amendment. The terms of this agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by the parties.
4. Compliance with Applicable Laws. The City and County shall comply with all applicable laws and regulations in carrying out the terms of this agreement.