

INTERGOVERNMENTAL AGREEMENT
County No. 0910090

This is an Agreement between The City of Wood Village, a political subdivision of the State of Oregon ("The City"), and Multnomah County, a political subdivision of the State of Oregon ("The County"), pursuant to authority granted in ORS Chapter 190.

PURPOSE:

The purpose of this Agreement is to provide for the design and construction of a concrete curb and sidewalk (including storm drain improvements) along NE Halsey Street (a County Road under the jurisdiction of the County) from the entrance to Donald Robertson City Park to Birch Ave. within the City of Wood Village (the "Project") and to establish the parties' obligations with respect to the Project. The parties have determined that the Project is necessary for the improved public safety and livability of NE Halsey Street.

RECITALS:

1. The Project budget estimate as of August 1, 2009 is \$90,000.
2. In 2009, the City was awarded Community American Rehabilitation and Recovery Act (ARRA) Funds in the amount of \$100,000 to fund the Project. The City has elected to engage in ODOT's "fund exchange" program and will receive \$94,000 from the State in exchange for the \$100,000 federal dollars. This program allows the City to engage in City managed design and construction of the project.
3. The City and County mutually agree that it is in the best public interest to utilize County design, advertising, award, and construction management services in executing the Project.
4. The Scope of the Project is set forth in the attached Exhibit A.
5. A map identifying the Project area is attached as Exhibit B.
6. The ODOT to City award letter is attached as Exhibit C.
7. The ODOT/City Agreement is attached as Exhibit D.

The parties agree as follows:

1. **TERM.** The term of this agreement shall be from the date that all required signatures have been obtained to the completion of the Project and final payment, or two calendar years following the date that all required signatures have been obtained, whichever is sooner.
2. **RECITALS ARE INCORPORATED.** The above Recitals are contractual and incorporated by this reference.

6. **INSURANCE.** Each party shall be responsible for providing workers' compensation insurance as required by law. Neither party shall be required to provide or show proof of any other insurance coverage.
7. **ADHERENCE TO LAW.** Each party shall comply with all federal, state, and local laws and ordinances applicable to this agreement.
8. **NON-DISCRIMINATION.** Each party shall comply with all requirements of federal and state civil rights and rehabilitation statutes and local non-discrimination ordinances.
9. **ACCESS TO RECORDS.** Each party shall have access to the books, documents, and other records of the other which are related to this agreement for the purpose of examination, copying, and audit, unless otherwise limited by law.
10. **SUBCONTRACTS AND ASSIGNMENT.** Neither party will subcontract or assign any part of this agreement without the written consent of the other party.
11. **THIS IS THE ENTIRE AGREEMENT.** This Agreement constitutes the entire Agreement between the parties. This Agreement may be modified or amended only by the written agreement of the parties.
12. **ADDITIONAL TERMS AND CONDITIONS:**
 - A. Both parties agree that the final design, specifications, plans and standards and engineer's estimate for the Project shall be mutually approved before the advertisement for bids is published
 - B. In the event the construction bids returned to the County exceed by 10% or more the estimated cost of the Project, the parties agree to timely meet to resolve how to fund the additional cost or revise the proposed project to stay within budget. If a mutually acceptable resolution is not obtained, the Project will be cancelled, and this Agreement will be terminated.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

By _____
Ted Wheeler

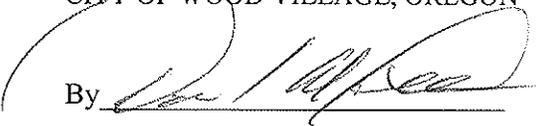
Title Chair Date: _____

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY

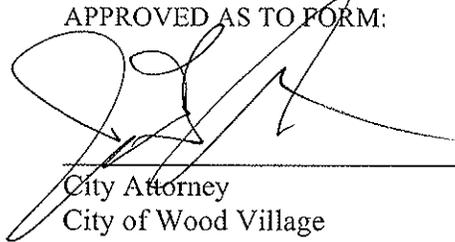
/s/ Matthew O. Ryan (Electronic)
Matthew O. Ryan 8-14-09
Assistant County Attorney

CITY OF WOOD VILLAGE, OREGON

By  _____ 8-11-09
David M. Fuller

Title MAYOR

APPROVED AS TO FORM:

 _____ 8-11-09
City Attorney
City of Wood Village

3. **RESPONSIBILITIES OF THE COUNTY.** The County agrees to provide the following services:
 - A. Designate the County Project Manager, who shall be:
 Name: Adam Soplop, PE
 Address: 1620 SE 190th Ave., Portland OR
 Phone/Fax: (503) 988-5050 x22604 – Fax: (503) 988-3321
 E-mail: adam.soplop@co.multnomah.or.us
 - B. County's Project Manager and/or appropriate staff shall regularly meet with City during the design and construction stages of the Project and provide timely responses to City's inquiries regarding the Project.
 - C. The County will design, advertise; and, provided an acceptable responsive bid is received, award a contract for and manage the construction of the Project in compliance with Exhibits A and B. The County shall only award a contract for construction of the Project if the available cash funds will cover the contract amount.
 - D. If the County does award the construction contract, the County shall maintain electronic copies of all project documents, which shall be provided to the City. The preliminary design shall identify any needs for ROW acquisition, easements, permits, utility relocations or reconstructions, etc., and such identified costs will be included in the project estimate.
 - E. If the County does award the construction contract, the County shall:
 1. Participate in public meetings scheduled for the Project by the City.
 2. Develop and deliver the project in accordance with timelines identified in Exhibit D.
 3. Invoice City on a monthly basis for project costs incurred.
4. **RESPONSIBILITIES OF CITY.** City agrees to provide the following services:
 - A. Designate the City's Project Manager, who shall be:
 Name: Randy Jones, Public Works Director
 Address: Wood Village City Hall, 2055 NE 238th Drive, Wood Village OR 97060
 Phone/Fax/E-mail: (503) 667-6211 – Fax: (503) 669-8723
 E-mail: randyj@ci.wood-village.or.us
 - B. Meet regularly with County during the design and construction stages of the Project.
 - C. Timely respond to County's Project Manger's inquiries regarding the Project.
 - D. Participate in all scheduled public meeting(s).
 - E. Within 30 days of receipt of the invoice by the County to the City of the County's incurred costs for the Project; the City shall request progress payment from ODOT out of the Fund exchange allocation for this project. Within 10 days of receipt of reimbursement from ODOT, City shall forward payment to County for County invoice.
5. **TERMINATION.** This Agreement may be terminated by either party upon 60 days' written notice.
6. **INDEMNIFICATION.**
 - A. Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, and the financial limits therein, County shall indemnify, defend, and hold harmless City from and against all liability, loss, and costs arising out of or resulting from the acts of County, its officers, employees, and agents in the performance of this agreement.
 - B. Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, and the financial limits therein, City shall indemnify, defend, and hold harmless County from and against all liability, loss, and costs arising out of or resulting from the acts of City, its officers, employees, and agents in the performance of this agreement.

EXHIBIT A

Project Description/Scope of Work

NE Halsey St Sidewalks – Robertson Park to NE Birch Ave

1. Remove boulders and grade existing ditch line on south side of Halsey from Robertson Park to Birch Ave.
2. Provide new closed drainage conveyance in ditch location adequately sized to accommodate existing flows. Connect known or observed side drains from existing home sites.
3. Provide catch basins and manholes as required.
4. Establish road profile grades for future road widening and place concrete curb and sidewalk at appropriate dimensions.
5. Incorporate the Halsey Street concept plan cross section profile to the greatest extent allowed by physical constraints.

EXHIBIT B
Project Location
NE Halsey St Sidewalks – Robertson Park to NE Birch Ave





Oregon
Theodore R. Kulungoski, Governor

Department of Transportation
ODOT Procurement Office
455 Airport Rd. SE, Bldg. K
Salem, OR 97301-5348

July 9, 2009

City of Wood Village
Randy Jones
2055 NE 238th Dr
Wood Village, OR 97060

RE: Economic Stimulus Project - Confirmation and Agreement
Halsey St: Robertson Park - NE Birch Ave Sidewalk
Agreement No. 26004

The above-named project has been accepted for funding through the American Recovery and Reinvestment Act of 2009 (ARRA). Your agency's share of the ARRA funds allocated to cities, counties, and metropolitan areas is \$100,000. However, you have chosen to trade the federal ARRA funds for state funds at the ratio of \$94 state for \$100 federal. The amount of state funds for this project is \$94,000.

The ARRA program has specific goals and deadlines different from those of other federal or state programs. One critical difference is that the funds are available only until March 1, 2010. If your project has not advanced to construction by then, the funds will be withdrawn for redistribution to other projects. It is important to start your project promptly and advance it to contract on time. Several actions must occur before the project can begin:

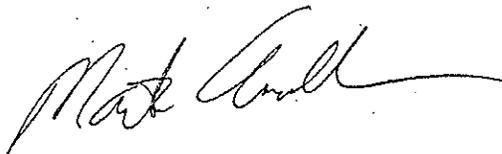
- Sign the Fund Exchange Agreement
- Obtain Notice to Proceed from ODOT
- Secure a qualified consultant (if needed)

Fund Exchange Agreement – The Agreement for your Project is attached as a PDF document. This Agreement contains provisions specific to the ARRA, and the standard provisions that require the project be consistent with the Oregon Constitution and statutes. To meet the stated deadlines, you must sign and return by email in the form of a PDF, the Agreement to karin.l.jorgensen@odot.state.or.us no later than July 29, 2009. The Agreement text is the same for all ARRA projects. Do not request changes unless there are errors specific to your agency or project identification.

Prospectus, STIP Amendment and Notice to Proceed - When you return the signed Agreement your project will be assigned to a Local Agency Liaison in the ODOT Region 1 office. This person will work with ODOT Highway Program staff (Salem) to complete any actions needed before giving your project a Notice to Proceed.

For general information about the ARRA program you may contact me at (503) 986-3640. If you have specific questions about the next steps for your project or changes in your project information, please contact Dave Galati, ODOT Local Government Section, attention: David.A.Galati@odot.state.or.us. If you have specific questions regarding the Fund Exchange Agreement, please contact the ODOT Procurement office attention: Karin Jorgensen via email at: Karin.L.Jorgensen@odot.state.or.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Martin Andersen", with a long horizontal flourish extending to the right.

Martin E. Andersen, PE
Local Government Section Manager

cc: Tom Weatherford, ODOT Region 1, Local Program

Enclosures (1) original agreements in PDF format

2009 FUND EXCHANGE AGREEMENT
AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009
Halsey Street: Robertson Park - NE Birch Avenue Sidewalk
City of Wood Village

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State"; and City of Wood Village, acting by and through its elected officials, hereinafter referred to as "Agency," collectively referred to as the "Parties."

RECITALS

1. By the authority granted in Oregon Revised Statute (ORS) 190.110, 366.572 and 366.576, ODOT may enter into cooperative agreements with counties, cities and units of local governments for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.
2. The American Recovery and Reinvestment Act of 2009, hereinafter referred to as the "ARRA", provides funding for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and state and local fiscal stabilization, for fiscal years 2009 and 2010.
3. The ARRA provides each state a sub-allocation of ARRA funds for cities, counties and metropolitan areas.

NOW THEREFORE, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

1. Agency has submitted a completed and signed Part 1 of the Project Prospectus, or a similar document agreed to by State, outlining the schedule and costs associated with all phases of the construction of sidewalks on the south side of Halsey Street between Robertson Park and NE Birch Avenue, hereinafter referred to as "Project."
2. State has reviewed Agency's "Small City Economic Stimulus" application and considered Agency's request for the Fund Exchange. State has determined that Agency's Project is eligible for the exchange of funds.

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3. To assist in funding the Project, Agency has requested State to exchange 2009 federal funds, which have been allocated to Agency, for state funds based on the following ratio:

\$94 state for \$100 federal

4. Based on this ratio, Agency wishes to trade \$100,000 federal funds for \$94,000 state funds.
5. Agency must advance the Project to construction prior to May 31, 2010; and State must make a determination no later than March 31, 2010 whether this date will be met. Therefore, in December 2009 the Project will be reviewed by State, in coordination with the Oregon Local Program Committee. If State determines that the Project will not, or is not likely to, advance to construction by May 31, 2010, State may terminate this Agreement effective upon delivery of written notice to Agency, allowing the state funds provided for the Project to be distributed to another project at State's discretion; and State shall have no obligation to replace these funds with other state or federal funds.
6. The term of this Agreement will begin upon execution and will terminate upon completion of the Project and final payment or September 30, 2015, whichever is sooner.
7. The Parties agree that the exchange is subject to the following conditions:
 - a. The federal funds transferred to State may be used by State at its discretion.
 - b. State funds transferred to Agency must be used for the Project identified in the Economic Stimulus application and described in paragraph number 1 (one) above.
 - c. State funds may be used for all phases of the Project, including preliminary engineering, right of way, utility relocations and construction. Said use shall be consistent with the Oregon Constitution and statutes (Section 3a of Article IX Oregon Constitution). Agency shall be responsible to account for expenditure of state funds.
 - d. This Fund Exchange shall be on a reimbursement basis, with state funds limited to a maximum amount of \$94,000. All costs incurred in excess of the Fund Exchange amount will be the sole responsibility of Agency.

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- e. State certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within State's current appropriation or limitation of the current biennial budget.
- f. Agency and any Contractors shall perform the work as an independent contractor and will be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work including, but not limited to, retirement contributions, workers compensation, unemployment taxes, and state and federal income tax withholdings.
- g. Agency shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279C.505, 279C.515, 279C.520, 279C.530 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Agency expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
- h. Agency, or its consultant, shall conduct the necessary preliminary engineering and design work required to produce final plans, specifications and cost estimates; purchase all necessary right of way in accordance with current state and federal laws and regulations; obtain all required permits; be responsible for all utility relocations; advertise for bid proposals; award all contracts; perform all construction engineering; and make all contractor payments required to complete the Project.
- i. Agency shall submit invoices to State on a monthly basis, for actual costs incurred by Agency on behalf of the Project directly to State's Project Manager for review and approval. Such invoices will be in a form identifying the Project, the agreement number, the invoice number or account number or both, and will itemize all expenses for which reimbursement is claimed. Under no conditions shall State's obligations exceed \$94,000, including all expenses. Travel expenses will not be reimbursed.
- j. Agency shall, at its own expense, maintain and operate the Project upon completion at a minimum level that is consistent with normal depreciation and service demand.
- k. All employers, including Agency, that employ subject workers in the State of Oregon shall comply with ORS 656.017 and provide the required Workers'

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Compensation coverage unless such employers are exempt under ORS 656.126. Agency shall ensure that each of its subcontractors complies with these requirements.

- I. This Agreement may be terminated by either Party upon thirty (30) days' notice, in writing and delivered by certified mail or in person.
 - i. State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:
 - A. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - B. If Agency fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from State fails to correct such failures within ten (10) days or such longer period as State may authorize.
 - ii. Either Party may terminate this Agreement effective upon delivery of written notice to the other Party, or at such later date as may be established by the terminating Party, under any of the following conditions:
 - A. If either Party fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow either Party, in the exercise of their reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - B. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or either Party is prohibited from paying for such work from the planned funding source.
 - iii. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
8. State and Agency agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be invalid, unenforceable, 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 construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

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9. Agency acknowledges and agrees that State, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Agency which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.
10. Agency certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.
11. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
12. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

THE PARTIES, by execution of this Agreement, hereby acknowledge that each Party has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

The funding for this Fund Exchange program was approved by the Oregon Transportation Commission on November 17, 2007, as a part of the 2008-2011 Statewide Transportation Improvement Program (STIP).

The Program and Funding Services Manager approved the Fund Exchange on June 29, 2009.

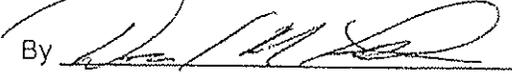
The Oregon Transportation Commission on December 29, 2008, approved Delegation Order No. 2, which authorizes the Director to approve and execute agreements for day-to-day operations. Day-to-day operations include those activities required to implement

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the biennial budget approved by the Legislature, including activities to execute a project in the Statewide Transportation Improvement Program.

On February 22, 2007, the Director and Deputy Director, Highways, approved Subdelegation Order No. 18, in which authority is delegated to the Highway Program Office Manager to approve and sign agreements over \$75,000 up to a maximum of \$500,000 when the work is related to a project included in the Statewide Transportation Improvement Project.

City of Wood Village, by and through its
elected officials

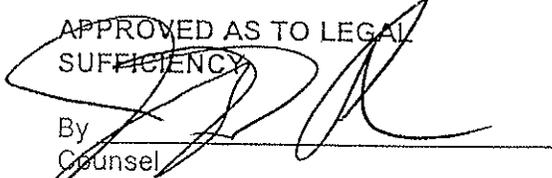
By 

Date 7-14-09

By _____

Date _____

APPROVED AS TO LEGAL
SUFFICIENCY

By 
Counsel

Date 7-20-09

STATE OF OREGON, by and through
its Department of Transportation

By _____
Highway Program Office Manager

Date _____

APPROVAL RECOMMENDED

By _____
Local Government Section Manager

Date _____

By _____

Date _____

Agency Contact:
Randy Jones, Public Works Director
2055 NE 238th Drive
Wood Village, OR 97060
503-489-6857
randyj@ci.wood-village.or.us

State Contact:
Tom Weatherford, ODOT Region 1
123 NW Flanders Street
Portland, OR 97209-4012
503.731.8238
thomas.l.weatherford@odot.state.or.us