



## RESOLUTION 2017-082

### **AUTHORIZING THE CITY MANAGER TO SIGN THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF SHERWOOD (the "CITY") AND THE SHERWOOD SCHOOL DISTRICT (the "DISTRICT")**

**WHEREAS**, in November 2016, the voters approved a general obligation bond that allows the District to, among other things, construct a new High School in a portion of the area known as Sherwood West; and

**WHEREAS**, it is necessary to provide adequate school facilities for the rapidly growing school-age population within the District boundaries in a timely manner; and

**WHEREAS**, in order to mitigate the monthly escalation of local and regional construction costs, the District has expedited the planning, annexation, and site development schedule for the new school; and

**WHEREAS**, the expedited nature of the schedule puts an extraordinarily burden on City staff and resources for planning, engineering, and building coordination and review that would not otherwise be fully recovered by the City's standard development and review fees; and

**WHEREAS**, the City and District believe it is in the best interest of the Sherwood community for the City to help facilitate the construction of the new high school on the accelerated schedule, but both entities also believe that the City should be reimbursed for the additional costs that the City has and will incur as a result of that accelerated schedule; and

**WHEREAS**, City and District staff have negotiated an intergovernmental agreement, attached hereto as Exhibit A, to provide for the terms for such reimbursement.

### **NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:**

**Section 1.** The City Manager is hereby authorized to sign an intergovernmental agreement in a form substantially similar to the document attached as Exhibit "A", between the City and the District.

**Section 2.** This Resolution shall be effective upon its approval and adoption.

Duly passed by the City Council this 7<sup>th</sup> day of November, 2017.



Council President

Attest:



Sylvia Murphy, MMC, City Recorder

## **Intergovernmental Agreement For Provision of Development Review Services**

This agreement (“Agreement”) is entered into by and between the City of Sherwood (“City”) and the Sherwood School District (“District”), both municipal corporations of the State of Oregon, pursuant to ORS Chapter 190.

### RECITALS

- A. In November 2016, the voters approved a bond that allows the District to, among other things, construct a new high school.
- B. In order to provide adequate school facilities for the rapidly growing school-age population within the District boundaries in a timely manner, and in order to mitigate the monthly escalation of local and regional construction costs, the District has developed an accelerated schedule to complete all tasks necessary to obtain approvals to construct the new high school.
- C. The accelerated nature of the project schedule puts an extraordinary burden on City staff and resources for planning, engineering, building coordination, and review that are not fully recovered by the City’s standard development and review fees. In addition, the District desires to assist the City in making additional City staff and/or consultant resources available in order to allow for said planning, engineering, building coordination, and review to be provided in an accelerated manner.
- D. The City and District believe it is in the best interest of the Sherwood community for the City to facilitate the construction of the new school on the accelerated schedule desired by the District, but both entities also believe that the City should be reimbursed for the additional costs that the City will incur as a result of that accelerated schedule.

### AGREEMENT

Now, therefore, based on the foregoing, the parties agree as follows:

- 1. **Services Provided.** The City will provide to the District certain services, using City staff or consultants retained by the City, related to urban and suburban planning, engineering, building, and construction disciplines, in connection with the District’s applications for development of the new high school (“Development Review Services” or “DRS”).
- 2. **Reimbursement of Costs.** The District will reimburse the City for the costs associated with providing DRS, as follows:
  - 2.1. The costs for services provided by City staff, as those costs may change from time to time, will be based on actual time incurred at a fully loaded hourly rate, which reflects (among other costs) costs relating to salary, payroll and other taxes, medical, dental and other insurance, employer-paid retirement contributions, vacation, sick leave, and other benefits(s) which are part of the compensation package for the City staff providing DRS.

(See Attachment 1 - City Staff Fee Schedule, stating costs as of the date of this Agreement.)

- 2.1.1. City staff time eligible for reimbursement includes, but is not limited to:
  - 2.1.1.1. Time spent preparing for and at regular coordination meetings with the District;
  - 2.1.1.2. Time required to coordinate with outside agencies;
  - 2.1.1.3. Management of consultants retained by the City to provide DRS.
- 2.1.2. City staff and consultant time eligible for reimbursement does not include time spent processing planning, engineering, building or construction applications or permits to the extent that the cost of those services is covered by one or more fees already required under the city code. To the extent a cost for services is charged for processing planning, engineering, building or construction applications or permits and that cost is not covered by one or more fees already required under the city code, the invoice shall specifically identify that charge and the reason that it is not covered by a code-required fee.
- 2.1.3. Travel time for City staff to and from the City's and District's work sites is not eligible for reimbursement.
- 2.2. The costs for consultant services will be the actual charges incurred by the City for DRS services provided by consultants retained by the City. Consultant services eligible for reimbursement under this Agreement will be limited to planning and traffic review services, except as may otherwise be agreed in writing by the parties. (See Attachment 2 - Consultant Fee Schedule, stating costs as of the date of this Agreement.)
- 2.3. The parties acknowledge that the City has incurred costs, prior to the effective date of this Agreement, related to the services described in this Agreement. District agrees to reimburse City for those costs in an amount not to exceed forty-five thousand dollars (\$45,000) within thirty (30) calendar days of receipt by the District of an invoice from City for said costs. That invoice will include documentation that identifies the staff person or consultant, number of hours worked, the applicable hourly rates, and a description of the task performed.
- 2.4. The total reimbursement under this Agreement shall not exceed two-hundred thousand dollars (\$200,000.00), except as may otherwise be agreed in writing by the parties.
3. **Invoicing.** The City will invoice the District on a monthly basis for costs associated with providing DRS consistent with Section 2 above. For City staff services and consultant services, the invoice shall indicate the staff person or consultant, number of hours worked, the applicable hourly rates, and a description of the task performed. The District shall pay the City the amount billed within forty-five (45) calendar days of receiving the invoice.

4. **Status of City Staff and Consultants.** Nothing in this Agreement shall be construed to alter the employer-employee relationship between the City and City staff performing DRS pursuant to this Agreement, nor to alter the independent contractor relationship between the City and any consultants retained by the City and performing DRS pursuant to this Agreement. City staff and consultants retained by the City will continue to act at the direction of the City.
5. **Duration of Agreement.** This Agreement shall be effective upon the date of last signature below and shall remain in full force and effect until building occupancy is granted for the new high school, unless earlier terminated.
6. **General Provisions.**
  - 6.1. **Compliance with Laws.** Each party shall comply with all applicable federal, state and local laws, including but not limited to those related to discrimination in employment because of race, color, ancestry, national origin, religion, sex, sexual orientation, marital status, age, medical condition or disability, and all applicable laws and regulations regarding the handling and expenditure of public funds.
  - 6.2. **Oregon Law.** The Agreement shall be construed and enforced in accordance with the laws of the State of Oregon.
  - 6.3. **Default.** A party shall be deemed in default if it fails to comply with any provision of the Agreement. The non-defaulting party shall provide the defaulting party written notice of the default and an explanation thereof and allow the defaulting party thirty (30) calendar days within which to cure.
  - 6.4. **Indemnification.** The Agreement is for the benefit of the parties only. To the extent permitted by the Oregon Tort Claims Act, each party agrees to indemnify and hold harmless the other party and its officers, employees, and agents, from and against all claims, demands, and causes of actions and suits of any kind or nature for personal injury, death, or damage to property, on account of or arising out of services performed, the omission of services, or in any way resulting from the negligent or wrongful acts or omissions or unlawful policies or laws of the indemnifying party and its officers, employees, and agents in connection with this Agreement. Notwithstanding the foregoing, under no circumstances will City be liable for payment of any delay damages in relation to this Agreement. Each party shall promptly give the other party to this Agreement notice of any claim made or case filed that relates to this Agreement or services performed under this Agreement.
  - 6.5. **Limitation of Liability.** If City is found liable to District in relation to any matter arising from this Agreement, the amount of damages recoverable against City will not exceed, in the aggregate, the dollar amount paid by District to City pursuant to this Agreement.
  - 6.6. **Insurance.** Each party agrees to maintain liability and workers compensation insurance, or to self-insure, in accordance with statutory requirements at levels necessary to protect against liabilities allowed by law, including, as applicable, the then-current liability limits

under the Oregon Tort Claims Act. The City shall maintain workers compensation coverage for any City staff person providing DRS under this Agreement.

- 6.7. Modification. No waiver, consent, modification, or change of terms of this Agreement shall be binding unless in writing and signed by both parties.
- 6.8. Dispute Resolution. The parties shall first attempt to informally resolve any dispute concerning this Agreement. A neutral party may be used to facilitate those negotiations if mutually agreed. In the event of an impasse, the issue shall be submitted to the parties' governing bodies for a recommendation or resolution.
- 6.9. Enforcement. Subject to the provisions in Section 6.3 and 6.8, either party may institute legal action to cure, correct, or remedy any default, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation of this Agreement.
- 6.10. Excused Performance. In addition to the specific provisions of this Agreement, performance by either party shall not be in default where delays or default are due to war, insurrection, strikes, walkouts, riots, floods, drought, earthquakes, fires, casualties, acts of God, governmental restrictions imposed or mandated by governmental entities other than the parties, enactment of conflicting laws or regulations by governmental entities other than the parties, new or supplementary environmental regulations, litigation, or similar bases for excused performance that are not within the reasonable control of the party to be excused.
- 6.11. Termination. Either party may terminate its participation in this Agreement, with or without cause and at any time, by providing thirty (30) calendar days written notice to the other party.
- 6.12. Severability. If any of the provisions contained in this Agreement is invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions of this Agreement will not be affected or impaired in any way.
- 6.13. Entire Agreement. This Agreement is the entire agreement of the parties on its subject and supersedes any prior discussions or agreements regarding the same subject.
- 6.14. Notice. Any notice required under this Agreement shall be deemed effective when deposited, postage prepaid, in the U.S. mail and addressed as follows:

For the City:  
Joseph Gall, City Manager  
22560 SW Pine St.  
Sherwood, OR 97140

For the District:  
Jim Rose, Chief Operations Officer  
Sherwood School District  
23295 S.W. Main Street

Sherwood, Oregon 97140

- 6.15. Appropriations Clause. The obligations of the parties are subject to appropriations by their governing bodies. This Agreement is subject to the debt limitations in Oregon Constitution, Article XI, section 10 and any debt limitations contained in a city charter.

\_\_\_\_\_  
CITY OF SHERWOOD, OREGON

\_\_\_\_\_  
SHERWOOD SCHOOL DISTRICT, OREGON

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

*Approved as to form:* \_\_\_\_\_

*Approved as to form:* \_\_\_\_\_

**Attachment 1**  
**City Staff Fee Schedule**

<b>Name</b>	<b>Title</b>	<b>Fully loaded rate as of 10/31/17</b>
Julia Hajduk	Community Development Director	111.01
Bob Galati	City Engineer	106.34
Scott McKie	Building Official	92.03
Craig Christiansen	Engineering Associate	74.41
Erika Palmer	Planning Manager	57.98
Karen Brown	Building Permit Specialist	57.79
Joy Chang	Associate Planner	44.33
Kirsten Allen	Planning Dept Program Coordinator	43.27



**Attachment 2**  
**Consultant Fee Schedule**  
*(Costs as of the date of this Agreement)*

<b>Consultant</b>	<b>Rate</b>
Matt Strait (MIG)	\$110.00 per hour

See Page 2 for DKS rates.



## Fee Schedule

*Effective January 1, 2017 through December 31, 2017*

<i>ENGINEERS and PLANNERS</i>				<i>TECHNICIANS and SUPPORT STAFF</i>	
Grade	Hourly Rate	Grade	Hourly Rate	Tech Level	Hourly Rate
Grade 1	\$ 55.00	Grade 26	180.00	Tech Level A	\$ 35.00
Grade 2	60.00	Grade 27	185.00	Tech Level B	40.00
Grade 3	65.00	Grade 28	190.00	Tech Level C	45.00
Grade 4	70.00	Grade 29	195.00	Tech Level D	50.00
Grade 5	75.00	Grade 30	200.00	Tech Level E	55.00
Grade 6	80.00	Grade 31	205.00	Tech Level F	60.00
Grade 7	85.00	Grade 32	210.00	Tech Level G	65.00
Grade 8	90.00	Grade 33	215.00	Tech Level H	70.00
Grade 9	95.00	Grade 34	220.00	Tech Level I	75.00
Grade 10	100.00	Grade 35	225.00	Tech Level J	80.00
Grade 11	105.00	Grade 36	230.00	Tech Level K	85.00
Grade 12	110.00	Grade 37	235.00	Tech Level L	90.00
Grade 13	115.00	Grade 38	240.00	Tech Level M	95.00
Grade 14	120.00	Grade 39	245.00	Tech Level N	100.00
Grade 15	125.00	Grade 40	250.00	Tech Level O	105.00
Grade 16	130.00	Grade 41	255.00	Tech Level P	110.00
Grade 17	135.00	Grade 42	260.00	Tech Level Q	115.00
Grade 18	140.00	Grade 43	265.00	Tech Level R	120.00
Grade 19	145.00	Grade 44	270.00	Tech Level S	125.00
Grade 20	150.00	Grade 45	275.00	Tech Level T	130.00
Grade 21	155.00	Grade 46	280.00	Tech Level U	135.00
Grade 22	160.00	Grade 47	285.00	Tech Level V	140.00
Grade 23	165.00	Grade 48	290.00	Tech Level W	145.00
Grade 24	170.00	Grade 49	295.00	Tech Level X	150.00
Grade 25	175.00	Grade 50	300.00	Tech Level Y	155.00
				Tech Level Z	160.00

- Project expenses will be billed at *cost plus ten percent* for service and handling. Project expenses include project-related costs such as reproduction through outside services, transportation, subsistence, delivery/postage, and vendor and subcontractor services.
- All invoices are due and payable within 30 days of date of invoice. Invoices outstanding over 30 days will be assessed a 1 1/4 percent service charge, compounded, for each 30 days outstanding beyond the initial payment period. Service charges are not included in any agreement for maximum charges.