

**CITY OF DUNES CITY
LANE COUNTY, OREGON**

RESOLUTION SERIES 2020, NO. 8 (5-27-2020)

**A RESOLUTION APPROVING AN INTERGOVERNMENTAL
AGREEMENT BETWEEN THE CITY OF DUNES CITY AND LANE
COUNTY FOR OPERATIONAL MAINTENANCE SERVICES FOR THE
CITY OF DUNES CITY.**

WHEREAS, ORS 190.010 provides that units of local governments may enter into agreement for the performance of any or all functions and activities that a party to the agreements, its officers or agents, have authority to perform; and

WHEREAS, the Dunes City Council and Lane County have determined that it is in their mutual interest and to the general public's benefit for the County to perform certain operational maintenance activities for the City on a reimbursement basis.

NOW THEREFORE, THE CITY OF DUNES CITY RESOLVES AS FOLLOWS:

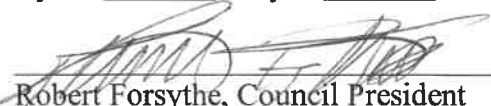
SECTION 1. The City Council hereby finds that it is in the best interests of the residents of Dunes City for the City to enter into an Intergovernmental Agreement for Operational Maintenance Services to be done by Lane County on a reimbursement basis.

SECTION 2. The City Administrator is authorized and directed to sign the Intergovernmental Agreement attached to this Resolution as Exhibit A.

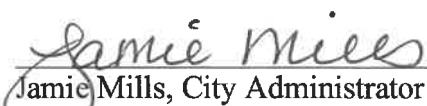
SECTION 3. EFFECTIVE DATE. This resolution shall take effect immediately.

ADOPTED BY THE DUNES CITY COUNCIL THIS 27th DAY OF June, 2020.

Ayes: 4 Nays: 0 Abstain: 0 Absent: 2 Vacant: 0


Robert Forsythe, Council President

ATTEST:


Jamie Mills, City Administrator



**INTERGOVERNMENTAL AGREEMENT:
OPERATIONAL MAINTENANCE SERVICES
FOR
DUNES CITY**

This Agreement is entered into by and between Lane County, Oregon, a political subdivision of the State of Oregon ("County"), and Dunes City, an Oregon unit of local government ("Agency"), referred to collectively in this Agreement as the parties.

1. RECITALS

- 1.1 ORS 190.010 and the Lane County Home Rule Charter provide that units of local governments may enter into agreements for the performance of any or all functions and activities that a party to the agreements, its officers or agents, have authority to perform.
- 1.2 The parties have determined that it is in their mutual interest and to the general public's benefit for County to perform certain operational maintenance activities for Agency on a reimbursement basis.

2. SCOPE OF AGREEMENT. The parties agree as follow:

- 2.1 For purposes of this agreement, Agency and County have defined operational maintenance as shoulder and surface maintenance, drainage maintenance, snow and ice control, guardrails and other street maintenance activities specifically requested in writing by Agency, unless otherwise specified.
- 2.2 County will employ standard operating and safety procedures while providing operational maintenance services to Agency. In the event those procedures are followed and a damage claim is filed, Agency will, as between the parties hereto, assume liability for said claim.
- 2.3 County shall:
 - .1 Furnish equipment, materials and personnel to perform operational maintenance on Agency owned and operated streets as requested by Agency. It is understood by both parties, County may be unavailable to provide services to Agency during certain times due to County project scheduling and workloads.
 - .2 Upon completion of work, submit to Agency a billing for all costs incurred in the performance of operational maintenance on Agency streets. County will bill Agency for services on a monthly basis or following completion of the work during the three-year term of this agreement
- 2.4 Agency shall:
 - .1 Be responsible for selecting work sites only on roadways and rights-of-way dedicated to public use.
 - .2 Each request for work will include scope of work and section of street(s) designated for work.
 - .3 Remit payment to County for all cost incurred within 30 days of receipt of invoice.

3. DOCUMENTS FORMING THE AGREEMENT

- 3.1 The Agreement. The Agreement consists of this document and all exhibits listed below, which are incorporated into this Agreement.
- 3.2 Exhibits. With this document, the following exhibits are incorporated into the Agreement: NONE

4. CONSIDERATION

The cost of operational maintenance services will not exceed **\$5,000** (Five Thousand Dollars) per year for a total of **\$15,000** (Fifteen Thousand Dollars) during the term of the agreement. In the event this amount is not sufficient to continue services and both parties mutually agree, an amendment to the agreement may be executed with terms mutually agreeable to both parties.

5. EFFECTIVE DATE AND DURATION

5.1 Effective Date. Upon the signature of all parties, this Agreement is effective July 21, 2020

5.2 Duration. Unless extended or terminated earlier in accordance with its terms, this Agreement will terminate three years from the effective date. However, such expiration shall not extinguish or prejudice either party's right to enforce this agreement with respect to any breach or default in performance which has not been cured.

6. AUTHORIZED REPRESENTATIVES. Each of the parties designates the following individuals as their authorized representatives for administration of this Agreement. Any notice required under this Agreement must be addressed to the authorized representative stated here. A party may designate a new authorized representative by written notice to the other. If not identified in this section, the person executing the Contract on behalf of that party is that party's representative.

6.1 County's Authorized Representative. Orin Schumacher, Road Maintenance Manager, 541-682-6993, 3040 N Delta Hwy, Eugene, OR 97408, Orin.Schumacher@co.lane.or.us

6.2 Agency's Authorized Representative. City Administrator, PO Box 97, Westlake, OR 97493, Ph. 541-997-3338

7. INDEMNIFICATION. To the extent permitted by the Oregon Constitution, and to the extent permitted by the Oregon Tort Claims Act, each party agrees to indemnify, defend, and hold harmless the other party and its officers, employees, and agents from and against all damages, losses and expenses, including but not limited to attorney fees and costs related to litigation, and to defend all claims, proceedings, lawsuits, and judgments arising out of or resulting from the indemnifying party's negligence in the performance of or failure to perform under this Agreement.

8. PUBLIC BODY STATUS. In providing the services specified in this Agreement (and any associated services) both parties are public bodies and maintain their public body status as specified in ORS 30.260. Both parties understand and acknowledge that each retains all immunities and privileges granted them by the Oregon Tort Claims Act (ORS 30.260 through 30.295) and any and all other statutory rights granted as a result of their status as local public bodies.

9. MODIFICATION AND TERMINATION.

9.1 Modification. No modification or amendment to this Agreement will bind either party unless in writing and signed by both parties.

9.2 Termination. The parties may jointly agree to terminate this Agreement at any time by written agreement.

9.3 Non-Appropriation. Each of the parties certifies that it has sufficient funds currently authorized for expenditure to finance the costs of this Agreement for the period within the current budget; however, the parties understand and agree that, if a party does not appropriate funds for the next succeeding fiscal year to continue payments otherwise required by the Agreement, this Agreement will terminate at the end of the last fiscal year for which payments have been appropriated. The non-appropriating party will notify the other party of such non-appropriation not later than 30 days before the beginning of the year within which funds are not appropriated. Upon termination pursuant to this clause, neither party will have a further obligation for payments beyond the termination date.

10. MISCELLANEOUS PROVISIONS

- 10.1 Disputes.** The parties are required to exert every effort to cooperatively resolve any disagreements that may arise under this Agreement. This may be done at any management level, including at a level higher than the persons directly responsible for administration of the Agreement. In the event that the parties alone are unable to resolve any conflict under this Agreement, they are encouraged to resolve their differences through mediation or arbitration, using such process as they may choose at the time.
- 10.2 Waiver.** Failure of either party to enforce any provision of the Agreement does not constitute a waiver or relinquishment by the party of the right to such performance in the future nor of the right to enforce that or any other provision of this Agreement.
- 10.3 Severability.** If any provision of this Agreement is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions are not affected; and the rights and obligations of the parties are to be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.
- 10.4 Time is of the Essence.** The parties agree that time is of the essence with respect to all provisions of this Agreement.
- 10.5 No Third-Party Beneficiaries.** County and Agency are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives or may be construed to give or provide any benefit or right to third persons, either directly or indirectly, that is greater than the rights and benefits enjoyed by the general public, unless that party is identified by name in this Agreement.
- 10.6 Headings.** The headings and captions in this Agreement are for reference and identification purposes only and may not be used to construe the meaning or to interpret the Agreement.
- 10.7 Force Majeure.** Neither party will be held responsible for delay or default due to Force Majeure acts, events or occurrences unless they could have been avoided by the exercise of reasonable care, prudence, foresight, and diligence by that party.
- 10.8 Multiple Counterparts.** This Agreement and any subsequent amendments may be executed in several counterparts, facsimile or otherwise, all of which when taken together will constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Agreement and any amendments so executed will constitute an original.
- 10.9 Merger.** This Agreement contains the entire agreement of County and Agency with respect to the subject matter of this Agreement, and supersedes all prior negotiations, agreements and understandings.
- 10.10 Americans with Disabilities Act Compliance.** During the performance of this Agreement, County and Agency will comply with all applicable provisions of the Americans with Disabilities Act of 1990, 42 USC Section 12101 et seq., and Section 504 of the Rehabilitation Act of 1973.

EACH PARTY, BY EXECUTION OF THIS AGREEMENT, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

AGENCY:

DUNES CITY, OREGON

COUNTY:

LANE COUNTY, OREGON

By: _____

Title: _____

Date: _____

Address: _____

By: _____

Title: Daniel Hurley, Public Works Director

Date: _____

Lane County Public Works
3040 N Delta Hwy
Eugene, Oregon 97408