RESOLUTION NO. 2056

A RESOLUTION OF THE CITY OF WILSONVILLE AUTHORIZING THE MAYOR TO ENTER INTO SEGMENT 2 OF THE WILSONVILLE-SHERWOOD EXISTING KINSMAN ROAD WATER TRANSMISSION LINE AGREEMENT FROM WILSONVILLE ROAD TO BARBER STREET WITH THE CITY OF SHERWOOD.

WHEREAS, Wilsonville and Sherwood each desire to construct transmission line facilities to supply water from the Willamette River Water Treatment Plant in Wilsonville, Oregon ("WRWTP") to their respective service areas and to provide water redundancy for their respective systems;

WHEREAS, the City of Wilsonville and the City of Sherwood desire to enter into the Agreement for the acquisition by Sherwood of an equal ownership interest and subsequent operation and maintenance of the Existing Kinsman Road Transmission Line for the purpose of supplying water to current and future customers of the parties;

WHEREAS this Agreement is intended to provide for the acquisition by Sherwood from Wilsonville of an equal ownership interest in one of these transmission line facility segments;

WHEREAS, it is necessary to enter into this intergovernmental cooperative agreement through ORS Chapter 190 to provide for the purchase of an undivided interest and maintenance and operation of the Existing Kinsman Road Transmission Line;

WHEREAS the City of Wilsonville and the City of Sherwood have the authority to enter into this Agreement pursuant to their applicable charter, principal acts, and Oregon Revised Statutes Sections 190.003 through 190.030; and

WHEREAS, this resolution authorizes the Mayor to execute Segment 2 of the Wilsonville-Sherwood Existing Kinsman Road Water Transmission Line Agreement from Wilsonville Road to Barber Street;

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

- 1. That the City Council does hereby approve and authorize the Mayor to execute Segment 2 of the Wilsonville-Sherwood existing Kinsman Road Water Transmission Line Agreement from Wilsonville Road to Barber Street between the City of Wilsonville and the City of Sherwood, a copy of which is marked Exhibit "1" and attached hereto and incorporated herein.
- 2. The City of Sherwood shall pay the City of Wilsonville the sum of \$598,769.00 for an undivided fifty percent (50%) interest in the existing Kinsman Road Water Transmission Line.
 - 3. This resolution is effective upon adoption.

ADOPTED by the Wilsonville City Council at a regular meeting thereof this 18th day of June, 2007, and filed with the Wilsonville City Recorder this date.

CHARLOTTE LEHAN, Mayor

ATTEST:

SANDRA C. KING, City Recorder

SUMMARY OF VOTES:

Mayor Lehan

Yes

Councilor Kirk

Yes

Councilor Knapp

Yes

Councilor Ripple

Yes

Councilor Núñez

Excused

EXHIBIT 1

Segment 2, WILSONVILLE-SHERWOOD EXISTING KINSMAN ROAD WATER TRANSMISSION LINE AGREEMENT FROM WILSONVILLE ROAD TO BARBER STREET

THIS AGREEMENT, made and entered into this	day of	, 2007
between the City of Wilsonville, Oregon, a municipal		
("Wilsonville"), and the City of Sherwood, also a municipal		
("Sherwood").		

RECITALS

The parties agree upon the following recitals:

- A. Wilsonville and Sherwood each desire to construct transmission line facilities to supply water from the Willamette River Water Treatment Plant in Wilsonville, Oregon ("WRWTP") to their respective service areas and to provide water system redundancy for their respective systems. This Agreement is intended to provide for the acquisition by Sherwood from Wilsonville of an equal ownership interest in one of these transmission line facility segments, and its subsequent joint operation and maintenance, consisting of approximately 2,537 linear feet (1f) of 48-inch diameter pipe, already constructed and in place along SW Kinsman Road from the intersection of SW Kinsman Road and SW Wilsonville Road to the intersection of SW Kinsman Road and SW Barber Street. The transmission line is more particularly described in Exhibit A, identified therein as Segment 2, attached hereto and incorporated by reference, and is hereinafter referred to as "the Existing Kinsman Road Transmission Line." The parties will contemporaneously execute other agreements for other segments of jointly-owned transmission facilities.
- B. The parties desire to enter into this Agreement for the acquisition by Sherwood of an equal ownership interest and subsequent operation and maintenance of the Existing Kinsman Road Transmission Line for the purpose of supplying water to the current and future customers of the parties.
- C. It is recognized by the parties that it is necessary to enter into this intergovernmental cooperative agreement through ORS Chapter 190 to provide for the purchase of an undivided interest and maintenance and operation of the Existing Kinsman Road Transmission Line.
- D. The parties have the authority to enter into this Agreement pursuant to their applicable charter, principal acts, and Oregon Revised Statutes Sections 190.003 through 190.030.
- NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

1. DURATION

The duration of this Agreement shall be perpetual unless otherwise agreed to by the parties.

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- 2. OWNERSHIP, MAINTENANCE, AND OPERATION OF THE EXISTING KINSMAN ROAD TRANSMISSION LINE
- 2.1 Ownership. The Existing Kinsman Road Transmission Line has a total as built demand capacity of 40 mgd. It is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. Each party shall be entitled to a 20 mgd capacity share thereof. Each party shall have a 50 percent ownership share of the transmission line as tenants in common. The respective capacity use of the parties will be metered by appropriate metering facilities. The physical location of meters, their operational characteristics, and an operational metering protocol shall be agreed to by the parties.
- 2.2 Purchase Costs. Sherwood purchases from Wilsonville an undivided 50 percent interest in the Existing Kinsman Road Transmission Line for the sum of \$598,769.00. The parties agree that this sum is the product of the purchase price methodology set forth in Exhibit B, attached hereto and incorporated herein by reference.
- 2.3 Easements. Wilsonville and Sherwood hereby agree to execute and deliver to the other a permanent casement to lay, replace, maintain, and use the Existing Kinsman Road Transmission Line for the purposes intended by this Agreement.
- Operation and Maintenance Responsibilities. Unless otherwise agreed to by the parties in writing. Wilsonville shall have the responsibility for operation and maintenance of the Existing Kinsman Road Transmission Line. The actual, direct, out-of-pocket expenses of operation and maintenance of the Existing Kinsman Road Transmission Line together with an allowance as may be agreed upon by the parties for general or administrative expenses shall be billed to the parties monthly in proportion to their ownership interests reflected in paragraph 3.1. Wilsonville shall exercise due diligence in effecting its operation and maintenance responsibilities under this Agreement. Any non-emergency maintenance project or event in excess of \$50,000.00 in total, individual costs will require the coordination and consent of Sherwood. This amount shall be adjusted annually to conform with the Engineering New Record (ENR) Construction Cost Index (CCI) for Seattle. In any event, Wilsonville shall give reasonable notice to Sherwood of any proposed operation or maintenance activities which could impact Sherwood water quality or quantity. Wilsonville shall insure that all flow meters are maintained properly and calibrated at least annually. Wilsonville shall be responsible for the reading of meters subject to the terms of the metering protocol referenced in Section 3.1 of this Agreement. Subject to shut-downs for emergencies, announced scheduled repairs, or precautionary shutdown to allow upstream spills in the Willamette to flow past the WRWTP, Wilsonville shall operate its water system in a manner which will allow Sherwood to receive its ownership capacity share in keeping with the prior daily notification by Sherwood to Wilsonville of capacity needs at an adequate hydraulic grade.
 - 2.4.1 Wilsonville shall be responsible for the control and supervision of all activities of the Existing Kinsman Road Transmission Line and shall prepare and submit to the parties financial activity reports of the Existing Kinsman Road Transmission Line not less than annually and prepare such other reports and information as the parties may require.

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- 2.4.2 Sherwood acknowledges that it knows Tualatin Valley Water District (TVWD) has certain prior contract rights to operate and maintain the WRWTP based on certain future events and Wilsonville's responsibilities for operation and maintenance would cease upon the occurrence of those events. In that event, Sherwood is responsible to contract for operation and maintenance with TVWD as to producing for Sherwood a share of its capacity needs and at an adequate hydraulic grade.
- 2.5 Transmission of Water to Third Parties. Neither party shall permit use of the Existing Kinsman Road Transmission Line for the purpose of transmitting water to any person other than Wilsonville or Sherwood retail or wholesale customers unless both parties so agree previously in writing. Any revenues derived from transmission of water through the Existing Kinsman Road Transmission Line on behalf of entities other than Wilsonville or Sherwood customers shall be paid to the parties in proportion to their ownership interests in capacity used by a third party in the Existing Kinsman Road Transmission Line as reflected in paragraph 2.1.
- 2.6 Budget. Wilsonville shall annually prepare and adopt a budget for the Existing Kinsman Road Transmission Line and distribute the same to each party not later than 150 days prior to commencement of the next fiscal year. Annually, and 150 days prior to the commencement of each party's fiscal year, Wilsonville shall prepare a forecast of anticipated costs for the Existing Kinsman Road Transmission Line for that ensuing fiscal year, and each party shall contribute its share of this amount in proportion to its ownership interest in the Existing Kinsman Road Transmission Line as reflected in paragraph 2.1.
- 2.65 Non-Emergency Major Repair or Replacement. Wilsonville shall monitor the overall condition of the transmission line and facilities and shall schedule any non-emergency major repair or replacement and the projected annual expenditure for the cost of the repair or replacement five years in advance of such major repair or replacement.
- 2.7 Approvals. All approvals of either Wilsonville or Sherwood in this Agreement shall be made by the City Manager or the City Manager's authorized designee.
- 2.8 Leasing of Supply Capacity. Each party shall have the right to lease from the other party such unused capacity of its capacity share of the Existing Kinsman Road Transmission Line Project as the party with the unused capacity may determine in its sole discretion to be reasonably available and prudent to be leased to the other party. The compensation to the leasing party shall be fairly and equitably agreed upon by the parties.
- 2.9 Overuse of Supply Facility. Wilsonville and Sherwood shall each use the Existing Kinsman Road Transmission Line Project facilities in a manner consistent with prudent water utility practices and to minimize interference with each other's use of its respective share of capacity to meet its demand. Unless caused by system operation conditions not caused by the overusing party, any overuse of 10 percent or greater by either Wilsonville or Sherwood for two consecutive years or for three out of five consecutive years, shall result in the overusing party compensating the other party at a lease rate that will be fairly and equitably agreed upon by the parties.
- 2.95 Right of First Offer. Wilsonville and Sherwood agree not to sell, transfer, exchange, grant an option to purchase, lease, or otherwise dispose of its undivided interest in the

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Existing Kinsman Road Transmission Line Project facilities, without first offering the remaining owner in writing ("Notice of Intent to Transfer") on the terms and conditions set forth in this section. This right of first offer shall be perpetual unless it expires by its terms, or the parties mutually agree to its termination. This right of first offer shall run with and burden each owner's undivided interest in the Existing Kinsman Road Transmission Line Project facilities, the owner, owner successors and assigns, and shall run for the benefit of the other owner and its successors and assigns. When an owner receives the notice of intent to transfer, it shall have the prior and preferential right to purchase the undivided interest in the Existing Kinsman Road Transmission Line Project of the transferring party. The notice should disclose the terms and conditions of the transferring owners of the offer of any third party to sell to it, in order to give the other owner fair opportunity to purchase. Such disclosure may be provided as confidential as allowed by law. The purchase price shall be the price agreed to by the parties or the appraised fair market value of the undivided interest in the Existing Kinsman Road Transmission Line Project facilities. The receiving owner shall give notice of its exercise of the right to purchase within 60 days after receipt of the written notice of intent to transfer from the transferring owner declaring the property surplús and offering to sell to the receiving owner. If the receiving owner fails to timely give written notice to the transferring owner of the exercise of its rights to purchase the offered, undivided interest in Existing Kinsman Road Transmission Line Project, then the transferring owner shall be entitled to sell, transfer or assign the undivided interest in the Existing Kinsman Road Transmission Line Project to a third party, at such price, and on such terms and conditions as are acceptable to it, provided such terms and conditions are not inconsistent with the aforementioned notice of intent to transfer of the opportunity to purchase.

3. AMENDMENT

This Agreement may be amended if both parties concur in the proposed amendment by an agreement, signed by authorized representatives of each party.

4. GENERAL PROVISIONS

- 4.1 Instruments of Further Assurance. From time to time, at the request of either party, each party shall, without further consideration, execute and deliver such further instruments and shall take such further action as may be reasonably required to fully effectuate the purposes of this Agreement.
- 4.2 Merger Clause. This Agreement embodies the entire agreement and understanding between the parties hereto with respect to the Existing Kinsman Road Transmission Line and supersedes all previous agreements and understandings relating to the Existing Kinsman Road Transmission Line.
- 4.3 Assignment. Neither party shall have the right to assign its interest in this Agreement (or any portion thereof), without the prior written consent of the other party.
- 4.4 Severability. In case any one or more of the provisions contained in this Agreement shall be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

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- 4.5 Counterparts. This Agreement may be executed in any number of counterparts and by the parties or separate counterparts, any one of which shall constitute an agreement between and among the parties.
- 4.6 Notices. Any notice herein required or permitted to be given shall be given in writing, shall be effective when actually received, and may be given by hand delivery or by United States mail, first class postage prepaid, addressed to the parties as follows:

If to Wilsonville:

Arlene Loble, City Manager

City of Wilsonville

29799 SW Town Center Loop E.

Wilsonville, OR 97070

If to Sherwood:

Ross Schultz, City Manager

City of Sherwood 22560 SW Pine

Sherwood, OR 97140-7851

4.7 Mutual Indemnification. Wilsonville shall indemnify Sherwood as may be allowed under law, for any and all claims by third parties against Sherwood arising out of the negligence or intentional acts of Wilsonville, its employees, agents, or contractors. Sherwood shall indemnify Wilsonville as may be allowed under law, for any and all claims by third parties arising out of the negligence or intentional acts of Sherwood, its employees, agents, or contractors.

IN WITNESS WHEREOF, the parties have, pursuant to official action of their respective governing bodies, duly authorizing the same, cause their respective officers to execute this instrument on their behalf.

CITY OF WILSONVILLE an Oregon municipal corporation	CITY OF SHERWOOD an Oregon municipal corporation
By:Charlotte Lehan, Mayor	By: Keith Mays, Mayor
By:City Recorder	By:City Recorder
APPROVED AS TO FORM:	APPROVED AS TO FORM:
Attest: City Attorney	Attest: City Attorney

F:/Sherwood/Comm.Dev./Wilsonville WT Line/Section 2, Kinsman Agreement 05-21-07

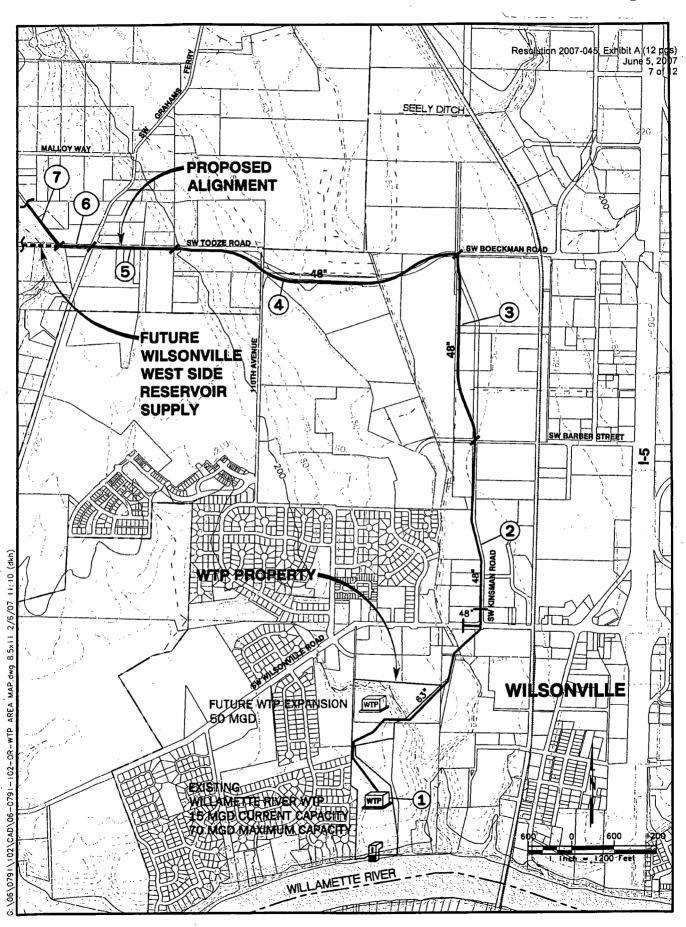
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Exhibit B

Sherwood Reimbursement to the City of Wilsonville for the Waterline on Kinsman between Wilsonville Road and Barber

4/25/2007

Background	
48 inch line from WV Rd to Barber	
Capacity shared equally	
Cost include pipe purchase, construction, design, inspection and city administration-	
Cost	\$1,148,359
Completed- Sep 2003	
Methodology: Reconstrion cost new less depreciation (RCNLD)	
Share of construction at 50%	\$574,179
Change in Seattle area CCI to get RCN (est. to Mar 2007)Sep 2003-	
7641.70, Est. Mar 2007-8568	1.121
Depreciation for cathodic protected line 50 year straight line	0.930
Total reimbursement	\$598,769



CITY OF WILSONVILLE SW KINSMAN ROAD WATERLINE AND ROADWAY IMPROVEMENTS

MAY 2002

GENERAL INDEX OF DRAWINGS

GENERAL

- G-1 COVER/TITLE SHEET
- G-2 SYMBOLS AND LEGEND
- G-3 ABBREVIATIONS
- G-4 GENERAL AND EROSION CONTROL NOTES
- G-5 TRAFFIC SIGNING AND DETOUR PLAN

WATER

- W-1 WATER PLAN AND PROFILE STA W0+00 TO STA W5+40
- W-2 WATER PLAN AND PROFILE STA W5+40 TO STA W12+30
- W-3 WATER PLAN AND PROFILE STA W12+30 TO STA W19+20
- W-4 WATER PLAN AND PROFILE STA W19+20 TO STA W25+20
- W-5 14" WATERLINE CONNECTION AND DETAILS
- W-6 PRV AND METER VAULT PLAN AND SECTIONS
- W-7 3" COMBINATION AIR VALVE AND MANWAY VAULT DETAILS
- W-8 WATERLINE STANDARD DETAILS
- W-9 WATERLINE CITY STANDARD DETAILS
- W-10 CORROSION CONTROL DETAILS

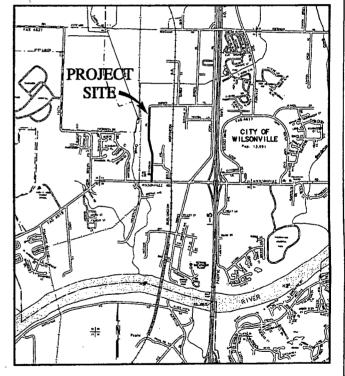


ROAD

- RD-1 PLAN AND PROFILE STA R0+00 TO STA R5+40
- RD-2 PLAN AND PROFILE STA R5+40 TO STA R12+30
- RD-3 PLAN AND PROFILE STA R12+30 TO STA R19+20
- RD-4 PLAN AND PROFILE STA R19+20 TO STA R25+80
- RD-5 PCC PAVEMENT SECTIONS AND DETAILS
- RD-6 PCC JOINT DETAILS
- RD-7 STORM DRAINAGE DETAILS
- RD-R MISCELLANEOUS STREET DETAILS
- RD-9 STRIPING AND DETECTOR LOOP PLAN

RECORD DRAWINGS

ERSION 4.0 12-9-97



VICINITY MAP

