



Memorandum

Date: April 5, 2013

To: John Kovash, Mayor
Members, West Linn City Council

From: Chris Jordan, City Manager *cg*

Subject: Addition to the April 8 Agenda

With the recent departure of the City's payroll Administrator, we have asked for assistance from the City of Tualatin. Given the urgency of payroll operations, on April 8 I would like the Council to consider the attached Intergovernmental Agreement with Tualatin for part-time Payroll Administration services. We believe this is the most cost effective means to accomplish this critical task for the short term future while we recruit new payroll staff. I will request Council consider this action during the Report from the City Manager.

On this same topic, I need to recognize the work of our Human Resources and Finance staff (particularly CFO Richard Seals and Accounting Manager Laruen DeLorenzo) for their extraordinary effort to keep payroll operating during this time.

INTERGOVERNMENTAL AGREEMENT (IGA) FOR PAYROLL SERVICES
between THE CITY OF TUALATIN, an Oregon municipal corporation,
and
THE CITY OF WEST LINN, an Oregon municipal corporation

RECITALS:

WHEREAS, the City of Tualatin is a public body engaged in providing municipal services to its citizens; and

WHEREAS, the City of West Linn is a public body engaged in providing municipal services to its citizens; and

WHEREAS, ORS 190.010 et. seq. authorizes the City of Tualatin and City of West Linn to enter into an intergovernmental agreement; and

WHEREAS, the City of Tualatin and City of West Linn mutually agree to strive to enhance support services within their respective cities and in neighboring communities; and

WHEREAS, the City of West Linn desires to have City of Tualatin perform its payroll support services for a limited duration; and

WHEREAS, the City of Tualatin employs staff with the particular training, ability, knowledge, and experience and is willing to supply payroll support services.

NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:

Section 1. Term.

The term of this Agreement will begin upon acceptance and approval by resolution of the City of Tualatin City Council and approval of the Agreement by the City of West Linn City Council. This Agreement will expire on September 30, 2013, unless terminated sooner under Section 9.

Section 2. Purpose.

By this Agreement, the City of Tualatin shall furnish basic payroll services to the City of West Linn.

Section 3. City of Tualatin Obligations.

The City of Tualatin will:

- A. Provide payroll processing services. These services may include, but are not limited to: hours entry, check generation, direct deposit, payroll tax remittance, and relevant reporting.

- B. Provide a monthly invoice to the City of West Linn that shows charges incurred for staff time at the applicable hourly rate(s), the cost of any materials, and other agreed upon expenses incurred with this Agreement.

Section 4. City of West Linn Obligations.

The City of West Linn will:

- A. Pay the City of Tualatin monthly, as invoiced, for services rendered; including staff time at the applicable hourly rate(s) (including benefits and indirect costs), the cost of any materials, and other agreed upon expenses.
- B. Reimburse the City of Tualatin for any needed contract services employed to backfill the position(s) performing services for West Linn under this Agreement, as determined by the City of Tualatin.
- C. Reimburse the City of Tualatin for mileage expenses incurred by the City of Tualatin staff for travel to and from City of West Linn Offices at the current standard IRS-allowed rate.
- D. Be the official custodian of records and will comply with the retention policy established under Oregon law regarding any relative documents.

Section 5. Administrative Responsibility.

- A. **Employees of City of Tualatin.** City of Tualatin shall have full authority and responsibility over hiring, training, discipline, scheduling, and assignment of personnel assigned to perform and supervise services provided under this Agreement. City of Tualatin shall have full discretion and authority to assign priority service among conflicting service demands at any given time.
- B. **Administrative or Procedural Resolution.** If an administrative or procedural problem arises, the West Linn City Manager and the Tualatin City Manager may specify procedures by written agreement to resolve such issues after the adoption of this Agreement. This Agreement may be otherwise amended by written agreement of both parties.

Section 6. Other Terms and Conditions.

- A. **Indemnification.** To the fullest extent permitted by the Oregon Constitution, laws of the State of Oregon regarding units of local government and subject to the monetary limits of ORS 30.260 –

30.300, each party agrees to indemnify, defend and hold the other harmless from any liability claim or injury arising from that party's acts or omissions in connection with the performance of this Agreement. Each party shall give the other immediate written notice of any action or suit filed or any claim made against that party that may result in litigation in any way related to this Agreement.

- B. Insurance.** Each party agrees to maintain insurance levels or self-insurance in accordance with the Oregon tort claims act for the duration of this Agreement at levels necessary to protect the public body from liability.
- C. Compliance with Applicable Law.** Both parties agree to comply with all federal, state, county and local laws, ordinances, and regulations applicable to the work to be done under this contract. Failure or neglect on the part of the other party to comply with any or all such laws, ordinances, rules, and regulations shall not relieve the other party of its obligations or requirements under this contract.
- D. Independent Contract Relationship.** No employees will be formally transferred pursuant to this Agreement. The City of Tualatin through its officers, employees, and agents, will provide the services described in this Agreement as an independent contractor, and nothing herein shall be interpreted or construed as creating or establishing the relationship of employer/employee, principal/agent, partnership, joint venture, association, or any other type of legal or business relationship between the City of West Linn and City of Tualatin. Each party shall be solely responsible for paying its own taxes (federal, state, and local of any type or amount); the consideration owed to its own contractors and agents; its operational expenses; the wages, salaries, benefits, withholdings, and assessments for its employees (including, for example, federal and state income taxes, social security, Medicare, unemployment insurance, workers compensation, pension or retirement, medical or life insurance); and the damages or settlements for claims arising from the negligent, reckless, or intentional acts of its employees or agents, all without contribution from the other party. No party or its employees is entitled to participate in a pension plan, insurance, bonus, or similar benefits provided by any other party. The City of West Linn shall have no right to direct or control the manner or method by which the City of Tualatin provides the services that City of Tualatin agrees to provide through this Agreement.
- E. Ownership of Work Product.** All work product produced in furtherance of this Agreement belongs to the City of West Linn,

except that any copyright, patent, trademark proprietary, or any other protected intellectual property right shall be owned by, vest in, and is hereby assigned to the City of Tualatin. City of Tualatin retains all rights to ownership or title in any copyright, patent, trademark, proprietary or any other protected intellectual property right resulting from the work under this Agreement.

- F. **Workers Compensation.** City of Tualatin agrees that it will comply with ORS 656.017 or is exempt under ORS 656.126.
- G. **Force Majeure.** Neither party shall be held responsible for delay or default caused by fire, riot, acts of god and war which are beyond its reasonable control. The affected party shall; however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligation under the contract.
- H. **Severability.** If any term or provision of this Agreement is declared by a court of competent jurisdiction to be 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 contract did not contain the particular term or provision held to be invalid.
- I. **Waiver.** The failure of a party to enforce any provision of this contract against the other party shall not constitute a waiver of that provision or any other provision.
- J. **Notices.** Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, mail, facsimile, or email.
 - 1. **Notice By Personal Delivery.** Any communication or notice given by personal delivery shall be effective when actually delivered.
 - 2. **Notice by Mail.** Notice given by mail shall be by postage prepaid, to the relevant party at the address, set forth herein, or to such other addresses as either party may indicate pursuant to this Section. Any communication or notice so addressed and mailed shall be effective five (5) days after mailing.
 - 3. **Notice by Facsimile.** Any communication or notice delivered by facsimile shall be effective on the day the transmitting machine generates a receipt of the successful transmission, if

transmission was during normal business hours, or on the next business day, if transmission was outside normal business hours of the recipient. To be effective, any notice transmitted by facsimile must be confirmed by telephone to the recipient's Project Manager.

4. Notice by Email. Any communication or notice given by email shall be effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system, or by actual confirmation by the recipient.

5. Notice to Project Manager. Unless otherwise notified in writing as set forth above, notices shall be given to the Project Managers. If a Party's Project Manager is changed, notification of the change shall be promptly made in writing to the other parties. If a party receives a communication from the other parties not executed by the Project Manager, the party may request clarification from the sending party's Project Manager, which shall be promptly furnished. Notices shall be written and sent by first class mail, postage prepaid, to the following addresses:

To : City of Tualatin
Don Hudson, Finance Director
18880 SW Martinazzi Avenue
Tualatin, Oregon 97062
503.691.3050 direct
503.691.6884 fax
dhudson@ci.tualatin.or.us

To: City of West Linn
Richard Seals, Chief Financial Officer
22500 Salamo Road
West Linn, Oregon 97068
503.722.5505 direct
503.650.9041 fax
rseals@westlinnoregon.gov

Section 7. Merger. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereto. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement.

Section 8. Modifications of Agreement. Modifications or amendments to this Agreement are valid only if made with the same formalities as this Agreement was executed, in writing, and signed by all parties. Any such amendment,

consent, or waiver shall be effective only in the specific instance and for the specific purpose given.

Section 9. Termination. This Agreement may be terminated by mutual consent of both parties. In addition, either party may terminate this Agreement upon the giving of no fewer than 30 days notice, as provided in section 6(J), to the other party of the intent to terminate.

Section 10. Signatures. The parties, by their signatures below, acknowledge having read this Agreement, understand it, have authority to bind their respective governments, and agree to be bound by its terms and conditions. As evidence of their intent to make their contract, the parties' duly authorized representatives have signed this Agreement on the dates noted by their signature below.

DATE: _____

DATE: _____

CITY OF WEST LINN

CITY OF TUALATIN

Mayor

Mayor

ATTEST:

ATTEST:

City Recorder

City Recorder

APPROVED AS TO LEGAL FORM

APPROVED AS TO LEGAL FORM

WEST LINN CITY ATTORNEY

TUALATIN CITY ATTORNEY