

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,  
AUTHORIZING AMENDMENT OF AGREEMENTS WITH THE OREGON DEPARTMENT  
OF TRANSPORTATION FOR ECONOMIC STIMULUS PROJECTS.**

**WHEREAS**, the Federal government established the American Recovery and Reinvestment Act (ARRA) of 2009 with the purpose of stimulating the economy, in part, through the funding of local public improvement and transportation projects; and

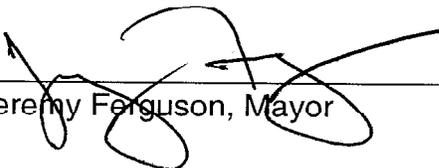
**WHEREAS**, the Joint Policy Advisory Committee on Transportation (JPACT), acting as the MPO for the Portland metro-region approved the use of ARRA funds on two City of Milwaukie projects (Jackson Street improvement and Linwood Avenue resurfacing); and

**WHEREAS**, the City requested consolidation of all City transportation ARRA stimulus funds on the Jackson Street improvement project;

**NOW, THEREFORE, BE IT RESOLVED** that the Council authorizes the City Manager to sign an amendment to the "Local Agency Agreement" for the Jackson Street improvements project, which is attached as Exhibit A, and an amendment terminating the "Local Agency Agreement" for the Linwood Avenue project, which is attached as Exhibit B.

Introduced and adopted by the City Council on January 19, 2010.

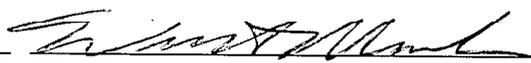
This resolution is effective immediately.

  
\_\_\_\_\_  
Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:  
Jordan Schrader Ramis PC

  
\_\_\_\_\_  
Pat DuVal, City Recorder

  
\_\_\_\_\_  
City Attorney

# EXHIBIT A

Misc. Contracts and Agreements  
No. 25498

AMENDMENT NO. 02  
LOCAL AGENCY AGREEMENT  
American Recovery and Reinvestment Act of 2009  
Jackson Street: Main Street - 21st Avenue Sidewalks  
City of Milwaukie

The State of Oregon, acting by and through its Department of Transportation, hereinafter referred to as "State", and the City of Milwaukie, acting by and through its elected officials, hereinafter referred to as "Agency", entered into Local Agency Agreement No. 25498 on April 17, 2009, and Amendment No. 1 on June 16, 2009. Said Agreement covers reconstruction of sidewalks and streetscape, including street trees, street furniture, curb extensions and utility undergrounding.

It has now been determined by State and Agency that the Agreement referenced above, shall be amended to add funds to cover an increase in estimated project costs due to changes in the scope of the project. The additional funds are made possible through cost savings from Agency's Linwood Avenue: Monroe Street – Railroad Avenue Resurfacing project. Except as expressly amended below, all other terms and conditions of the Agreement are still in full force and effect.

**Terms of Agreement, Paragraph 2, Page 2, which reads:**

2. The Project shall be conducted as a part of the ARRA Program under Title 23, United States Code. The total Project cost is estimated at **\$765,000**, which is subject to change. ARRA Program funds for this Project shall be limited to **\$725,000**. The Project will be financed with ARRA funds at 100 percent of the maximum allowable federal participating amount. Agency will not be required to provide a match for the ARRA funds but will be responsible for any non-participating costs, including all costs in excess of the available federal funds. No ARRA funded invoices will be accepted and no ARRA funded payments will be made after September 30, 2015.

**Shall be deleted in its entirety and replaced with the following:**

2. The Project shall be conducted as a part of the ARRA Program under Title 23, United States Code. The total Project cost is estimated at **\$1,380,000**, which is subject to change. ARRA Program funds for this Project shall be limited to **\$933,000**. The Project will be financed with ARRA funds at 100 percent of the maximum allowable federal participating amount. Agency will not be required to provide a match for the ARRA funds but will be responsible for any non-participating costs, including all costs in excess of the available federal funds. No ARRA funded invoices will be accepted and no ARRA funded payments will be made after September 30, 2015.

**SPECIAL PROVISIONS, Paragraphs 8 through 14, shall be added and shall read as follows:**

8. Job Recruitment – In addition to normal recruitment processes on all ARRA funded projects, the contractor and all subcontractors shall also list job openings through “WorkSource Oregon” with the exception that job listings are not necessary when the contractor or subcontractor fills a job opening with a present employee, a laid-off former employee, or a job candidate from a previous recruitment.
9. Agency shall include the ARRA requirements in any contract it enters into, including consultant contracts, and subcontracts at any tier. Agency may modify language to match its own specifications, but such modifications shall be reviewed and approved by State prior to incorporation into any contract.
10. Agency shall comply with ARRA that provides the U.S. Comptroller General and his representatives with the authority: “(1) to examine any records of the contractor or any of its subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to the contract or subcontract; and (2) to interview any officer or employee of the contractor or any of its subcontractors, or of any State or local government agency administering the contract, regarding such transactions.”
11. Accordingly, the Comptroller General and his representatives shall have the authority and rights as provided under Section 902 of the ARRA with respect to this Agreement, which is funded with funds made available under the ARRA. Section 902 further states that nothing in this section shall be interpreted to limit or restrict in any way any existing authority of the Comptroller General.
12. Agency shall comply with the ARRA requirements that provide authority for any representatives of the Inspector General to examine any records or interview any employee or officers working on this Agreement. Agency is advised that representatives of the Inspector General have the authority to examine any record and interview any employee or officer of the contractor, its subcontractors or other firms working on this Project. Section 1515(b) of the ARRA further provides that nothing in this section shall be interpreted to limit or restrict in any way any existing authority of an Inspector General.
13. Whistleblower Protection – The Agency and its Contractor shall, and shall require its subcontractors to, comply with Section 1553 of ARRA, which prohibits all non-federal contractors of ARRA funds, including the State of Oregon, and all contractors of the State, from discharging, demoting or otherwise discriminating against an employee as a reprisal for the employee’s disclosure of information that the employee reasonably believes is evidence of: (a) gross mismanagement of a contract or grant relating to ARRA funds; (b) a gross waste of ARRA funds; (c) a substantial and specific danger to public health or safety related to the implementation or use of ARRA funds; (d) an abuse of authority related to implementation or use of ARRA funds; or (e) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to ARRA funds. The

Agency/State  
Agreement No. 25486

Contractor and its subcontractors shall post notice of the rights and remedies available to employees under Section 1553 of ARRA.

14. False Claims Act – The Contractor shall promptly refer to an appropriate federal inspector general any credible evidence that a principal, employee, agent, subcontractor or other person has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity or similar misconduct involving those funds.

This Amendment may be executed in several counterparts (facsimile or otherwise) all of which when together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Amendment so executed shall constitute an original.

**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.

This Project is amended into the 2008-2011 Statewide Transportation Improvement Program, Key No. **16457** that was approved by the Oregon Transportation Commission on November 14, 2007 or will subsequently be approved by amendment to the STIP.

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

On September 15, 2006, the Director of the Oregon Department of Transportation approved Subdelegation Order No. 2, Paragraph 1, in which authority is delegated to the Deputy Director, Highways, to approve and sign agreements over \$75,000 when the work is related to a project included in the Statewide Transportation Improvement Program.

Agency/State  
Agreement No. 25486

**City of Milwaukie**, by and through its  
elected officials

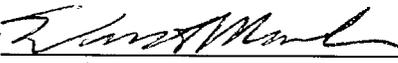
By 

Date 01/19/10

By \_\_\_\_\_

Date \_\_\_\_\_

**APPROVED AS TO LEGAL  
SUFFICIENCY**

By 

Agency Counsel

Date 1/19/10

**Agency Contact:**  
Alex Campbell, Econ Dev Specialist  
6101 SE Johnson Crk Blvd  
Milwaukie, OR 97206  
campbella@ci.milwaukie.or.us  
(503) 786.7608

**State Contact:**  
Tom Weatherford, ODOT Region 1  
123 NW Flanders Street  
Portland, OR, 97209-4012  
Thomas.L.WEATHERFORD@odot.state.or.us  
503.731.8238

**STATE OF OREGON**, by and through  
its Department of Transportation

By \_\_\_\_\_  
Deputy Director, Highways

Date \_\_\_\_\_

**APPROVAL RECOMMENDED**

By \_\_\_\_\_  
Local Government Section Manager

Date \_\_\_\_\_

By \_\_\_\_\_  
Region 1 Manager

Date \_\_\_\_\_

**APPROVED AS TO LEGAL  
SUFFICIENCY**

By \_\_\_\_\_  
Assistant Attorney General

Date \_\_\_\_\_

## EXHIBIT B

Misc. Contracts & Agreements  
No. 25473

### AMENDMENT NUMBER 01

#### **TERMINATION**

American Recovery and Reinvestment Act of 2009  
1R-Paving

#### **Linwood Avenue: Monroe Street - Railroad Avenue Resurfacing City of Milwaukie**

The State of Oregon, acting by and through its Department of Transportation, hereinafter referred to as "State", and the City of Milwaukie, acting by and through its elected officials, hereinafter referred to as "Agency", entered into an Agreement on April 15, 2009. Said Agreement covers paving of various streets and roads.

It has now been determined by State and Agency that the Agreement referenced above shall be terminated in its entirety. The reason for this termination is as follows:

**Agency is terminating the Linwood Avenue 1R Paving project and will be using the ARRA funds on another ARRA project.**

This Amendment 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 Amendment so executed shall constitute an original.

**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.

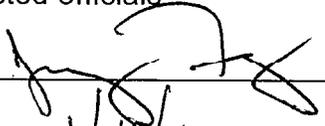
This Project is amended into the 2008-2011 Statewide Transportation Improvement Program, Key No. **16489** that was approved by the Oregon Transportation Commission on November 14, 2007 or will subsequently be approved by amendment to the STIP.

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

On September 15, 2006, the Director of the Oregon Department of Transportation approved Subdelegation Order No. 2, Paragraph 1, in which authority is delegated to the Deputy Director, Highways, to approve and sign agreements over \$75,000 when the work is related to a project included in the Statewide Transportation Improvement Program.

Agency/State  
Agreement No. 25473

**City of Milwaukie** by and through its  
elected officials

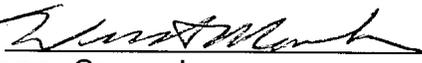
By 

Date 1/19/10

By \_\_\_\_\_

Date \_\_\_\_\_

**APPROVED AS TO LEGAL  
SUFFICIENCY**

By   
Agency Counsel

Date 1/19/10

**Agency Contact:**

Alex Campbell  
6101 SE Johnson Crk Blvd  
Milwaukie, OR 97206  
campbella@ci.milwaukie.or.us  
(503) 786.7608

**STATE OF OREGON**, by and through  
its Department of Transportation

By \_\_\_\_\_  
Deputy Director, Highways

Date \_\_\_\_\_

**APPROVAL RECOMMENDED**

By \_\_\_\_\_  
Local Government Section Manager

Date \_\_\_\_\_

**APPROVED AS TO LEGAL SUFFICIENCY**

By \_\_\_\_\_  
Assistant Attorney General

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

**State Contact:**

Tom Weatherford, ODOT Region 1  
123 NW Flanders Street  
Portland, OR, 97209-4012  
Thomas.L.WEATHERFORD@odot.state.or.us  
503.731.8238