

## **Intergovernmental Agreement**

This Intergovernmental Agreement (“Agreement”) is entered into by and between the State of Oregon, acting by and through its Department of Land Conservation and Development (“Department”), and the City of Salem, an Oregon municipal corporation (“City”), each a “Party” and, together, the “Parties.”

### **Section 1: Recitals**

1. This Agreement is authorized by ORS 190.110.
2. The City enacted engrossed ordinance no. 14-16 on December 5, 2016, which became effective January 4, 2017 (“Decision”).
3. The Decision expanded the Salem Keizer Urban Growth Boundary (“UGB”) by approximately 35 acres, made text and map amendments to the Salem Area Comprehensive Plan (“Comprehensive Plan”) and Transportation System Plan (“TSP”) and took an exception to Statewide Planning Goal 15 (Willamette River Greenway).
4. The land use actions made in the Decision are in support of the Salem River Crossing project that will add a bridge across the Willamette River, complete Marine Drive Northwest, and make associated transportation improvements (“Project”).
5. The Department filed a notice of intent to appeal (“Appeal”) of the Decision with the Land Use Board of Appeals on December 30, 2016.
6. The Parties executed a Memorandum of Understanding (“MOU”) committing the Parties to undertake certain actions relating to the Project, and resulted in Department withdrawing its Appeal of the Decision.
7. The Department, withdrew its appeal of the Decision in good faith and in reliance on City’s promise to execute this Agreement, and perform its obligations in good faith thereunder.
8. The MOU provides that as soon as practical after execution of the MOU, the Parties will execute the Agreement to clarify and amplify the terms of the MOU.

Now therefore, the Parties agree as follows:

### **Section 2: Authorized Representatives**

#### **2.1 Department’s Authorized Representative is:**

Matt Crall  
635 Capitol Street NE, Suite 150  
Salem OR 97301  
503-934-0046  
[matthew.crall@state.or.us](mailto:matthew.crall@state.or.us)

## **2.2 City's Authorized Representative is:**

Julie Warncke  
555 Liberty Street, SE, Rm 325  
Salem, OR 97301  
Telephone: 503-588-6211  
Email: jwarncke@cityofsalem.net

## **Section 3: Responsibilities of the Parties**

### **3.1 City obligations:**

- 3.1.1 Phasing. During the term of this agreement, City will only design and construct the first phase of the Project. The first phase consists of one two-way bridge span with one motor vehicle travel lane in each direction and separated bicycle and pedestrian facilities; Marine Drive NW between Glen Creek Road NW and Riverbend Road NW with one motor vehicle travel lane in each direction and separated bicycle and pedestrian facilities; an extension of Hope Avenue NW between Wallace Road NW and Marine Drive NW with one motor vehicle travel lane in each direction and separated bicycle and pedestrian facilities; and other surface transportation improvements, including pedestrian and bicycle facilities, transit facilities, turn lanes, and intersections required to support the first phase. The first phase does not include elevated ramps or viaducts other than necessary approaches for the single bridge span; any new connections to Oregon Route 22.
- 3.1.2 City will include a congestion pricing analysis as part of the Project funding strategy development. The congestion pricing analysis need not include congestion pricing for the existing bridge facilities. City shall provide the Project funding strategy, including the congestion pricing analysis, to Department.
- 3.1.3 City will pursue increased residential densities and mixed use development within the South Waterfront, Riverfront Downtown, and West Salem Urban Renewal Areas, through implementation of existing plans, enhancement of existing projects, or creation of new projects, as set forth in the identified urban renewal plans. By January 1, 2025, City will provide Department with a summary memo describing progress on increased residential densities and mixed use development.
- 3.1.4 City will actively work with the Salem Area Mass Transit District (SAMTD) to improve transit within Salem, focusing on service between west Salem and downtown Salem. These actions may include, but are not limited to: changes in development codes to require accessible transit stops; on-street parking arrangements that provide access to transit stops; identifying frequent service corridors; land use changes to increase development along frequent service corridors; improving pedestrian and bicycle access to transit stops; transportation system changes to improve transit service reliability along frequent service corridors; and supporting circulators or employer shuttles. The parties understand that SAMTD's funding and operations are beyond the control of the City, and

that this provision does not contemplate any City funding or direct operational assistance to SAMTD. By January 1, 2025, City will provide Department with a summary memo describing progress on improving transit within Salem.

- 3.1.5 City will commit to allocate a minimum of approximately 20% of the next transportation bond approved by Salem voters to develop and construct pedestrian and bicycle specific capital projects, and improvements that support SAMTD operations.
- 3.1.6 Report on Transportation Choices.
  - a. On or before June 1, 2017, the City shall provide to the Department a report on actual performance in 2015 for the City's adopted performance standards against the adopted benchmarks for increasing transportation choices as set forth in the Salem Area Comprehensive Plan ("Plan").
  - b. If any 2015 benchmarks were not met, then by June 1, 2018, the City shall analyze why they were not met and then shall prepare and present to its City Council for adoption, in consultation with the Department, amendments to the Salem Transportation System Plan ("TSP") that will enable City to meet future adopted benchmarks. Alternatively, the City may, with approval from the Land Conservation and Development Commission (LCDC), as provided in OAR 660-012-0035(5), replace the City's existing performance standards with new standards, that can be tracked consistently over time, that include new benchmarks, and that are consistent with the City's and Department's objectives to increase transportation choices.
- 3.1.7 Traffic Projections/Effect of the Project on Transportation Choices/Reasonable Alternatives. On or before June 1, 2017, the City shall provide to Department an analysis, including citations identifying specific evidence contained in the Decision (such as the technical reports), that:
  - a. Supports a finding that the travel projections used in the Decision assume reductions in vehicular travel demand and increases in mode share that equal or exceed the shifts that would result from meeting the benchmarks;
  - b. Supports a finding that the Project, including all phases authorized in Decision, enhances the City's compliance with the benchmarks, that the Project will not significantly impact vehicle miles travelled per capita in Salem; and
  - c. Supports a finding of compliance with OAR 660-24-0050(4).
  - d. Upon receipt of the Department's evaluation identified in section 3.2.2, City will meet in person with Department to discuss the findings and evaluation.
- 3.1.8 Except as may be necessary to update the City's benchmarks (Section 3.1.6.b), the City is not required to complete any amendments to the City's adopted and acknowledged land

use regulations resulting from this IGA, until all appeals of the Decision have been exhausted, and the Decision is final.

### **3.2 Department obligations:**

- 3.2.1 The Department shall meet regularly with the City to receive updates about and provide feedback on the work prepared under the City obligations.
- 3.2.2 Upon receipt of the analysis identified in section 3.1.7, Department shall evaluate the findings and meet in person with City to discuss the findings and evaluation.
- 3.2.3 Department shall not further participate in the consolidated appeals of the Decision, LUBA nos. 2016-125 or 2016-126, except as provided in section 4.5.

### **Section 4. General Terms.**

- 4.1 Effective Date.** This Agreement shall be effective on the date last signed by each Party (“Effective Date”).
- 4.2 Term.** The term of this Agreement shall commence on the Effective Date and shall continue until January 1, 2030, unless terminated earlier as provided herein, or extended as mutually agreed by the Parties.
- 4.3 Termination.** The Parties may terminate this Agreement by mutual written consent at any time. Any obligation of a Party that has accrued at the time of termination shall extend past the termination date, and bind and inure to the benefit of the Parties.
- 4.4 Amendment.** No amendment to this Agreement is valid unless it is in writing and signed by both parties.
- 4.5 Effect of Decision on Remand.** In the event of a remand, reversal or withdrawal of the Decision, nothing in this Agreement shall prohibit or restrict Department from participating in, including an appeal of, any City subsequent land use decision made on remand.
- 4.6 Applicable Law.**
  - a. Venue. This Agreement shall be construed and interpreted under and pursuant to the laws of the State of Oregon. The Parties agree that venue for any action or claim arising out of or in connection with this Agreement will be in the Circuit Court for the State of Oregon for Marion County.
  - b. Compliance with law. The Parties shall comply withal federal, state and local laws, regulations, and ordinance applicable to this Agreement, as those laws, regulations and ordinances may be adopted or amended from time to time.
- 4.7 Intended Beneficiaries.** The Department and the City are the only Parties to this Agreement and are the only parties entitled to enforce the terms of this Agreement. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right not held by or made generally available to the public, whether directly, indirectly or otherwise, to third persons.
- 4.8 Entire Agreement.** This Agreement contains the entire agreement of the Parties with respect to the matters covered herein, and no other agreement or promise made by any of the Parties, which is not contained herein, will binding or valid.

The Parties, by execution of this Agreement, acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

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Steve Powers  
Salem City Manager

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Date

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James Rue  
Director, Department of Land  
Conservation and Development

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Date