

**AMENDED INTERGOVERNMENTAL AGREEMENT  
FOR THE DEVELOPMENT OF THE MILL CREEK CORPORATE CENTER**

This Amended Intergovernmental Agreement is among the STATE OF OREGON (the State), by and through the Oregon Department of Administrative Services, Facilities Division, the CITY OF SALEM, an Oregon municipal corporation (the City), and the URBAN RENEWAL AGENCY FOR THE CITY OF SALEM, an Oregon quasi-municipal corporation active pursuant to ORS Chapter 457 (the Agency). For the purposes of this Agreement the State, the City and the Agency may be referred to individually as a "Party" or collectively as "the Parties" as context requires.

**Recitals:**

(1) Pursuant to HB 2488 (enacted into law in 2001), the Oregon Department of Corrections ("DOC") was required to transfer certain property in the Mill Creek area in southeast Salem to Oregon Corrections Enterprise ("OCE"). Under HB 2923 (also enacted in 2001), DOC was required to transfer an additional 349 acres in the Mill Creek area to the Oregon Department of Administrative Services ("DAS") for the purpose of resale. DOC and OCE have executed an interagency agreement authorizing DAS to act on their behalf in the management, marketing and ultimate sale of the approximately 700 acres of property owned by the State of Oregon and located in the Mill Creek area of southeast Salem (the "Property"). A map of the Property is attached hereto as Exhibit A and incorporated herein by reference.

(2) The Property is located within the City's corporate limits and due to inadequate planning and infrastructure, is underutilized, has reduced economic value, is blighted and is in an unproductive condition.

(3) Pursuant to HB 2932 (enacted in 2001), the Oregon Legislature directed that the Property be sold at or above fair market value to provide funds for certain legislatively-designated purposes.

(4) By Executive Order No. 03-02, Governor Ted Kulongoski, declared that the Oregon economy is in distress and that a critical need exists to stimulate job-producing industrial development. Governor Kulongoski formed the Industrial Lands Task Force to identify land in the state suitable for the conversion to job-producing industrial development. The Industrial Lands Task Force has identified the Property as uniquely suited to meet this need for job-producing industrial development.

(5) The State and the City commissioned Leland Consulting Group to study the Property and produce the "Salem Regional Employment Center Development Program" (the "Development Program Report") and make recommendations and proposals for the sale and development of the Property.

(6) According to the Development Program Report, the Property cannot effectively be sold and developed unless the Parties coordinate and collaborate in the planning, design, financing and construction of necessary infrastructure improvements, and in the marketing and sale of the Property. The Development Program Report recommends that the Parties enter into an

intergovernmental agreement containing principles and goals and a plan for the development, marketing and sale of the Property.

(7) Both the State and the City have overburdened general funds. As a result, the development of the Property requires a mix of financing to fund the planning and infrastructure improvement needed to develop the Property, including the use of land sale proceeds, the obtaining of development grants and loans from the Oregon Business Development Department, formerly known as the Oregon Economic and Community Development Department ("Business Oregon"), the use of urban renewal tax increment financing, and the collection of infrastructure fees.

(8) Pursuant to ORS Chapter 457, the Agency has the authority to establish urban renewal areas and use tax increment financing for the purposes of redeveloping blighted areas, thereby making the Agency a necessary participant to this endeavor.

(9) Using tax increment funds to finance the development of the Property will postpone increases in the City's general fund from tax revenue resulting from sale and development of the Property for a period of twenty to thirty years. Until tax revenue generated from the Property becomes a part of the City's general fund, the Property, as it develops, will require general fund support in increasing amounts for fire, police, and other essential services.

(10) The State, the City and the Agency concur with the recommendations in the Development Program Report, and agree that thoughtful, coordinated marketing, development and sale of the Property as an industrial and employment center can result in crucial and necessary economic stimulus for the City and the region, and provide a fair return to the State for the value of the Property.

(11) This Amended Intergovernmental Agreement amends that certain "Agreement for the Development of the Salem Regional Employment Center," entered into by the Parties on March 14, 2005, as amended by the First Amendment, dated March 23, 2006 and the Second Amendment, dated January 29, 2008 (the "Original Agreement"). This Amended Intergovernmental Agreement consists of the following documents and exhibits: (i) this Amended Intergovernmental Agreement for the Development of Mill Creek Corporate Center, less any exhibits; (ii) Exhibit A, captioned "Property Map," (iii) Exhibit B captioned "Finance and Infrastructure Implementation Plan" together with any attachments thereto, (iv) Exhibit C, captioned "Marketing and Sales Implementation Plan" (v) Exhibit D, captioned "Stormwater and Wetlands Implementation Plan" together with any attachments thereto. This Amended Intergovernmental Agreement, and the foregoing items (i) through (v) are collectively referred to herein as the "Agreement." The purpose of this Agreement is to incorporate the Original Agreement and certain other changes agreed upon by the Parties into one master document, and not to otherwise vary or change the terms of the Original Agreement. Therefore, this Agreement is, and shall be construed to be, a continuation of the Original Agreement as amended hereby, and is not, and shall not be deemed to be, a novation.

**NOW, THEREFORE**, the Parties agree as follows:

**Section 1: Purpose and Goals.** The purpose of this Agreement is to coordinate the Parties' activities with regard to the development, marketing and sale of the Property as an industrial and employment center, commonly known as the Mill Creek Corporate Center. The Parties' goals in entering into this Agreement for the development, marketing and sale of the Property are:

- (a) Enhanced Livability.** Enhance the long-term quality of life in Salem and the region.
- (b) Economic Benefit.** Provide a range of long-term and short-term employment and business opportunities that contribute positively to the local and regional economy. Employment opportunities should include family wage jobs. Business opportunities should contribute to a sustainable and diversified economy in Salem and create local jobs for the Salem community.
- (c) Coordinated Implementation.** Develop plan implementation strategies, so that the development of the Property can be equitably financed, and readily marketed and permitted.
- (d) Community Involvement.** Involve the community during the planning process, and incorporate community input into plan recommendations in concert with the project goals.
- (e) Quality Development.** Assure a quality-built environment that is a positive addition to the community.
- (f) Compatibility.** Plan the location and nature of land uses to promote integration, transition, and compatibility with neighboring uses.
- (g) Preserve and Provide Open Space and Scenic Features.** Provide open space to address the needs of the Salem area and the local community and in balance with industrial uses of the Property.
- (h) Environmental Protection and Enhancement.** Protect and enhance key natural features and sensitive environments in balance with industrial uses of the Property.
- (i) Heritage.** Preserve important historical and cultural features and amenities.
- (j) Adequate and Concurrent Infrastructure and Services.** Provide local infrastructure and public services in concert with development needs, and integrate infrastructure planning with environmental planning.

**Section 2: Guiding Principles.** The State, the City and the Agency will work cooperatively, in good faith, in close coordination, and in a manner designed to ensure the successful creation of the Mill Creek Corporate Center, by the development, marketing and sale of the Property, consistent with the terms of this Agreement, and with the following guiding principles:

**(a) Public Benefit.** The Property shall be developed in a manner designed to provide the following public benefits:

- (i) Creating well-located "shovel-ready" lots and parcels of industrial land;
- (ii) Increasing the City's and the State's tax base;
- (iii) Enabling the State to fund legislatively-designated programs through the sale of the Property; and
- (iv) Responding to the region's need for employment opportunities and family wage jobs.

**(b) Property Development.** The development of the Property shall:

- (i) Provide for a combination of distribution centers, warehousing and manufacturing facilities, flex/office, and limited supporting retail and service uses;
- (ii) Be integrated into an attractive and efficient environment to meet the needs of companies serving markets throughout the Pacific Northwest and Northern California;
- (iii) Include phased development and phased construction of necessary infrastructure improvements, in order to distribute public cost over time;
- (iv) Provide for improved habitat and recreation activities, which are developed concurrently with employment development;
- (v) Include responsible mitigation of impacts to environmentally-sensitive areas in accordance with state and federal law; and
- (vi) Be consistent with the requirements of Exhibits B, C, and D, and Section 6 of this Agreement, (together, the "Implementation Plans").

**(c) Marketing and Sale.** The marketing and sale of the Property shall:

- (i) Be fair and impartial so that builders or business owners may purchase parcels at a fair price, without unreasonable premium or a price that penalizes them for choosing to independently construct improvements;
- (ii) Include phased land sales, to coincide with the phased development and phased construction of necessary infrastructure improvements, and thereby avoid a premature oversupply in excess of market demand;

- (iii) Be in the form of sales designed to maximize the Property's potential value to avoid the generation of inadequate tax increment revenue to cover the costs of, and debt incurred for, the urban renewal plan for the area;
- (iv) Be sold at a price, as required by state law, at or above the Property's fair market value in order to provide funds for legislatively-designated purposes; and
- (v) Be consistent with the requirements of the Implementation Plans.

(d) **Flexible Decision Making.** All decisions by the Parties concerning the development, marketing, and sale of the Property shall be made in a manner that protects and furthers the legitimate and respective interests of the State, the City and the Agency as set forth herein, that preserves the long-term development and land value of the entire approximately 700 acre tract that comprises the Property, and that will provide revenue sufficient to support the repayment of debt and payment of costs of providing necessary infrastructure improvements. If new and unanticipated events and opportunities arise, each Party will adapt in order to accomplish the mutual goals set forth herein, and will work in good faith to accommodate such events and opportunities for the mutual benefit of all the Parties.

(e) **Proportionate Benefits.** The Parties recognize that this Agreement will not result in an equal financial benefit to each Party. As a guiding principle for all decisions, no Party shall be required, as a result of this Agreement, to assume risks that are disproportionate to that Party's relative benefit.

**Section 3: Joint Enterprise Established.** By entering into this Agreement, the Parties intend to jointly undertake the development, marketing, and sale of the Property for the purpose of creating the Mill Creek Corporate Center. The Parties recognize that successful development, marketing, and sale of the Property for this purpose depends upon the mutual coordination and contribution of the Parties. The Parties further recognize that each Party brings to the endeavor strengths, and based on those strengths, will assume the duties set out below, and more fully described within this Agreement:

(a) **Duties of the City and the Agency.**

- (i) The City and the Agency will undertake marketing activities to the mutual benefit of all the Parties.
- (ii) The City and the Agency will work to facilitate the provision of necessary infrastructure improvements for the Property by:
  - (A) Undertaking the creation of a new urban renewal area for the Property (Mill Creek URA" or "URA"), which will allow the Agency the use of tax increment financing for necessary infrastructure improvements;
  - (B) Undertaking an expansion of the City's Urban Services Area to include the Property;

**(C)** Undertaking the creation of an ordinance to provide for the creation of a development district to allow for the collection of infrastructure fees to finance infrastructure improvements.

**(iii)** The City and the Agency will prepare, in collaboration with the State, additional plans that will coordinate the development, marketing, and sale of the Property as further described in Exhibit C.

**(b) Duties of the State.** The State will undertake the obligations set forth in this Section 3(b).

**(i)** The State will undertake marketing activities to the mutual benefit of the Parties.

**(ii)** The State will work to facilitate the development, to complete the State's obligations under federal, state and local laws, and to assist the City and Agency in their financing of those necessary infrastructure improvements for the Property that are the City's and Agency's responsibilities by:

**(A)** Providing ongoing security to ensure that the City and Agency are not placed in an undue position of risk through the creation of a reserve account from which the State shall forward to the Agency amounts needed to repay debt incurred through tax increment financing if tax increment revenues fall short of the Agency's debt service obligation, as further described in Exhibit B;

**(B)** Reimbursing the City and Agency's planning expenses only from Property sale proceeds, as set forth in Section 6 of Exhibit B;

**(C)** Obtaining necessary approvals for impacted wetlands mitigation, assuming responsibility for the design, bidding, solicitation for services, and selection of contractors or other service providers for the construction of wetland mitigation measures, open space and maintenance access road; assuming responsibility for construction, monitoring, and maintenance of wetland impact mitigation measures, until State has received written confirmation that the permitting agencies have granted final regulatory approval for the establishment of the wetlands in satisfaction of the State's obligation under its permits; and ensuring compliance with applicable state and federal wetland laws, all in close co-operation with the City, as further described in Exhibit D.

**(iii)** Providing aid to the City to offset the impacts the development of the Property would have on the City's general fund, in the form of additional police, fire, and other essential services as further described in Exhibit B, Section 5.

(c) **Duties of All Parties, Collectively.** Collectively, through the Implementation Committee (defined in Section 4 of this Agreement), the State, the City, and the Agency will:

- (i) Conduct the mutual business of the Parties;
- (ii) Select a Master Developer. In the absence of a Master Developer, the State may act as Master Developer with the approval of the Implementation Committee;
- (iii) Approve amendments to the Implementation Plans; and
- (iv) Approve the Master Documents [as defined in Section 6(f) of this Agreement].

**Section 4: Implementation Committee.** Each Party to this Agreement has a critical interest in all actions taken by every other Party related to the Property, including (1) the development, marketing and sale of the Property; (2) the financing and construction of necessary infrastructure improvements; (3) the delivery of essential City services to the Property; and (4) the processing of necessary subdivision and partition plans, building permits, and other local government licenses and permits. In order to ensure the ability of each Party to realize its respective legitimate goals, the Parties do hereby establish an Implementation Committee to oversee the implementation plans, activities, and agreements of the Parties related to the Property and the creation of the Mill Creek Corporate Center. However, even where formal approval of the Implementation Committee is not required, each Party agrees that it will undertake its obligations hereunder only after close and meaningful collaboration and input from the other Parties to this Agreement.

(a) **Structure.** The Implementation Committee shall consist of four individual committee members. The State shall appoint two members, and the City and the Agency shall each appoint one member. In every action that requires the approval or formal vote of the Implementation Committee, the State will have two votes, the City will have a single vote, and the Agency will have a single vote.

(b) **Membership.** The Parties shall be able to change its individual members on the Implementation Committee at any time without the consent of the other Parties or members of the Implementation Committee. As of the Effective Date of this Agreement, the members of Implementation Committee shall be:

State:      Administrator, DAS Facilities Division  
                  Manager, Real Property Services, DAS Facilities Division

City:      City Manager, City of Salem

Agency:      Executive Director, Urban Renewal Agency of the City of Salem

**(c) Powers and Authority.** The Implementation Committee shall have such powers and authority as is set forth in this Agreement and Implementation Plans, including, but not limited to:

- (i)** Serving as the formal body for the review and comment of any plan or agreement which requires the formal action of a single Party, or the joint action between or among Parties;
- (ii)** Approval of new plans, or revisions or amendments to any Implementation Plan or of this Intergovernmental Agreement;
- (iii)** Approval of the request for qualifications that the State will use to solicit and select the Master Developer(s). Such approval will not change the normal procurement requirements of the State; and
- (iv)** Approval of the Master Developer(s).

**(d) Rules.** Except as otherwise set out in this Agreement, the Implementation Committee shall determine its rules of procedure. Such rules of procedure shall not conflict with any part of this Agreement. If such conflict exists, the terms of this Agreement shall govern.

**(e) Chair.** The Implementation Committee shall select a Chairperson, to facilitating the meetings of the Implementation Committee, and a Vice-Chairperson to fill the Chairperson's duties in the Chairperson's absence. Neither the Chairperson nor the Vice-Chairperson shall have powers or voting rights greater than that of the other Implementation Committee members.

**(f) Frequency of Meetings.** The Implementation Committee shall meet at such times and places as the Implementation Committee deems advisable, or on the call of any member the Implementation Committee, but not less than on a quarterly basis, and, unless otherwise agreed upon by all members of the Implementation Committee, with at least forty-eight hours advance notice of meetings at a place and time determined by the Implementation Committee, to receive reports regarding the status and progress of various project activities and review overriding policies and strategies.

**(g) Quorum.** The presence of each of the four members shall be required to constitute a quorum for the transaction of business. Any action that requires the approval of the Implementation Committee shall require a unanimous vote of the members. The City, the Agency, and the State may each establish, from time to time, its own respective rules regarding who has, and in what circumstances, authority to cast a proxy vote on behalf of that Party. The Implementation Committee's rules of procedure may provide for participating in meetings in person or by conference phone, and for taking action by unanimous written consent, without a meeting. In the event an amendment to this Agreement or an Implementation Plan is approved by the Implementation Committee, each Party shall have an authorized representative sign the written instrument.

(h) **Minutes.** The Implementation Committee shall provide for the taking of minutes of all meetings and approve such minutes by subsequent action.

**Section 5: Project Coordinators.** The Parties shall appoint two project coordinators ("Project Coordinators"), who shall make all day-to-day decisions concerning the marketing, development and sale of the Property as set forth in this Agreement, and the execution of the Implementation Plans. The Project Coordinators shall meet on a regular basis, at times determined by them. As of the Effective Date of this Agreement, the Project Coordinators are:

State: Manager, Real Property Services, DAS Facilities Division

City and Agency: Executive Director, Urban Renewal Agency of the City of Salem

**Section 6: Mill Creek Corporate Center Plans and Master Documents.**

(a) **Implementation Plans.** The Parties agree that the Property shall be developed, marketed and sold in accordance with the following Implementation Plans, which are more specifically set forth in Exhibits B-D, attached to this Agreement, and incorporated herein by reference:

(i) **Financing and Infrastructure Plan.** The Parties agree that Exhibit B, the Financing and Infrastructure Plan, shall (1) establish how the necessary off-site infrastructure improvements will be financed and constructed, and (2) establish how certain planning and service-providing costs of the City shall be paid or reimbursed.

(ii) **Marketing and Sales Plan.** The Parties agree that the Property shall be marketed and sold in accordance with the provisions of Exhibit C, the Marketing and Sales Plan.

(iii) **Stormwater and Wetlands Plan.** The Parties agree that wetlands shall be established, and stormwater managed, in accordance with Exhibit D. the Stormwater and Wetlands Plan.

(b) **Urban Renewal Plan.** The Agency shall undertake the preparation of an urban renewal plan in collaboration with the City and the State, to facilitate the development of the Property. The urban renewal plan shall provide for the creation of an urban renewal area to include the Property, and include a provision for tax increment financing to fund necessary infrastructure improvements located within the urban renewal area.

(c) **Other Plans.** The State, the City and the Agency shall prepare such other plans deemed necessary or desirable by the Parties for the marketing, development and sale of the Property. Any such plan shall be consistent with the "Goals" and "Guiding Principles" set forth in Sections 1 and 2 of this Agreement.

(d) **Approval.** The plans described in subsections (b) and (c) of this section shall first be approved, in writing, by the Implementation Committee prior to their referral to

the appropriate governing body for adoption, and, unless otherwise provided by law, each plan shall become effective upon the date such adoption occurs.

**(e) Amendment of Plans.** The Parties recognize that (1) new and unanticipated events and opportunities will likely arise and/or (2) legitimate requirements of the future Master Developer will arise, that will require the plans described in this section to be revised or amended, and additional plans to be adopted, in order to accomplish the mutual goals outlined above. The Implementation Plans, and any additional plans created pursuant to subsection (c) of this section, shall be adopted, revised or amended by the Implementation Committee in accordance with the rules and procedures approved by the Implementation Committee, except that nothing in this Agreement shall be construed to prevent any member of the Implementation Committee from taking an additional plan or a revision or amendment to its respective governing body when the member determines such action is appropriate and the new plan, revision or amendment is material.

**(f) Master Documents.** The documents listed in this subsection (the "Master Documents") shall be developed as necessary under the authority of, and approved by, the Implementation Committee, after receiving suggestions from the Master Developer.

- (i) Covenants, Conditions, and Restrictions (CC&Rs);
- (ii) Development and Disposition Agreement; and
- (iii) Subdivision and partition plats.

**Section 7: Comprehensive Plan and Zoning Regulations.** The City shall undertake the creation of amendments to the Salem Area Comprehensive Plan and the Salem Revised Code to provide land use regulations for the Property. Such amendments shall be developed in collaboration with the Project Coordinators.

**Section 8: Counterparts and Facsimile.** This Agreement may be executed in one or more counterparts all of which shall be considered one and the same agreement. This Agreement shall be effective only when one or more counterparts have been signed by and delivered to each of the Parties. An agreement executed and transferred by facsimile shall be deemed a duly executed, and fully enforceable, agreement.

**Section 9: No Third Party Beneficiaries.** The State, the City, and the Agency are the sole Parties to this Agreement and the only Parties entitled to enforce its terms. Nothing in this Agreement gives, or is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons, unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

**Section 10: Agreement Subject to Legislative Action.** This Agreement is at all times subject to the subsequent actions by the State Legislative Assembly, the Salem City Council and the Board of the Urban Renewal Agency for the City of Salem.

**Section 11: No Business Partnership.** Nothing in this Agreement shall be construed to create any of the attributes or incidents of a partnership or joint venture under common law or ORS Chapters 67 and 70. No officer or employee of any Party hereto has authority to act as an agent for any other Party, nor make representations on its behalf, and no Party shall be liable for the negligence or acts of any other Party.

**Section 12: 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 this Agreement did not contain the particular term or provision held to be invalid, provided, however, if the term or provision goes to the essence of this Agreement, or unduly increases the financial risk of any Party beyond that specifically set forth in this Agreement, the Parties shall immediately meet and enter into negotiations for new provisions that, to the extent provided by law, will result in amended or new provisions that will effectuate the intent of the invalid provision.

**Section 13: Waiver.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument. Such waiver, alteration, modification, supplementation, or amendment, if made, shall be effective only in the specific instance and for the specific purpose given, and shall be valid and binding only if it is signed by all Parties to this Agreement. The failure of any Party to enforce any provision of this Agreement shall not constitute a waiver by the Party of that or any other provision.

#### **Section 14: Termination.**

(a) **30-Day Termination Notice.** Any Party may terminate this Agreement with the consent of the other Parties on 30 days prior notice, provided however that any obligations due or undertaken pursuant to this Agreement, or any Implementation Plan, before the end of the 30-day notice period shall survive termination of this Agreement.

(b) **120-Day Termination Notice.** The realization of the goals of this Agreement is dependent upon the following events coming to successful fruition:

- (i) The successful establishment of an urban renewal area;
- (ii) The successful culmination of a loan from Business Oregon;
- (iii) The City obtaining necessary approvals for financing;
- (iv) The State's approval of the City's financial pro forma;
- (v) The adoption of an amendment to the Salem Area Comprehensive Plan and new zoning district for the Property;
- (vi) The successful establishment of a development district, as contemplated by the Finance and Infrastructure Implementation Plan;

- (vii) The final selection of a mutually acceptable Master Developer;
- (viii) The approval and adoption of CC&Rs; and
- (ix) The issuance of an acceptable Wetlands Mitigation Permit.

(c) In the event that any of these necessary preconditions fail to be timely satisfied, the Parties intend to continue to work cooperatively to cause the satisfaction of the necessary precondition to occur by alternative means, or to be satisfied at a later date.

(d) Notwithstanding subsection (a) of this section, if any Party believes that the necessary preconditions cannot reasonably be satisfied, that Party may give notice of its intent to terminate this Agreement within 120 days, and may terminate this Agreement if the precondition cannot be satisfied by such date. Nonetheless, all Parties shall strive within such 120-day period to either satisfy the condition or find an alternative solution. In the event this Agreement is terminated due to the failure of such precondition to be satisfied, each Party shall be responsible for the costs incurred by that Party up to the date of termination, and no Party shall be obligated to reimburse any other for any costs incurred by the others.

**Section 15: Merger.** This Agreement, which includes all Exhibits and Attachments thereto, constitutes the entire agreement among the Parties. There are no understandings, agreements, or representations, oral or written, regarding this Agreement, except as specified or referenced herein. Each Party, by the signature below of its authorized representative, hereby acknowledges that it has read this Agreement, understands it and agrees to be bound by its terms and conditions.

**Section 16: Amendments.** This Agreement may be amended, in writing, from time to time, upon the approval of the Implementation Committee.

**Section 17: Effective Date.** This Agreement is effective upon the date that all required signatures are obtained by the parties.

WHEREFORE, the Parties have executed this Agreement as of the dates set forth below.

STATE OF OREGON:

BY: 

Jeanette Fish  
Administrator  
Oregon Department of Administrative Services  
Facilities Division

Date: 8-24-12

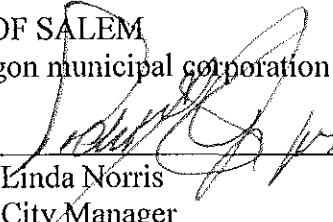
STATE OF Oregon )  
County of Marion )



This instrument was acknowledged before me on 8-29 2012, by  
Jeanette Fish, as Administrator, Oregon Department of Administrative Services, Facilities  
Division.

Notary Public - State of \_\_\_\_\_  
My commission expires: \_\_\_\_\_

CITY OF SALEM  
an Oregon municipal corporation

BY: 

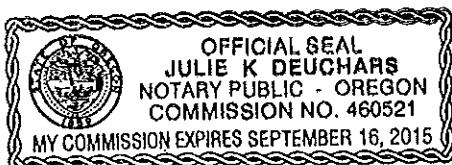
Linda Norris  
City Manager

Date: 09/01/2012

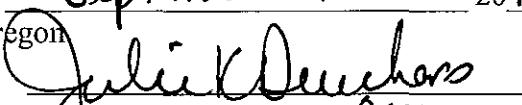
STATE OF \_\_\_\_\_ )  
County of Marion )

This instrument was acknowledged before me on  
~~Linda Norris~~ <sup>Acting</sup>, as City Manager, City of Salem, Oregon

Peter Fernandez



September 7 2012 by

  
Notary Public - State of Oregon  
My commission expires: 9-16-15

URBAN RENEWAL AGENCY OF THE CITY OF SALEM  
an Oregon quasi-municipal corporation

BY: 

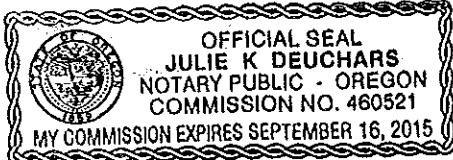
Linda Norris  
Executive Director

Date: 09/07/2012

STATE OF \_\_\_\_\_ )  
County of Marion )

This instrument was acknowledged before me on September 7 2012 by  
Linda Norris, as Executive Director, Urban Renewal Agency.

Peter Fernandez



Julie K Deuchars  
Notary Public - State of Oregon  
My commission expires: 9-16-15

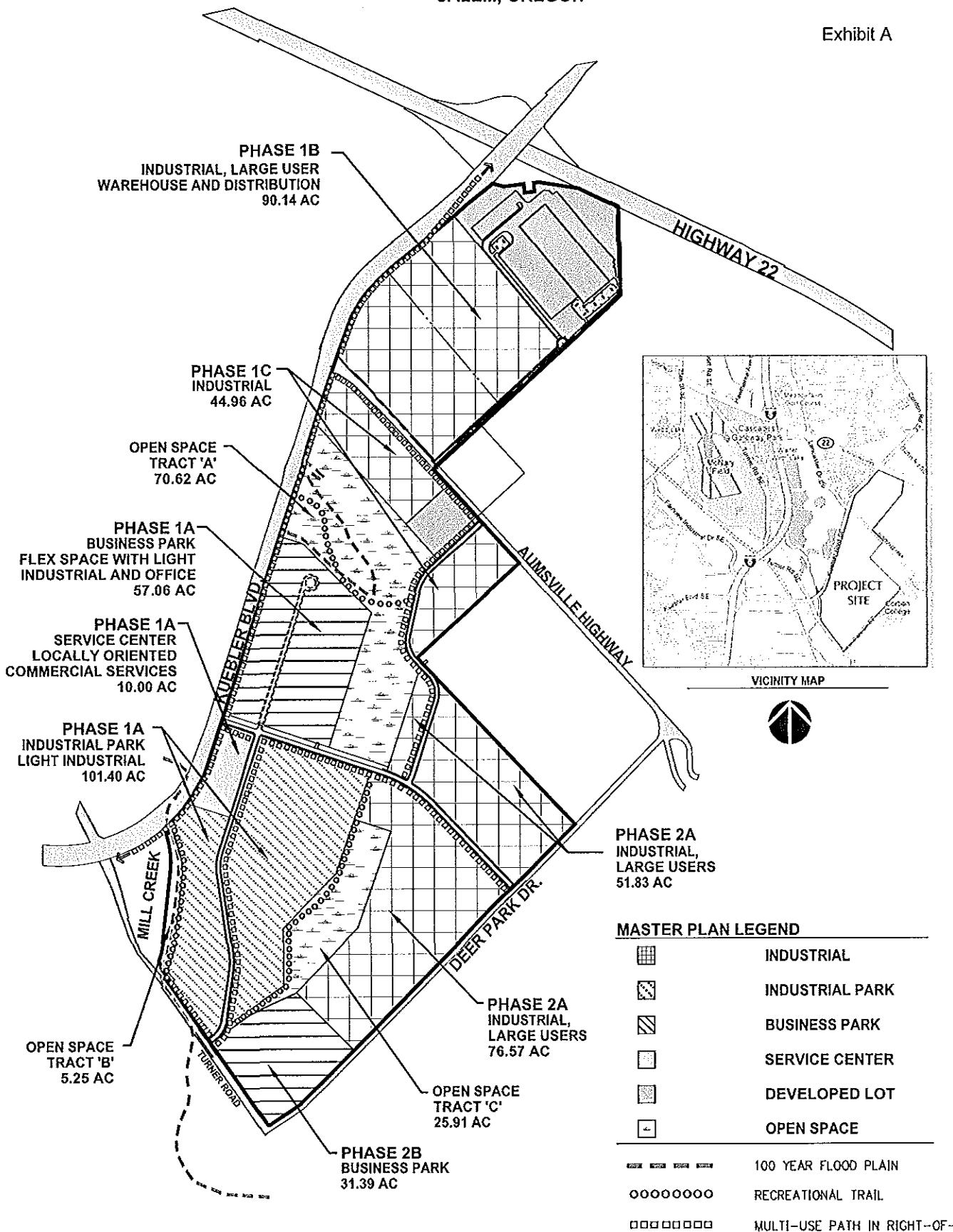
Attachments:

- Exhibit A: Property map
- Exhibit B: Financing and Infrastructure Plan
- Exhibit C: Marketing and Sales Plan
- Exhibit D: Stormwater and Wetlands Plan

# MILL CREEK CORPORATE CENTER

SALEM, OREGON

## Exhibit A



~~GROUP~~  
**MACKENZIE**

**Exhibit B**  
to the  
**Amended Intergovernmental Agreement for the Development of the Mill  
Creek Corporate Center**

**Finance and Infrastructure Implementation Plan**

This Exhibit B to the Agreement constitutes an Implementation Plan under the Agreement, and is subject to the terms and conditions of, and shall be construed according to and consistent with the Agreement.

**Section 1: Off-site Infrastructure Development.** Subject to the conditions set forth in Section 2 of this Exhibit B, the City and the Agency will pay all costs associated with providing the following off-site infrastructure improvement projects, which are set forth in Attachment 1 to this Exhibit B (the "Master Project List"). The approximate locations for the projects are identified in the maps which are Attachments 2, 3, and 4 to this Exhibit B, which are attached hereto and incorporated herein by reference.

- (a) **Water.** The City will install water mains along the public right-of-way to the edge of the Property. The specific water projects to be constructed by the City and the Agency are set forth in the Master Project List.
- (b) **Sewer.** The City will install sewer mains along public right-of-way to the edge of the Property. The specific sewer projects to be constructed by the City and the Agency are set forth in the Master Project List.
- (c) **Transportation.** The City and Agency will pay for or construct certain off-site transportation improvements, which are required as a result of increased development within the Property. The specific off-site infrastructure improvements to be constructed by the City and the Agency are set forth in the Master Project List.
- (d) **Stormwater.** The City and State will work together to provide regional detention facilities to serve the Property, as identified in the Master Plan and Development Strategy set forth in Attachment 1 of Exhibit C (the "Master Plan and Development Strategy"). Of the specific off-site infrastructure improvements set forth in the Master Project List, the City and the Agency shall construct Item D-1 on the Master Project List on behalf of the State, and the State shall construct Items D-2 and D-3 at the City's and Agency's expense.

Although unique infrastructure impacts of a particular developer or land purchaser may require additional off-site infrastructure improvements under the Salem Revised Code, the Parties intend that the projects in the Master Project List will be the only off-site infrastructure improvements that will be required for the normal development of the Property, as contemplated by the Master Plan.

## Section 2: Off-site Infrastructure Funding.

**(a) Tax Increment Financing.** The City and Agency will undertake the establishment of an urban renewal area for the Property, which shall include a provision for the collection of tax increment revenue. Tax increment revenue shall be used to fund the payment of designated off-site infrastructure improvement costs, as set forth in the Master Project List. The Agency shall not be obligated to issue urban renewal bonds or other forms of indebtedness, unless the Implementation Committee determines that there will be sufficient revenues, including any amounts anticipated to be held in the Contingency Reserve Account established pursuant to subsection (f) of this section to repay such debt according to its terms. If the issuance of the bonds or other forms of indebtedness has been pre-approved by the Implementation Committee, the State agrees that upon receipt of written notice from the Agency of a shortfall in tax increment revenue necessary to pay a regularly scheduled installment of the Agency's debt service, the State shall forward to Agency the amount set forth in the notice as necessary to cover the shortfall. If the State forwards any amount for a debt service payment under this paragraph, the Agency shall be obligated to reimburse the State, including accrued interest at the same rate as the rate of interest earned by the State in the Contingency Reserve Account from the time of withdrawal to the time of repayment, from future tax increment revenues. Tax increment generated by the Mill Creek Urban Renewal Area (URA) shall be used to first reimburse the Agency for its reasonable costs to administer the URA, then for debt service pre-approved by the Implementation Committee, then for projects identified in the Mill Creek Urban Renewal Plan (the Plan), and then for repayment to the State of amounts expended from the Contingency Reserve Account. The Plan identifies the goals and objectives of the URA. Specific projects are identified in the Plan. The City and Agency will annually provide notice of the administration costs to the State's representatives on the Implementation Committee and include such costs in any revenue and expenditure models for the URA. Any changes in the Mill Creek financial models will be provided to the State's representatives on the Implementation Committee for review and consultation. In the event the Agency does not issue bonds or other forms of indebtedness, and the IGA is terminated:

- (i)** The URA shall be maintained by the Agency for a sufficient number of years to retire any outstanding Agency debt, including any amounts from the Contingency Reserve Account paid by the State pursuant to this Section, provided that nothing shall prevent the Agency, upon receiving prior approval from the Implementation Committee, from reducing the boundary of the URA to cover only those parcels necessary to guarantee sufficient tax increment revenue to make the annual debt service payment.
- (ii)** Notwithstanding Section 1 of this Implementation Plan or the terms of any Urban Growth Area Permit issued by the City prior to the termination date of this Agreement, the State, or the Master Developer, shall be responsible for fulfilling the requirements of Salem Revised Code Chapter 66. Nothing in this Agreement shall require the completion of any requirement of any Urban Growth Area Permit or Salem Revised Code Chapter 66 in the event sufficient funds are not lawfully

budgeted by the State; provided, however that nothing in this Agreement shall, or shall be construed to, allow development unless and until the State or the Master Developer have fulfilled any requirements imposed on the State by any Urban Growth Area Permit or Salem Revised Code Chapter 66.

(iii) The State is obligated to apply the CC&Rs adopted under this Agreement to the Property.

(iv) The Implementation Committee shall at least annually review and determine the amount of debt service that will be due each year until any outstanding debt incurred by the Agency is repaid. The Implementation Committee shall compare the amount of scheduled debt service payments to the amount of revenues projected to be available to pay such debt service. If the Implementation Committee determines that there will be insufficient revenues to pay the debt service in any year, it shall notify the State of the projected imbalance and the amount that the Implementation Committee anticipates would be necessary to draw from the Contingency Reserve Account to meet a scheduled debt service payment.

(b) **Development District.** The City will undertake the establishment of a mechanism, using revenues collected from development occurring within the Property, for the payment of costs incurred in the construction of infrastructure improvements ineligible to be paid for by system development charges.

(c) **Business Oregon Loan.** Apart from this Agreement, the State is currently assisting the City in obtaining a \$10 million Special Public Works Loan from Business Oregon to be used to fund off-site infrastructure improvements and the wetlands to be built as set forth in Exhibit D, "Stormwater and Wetlands Implementation Plan" (the "Stormwater Implementation Plan") that are required for the development of the Property. If received, the loan will be used to fund the costs of the designated infrastructure improvements set forth in the Master Project List, and the costs of the wetlands to be built pursuant to the Stormwater Implementation Plan. The Business Oregon loan will be repaid from tax increment revenues pursuant to that certain intergovernmental agreement between the City and the Agency for repayment of the Business Oregon loan dated June 21, 2006, as amended on August 7, 2007 (the "Loan Repayment Agreement"). The State is not a party to the Loan Repayment Agreement and has no obligations under that agreement. The terms of the loan shall be mutually agreed upon by Business Oregon, the City and the State. Unless otherwise agreed by the City and the State, the Business Oregon loan shall:

(i) Have a twenty-year term beginning at the date of the first draw, with an option to extend to up to five additional years;

(ii) Include a minimum of a five-year deferral of repayment of principal and interest;

- (iii) Provide for the forgiveness of not less than \$5,000 per permanent full-time job created for the first 100 jobs created within the first five years of the initial loan draw, and an additional \$1,000 per job created for the next 500 jobs created within the first nine years, up to a one time maximum of \$1 million in aggregate forgiveness, as a result of the Property's development;
- (iv) Provide for a simple interest rate not greater than 5% per year;
- (v) Provide that the right to repayment from tax increment revenues shall be subordinate to the rights of tax increment bondholders holding bonds issued by the Agency; and
- (vi) Provide that Business Oregon may extend the term of the loan(s) for five years in order to collect any deferred payments, but that Business Oregon shall not declare a default against the City or the Agency in the event that the loan has not been paid in full by maturity. In the event that the City is unable to satisfy the loan by maturity, the State will negotiate with Business Oregon to provide it with sufficient security or assurances.

(d) **Business Oregon Loan Credit.** The Oregon Department of Administrative Services shall assist the City in accounting to Business Oregon the number of jobs created, by requiring the purchasers of the Property to report the number of jobs created and to allow Business Oregon to access records from the Oregon Employment Department and to provide documentation to Business Oregon for verification of jobs.

(e) **Conditions.** The City has developed, and the State has approved, an estimate of off-site infrastructure improvement costs, anticipated assessed values, and phased financing sources and amounts. The estimate shall be updated and revised annually by the City and Agency and approved by the Implementation Committee, with updated summaries of phased financing sources and amounts provided by the City. If there is any provision of the estimate that the State believes materially and adversely impacts the viability of the successful establishment of the Mill Creek Corporate Center, the Parties shall cooperatively endeavor to revise the cost estimate in a form that is acceptable to the Implementation Committee. The Parties agree that the approval of a final estimate by the Implementation Committee is a precondition necessary for the successful establishment of the Mill Creek Corporate Center. In addition, neither the Business Oregon Loan, urban renewal bonds, nor other forms of tax increment indebtedness, shall be obtained unless the Implementation Committee determines that projected tax increment revenues at the time of such loans, bond or other form of debt is sufficient to satisfy future debt service.

(f) The State will create a reserve account ("the Contingency Reserve Account") with a portion of the proceeds derived from the sale of any portion of the Property and such other amounts as the State may allocate to it from time to time. Such account shall be established as a segregated account in the bookkeeping records of the State and will be held in the Oregon State Treasury or in a commercial financial institution approved by

the Office of the State Treasurer. Any obligations of the State to pay or reimburse specified or unspecified amounts or costs under the Agreement shall only be paid first, from proceeds derived from the most recent sale of any of the Property; and second, from amounts held in the Reserve Account, and third, from such other amounts as the State may allocate from time to time to the Property for purposes of this Agreement.

### **Section 3: On-Site Infrastructure.**

- (a) Internal Road Systems.** The Master Developer or a purchaser of any lot or parcel shall pay any and all costs associated with the design and construction of all internal streets and roads within the Property, including, but not limited to, those streets identified in the Master Development Plan, as well as any other streets as may be necessary to provide access to the lots or parcels. The Master Developer or a purchaser shall also be responsible for boundary street improvements, as defined in the Salem Revised Code and in the approved Covenants, Conditions and Restrictions (CC&Rs).
- (b) Electrical and Data Services.** The Master Developer or a purchaser of any lot or parcel shall pay all costs associated with the provision of all required electrical and data service to the Master Developer's or purchaser's lots or parcels.
- (c) Water.** The Master Developer or a purchaser of any lot or parcel shall pay all costs associated with the provision of water distribution services from the point of connection to the City's water main at the boundary of the Property to the various lots or parcels. Installation of water mains shall be consistent with the provisions of the Salem Revised Code. Upon payment of a mutually acceptable combination of construction, contributions to mutually agreed infrastructure projects, and funding, of value equal to 50% of the total constructed cost of Project W7 as identified in the Master Project List, the State shall convey to the City an easement for a City waterline already in existence on the Property, in a form similar to Attachment 5 to this Exhibit B. Total cost of Project W7 is at the time of the execution of this Agreement is estimated at \$1,500,000.
- (d) Sewer.** The Master Developer or a purchaser of a lot or parcel shall pay any and all costs associated with the provision of sewer service from the point of connection to the City's sewer main at the boundary of the Property to the Master Developer's or a purchaser's lots or parcels. Installation of sewer mains shall be consistent with the provisions of the Salem Revised Code.
- (e) Stormwater.** The Master Developer or a purchaser of any lot or parcel shall pay any and all costs associated with the provision of private conveyance, detention and treatment systems for stormwater from the Master Developer's or a purchaser's lots and parcels to a point of discharge approved by the City. Installation of stormwater mains and other private stormwater management facilities shall be consistent with the City of Salem's Stormwater Management Design Standards; the October 16, 2006 MCIP Stormwater Management Plan prepared by OTAK; and Mill Creek Corporate Center Operations & Maintenance of Stormwater Facilities, dated December 2006; the Stormwater Implementation Plan which is Exhibit D to the Agreement; and applicable

provisions of the Salem Revised Code in effect at the time of the execution of this Agreement, or as may be amended, or adopted hereafter.

**(f) Shared Costs.** The Implementation Committee may develop a system of allocating certain on-site infrastructure cost among purchasers of property in different phases, including purchasers of property that does not abut the on-site improvement, where the Implementation Committee determines that such costs should be equitably shared among the purchasers. For example, the Implementation Committee may allocate the costs of roads that abut the open space and wetlands area among purchasers of property, including purchasers of property in phases outside the boundaries of the open space and wetlands area.

**(g) City and Agency Funded On-site Infrastructure.** Notwithstanding Sections 3(a) through 3(f) of this section, the City or Agency or both may agree to fund any portion of on-site infrastructure, as approved by the Implementation Committee.

**Section 4. Wetland Financing.** The funding for the planning, design, permitting, construction, and monitoring of the wetlands is provided for in the Stormwater and Wetlands Implementation Plan.

**Section 5. Services Provided to Property, State Reimbursement.** During the existence of the URA, the City will not receive any ad valorem real property taxes from the Property to support the city services that will be provided to the Property. In recognition of this fact, the State shall reimburse the City up to \$3 million over a twenty-year period for the anticipated costs the City will incur in providing services to the Property, according to a schedule agreed upon by the Implementation Committee. The parties agree that the amount of reimbursement is approximately equivalent to the total amount of taxes that would have been collected from within the Property, based on the expected net sales value of the Property. Reimbursement to the City shall be paid only from available sale proceeds at time of sale, based on the rate of \$5,825 per acre fee charged against the number of acres sold. The parties estimate that a total of 515 developable acres is available for sale. This obligation shall terminate if the URA is terminated before the expiration of the twenty-year period. Subsection 2(f) of this Exhibit B does not apply to payments under this Section 5.

**Section 6. Planning Costs, State Reimbursement.** The State shall reimburse the City and the Agency for costs directly related to the planning activities undertaken by the City and the Agency related to the Property provided:

- (a)** Such costs are incurred pursuant to the budget for the planning activities set forth in Attachment 6 of this Exhibit, or a supplemental or amended budget approved by the State;
- (b)** The City and the Agency present the State with invoices evidencing that such expenses have been incurred and paid; and

(c) Unless otherwise agreed to by the State and set forth in a supplemental or amended budget, the State's obligation to reimburse the City and the Agency for the planning costs shall in no event exceed a maximum aggregate amount of \$1 million, and shall be paid only from proceeds of property sales at the time of sale, and in the amount of \$2,000 per acre sold. Subsection 2(f) of this Exhibit B does not apply to payments under this Section 6.

**Section 7. No Enterprise Zone.** The Parties agree that all financial decisions shall be based upon the assumption that there will not be any enterprise zone, or other form of tax forgiveness, established on or for the Property. No enterprise zone, or other form of tax forgiveness, shall be established for the Property without the prior approval of the Implementation Committee.

**Section 8. Other Costs, Exactions.** Nothing in the Agreement shall be construed to deprive or limit the City's authority to impose exactions as a condition of development approval, or to impose other fees and charges authorized by law. This section should not be interpreted to authorize the imposition of exactions to build any infrastructure improvement that the City has already committed to build according to this Agreement, unless the Agreement is terminated, in which case the City's obligation to build infrastructure improvements will terminate, and the obligations to construct the infrastructure improvements shall be governed by SRC Chapter 66.

Attachments to Exhibit B:

Attachment 1: Master Project List

Attachment 2: Map of Water Infrastructure Projects

Attachment 3: Map of Sewer and Stormwater Infrastructure Projects

Attachment 4: Map of Transportation Infrastructure Projects

Attachment 5: Waterline Easement

Attachment 6: Planning Cost Estimate

Mill Creek Corporate Center - Master Project List (2012)						
No.	Name	Description	Anticipated Funding Source	Construction Year	Phase	Comments
<b>Water</b>						
W1B	Aumsville Hwy Water Main	Construct approximately 2,000 LF of 18-inch S-1 water main from Depot Ct. to Kuebler Blvd.	URA, Business Oregon Loan	2012	1C	Companion to Aumsville Hwy Project T1; in FY 11-12 Mill Creek URA budget
W3	Mill Creek Reservoir	Build new 2.2 million gallon S-1 reservoir to replace existing reservoir and convert from isolated T pressure zone	URA, DDF, System Development Charges	2012-13	1A, 1C, 2	Also includes corresponding upgrades at Deer Park Pump Station
W7	Phase 1A N-S Water Main (Primary Loop)	Construct approximately 10,000 LF of 18-inch and 24-inch from Deer Park Pump Station to Aumsville Hwy	City, Federal grant, Developer	2010 & 2012	1A	Initial phase constructed by State; 2nd Phase to be constructed by City with HUD Grant funds (per IGA)
W8	Phase 1A N-S Water Main (Secondary Loop)	Construct approximately 3,500 LF of S-1 water main from Aumsville Hwy to Mill Creek Parkway (in the vicinity of Kuebler Blvd.)	Developer	Developer Dependent	1A	Completes secondary loop along Kuebler for sufficient demand/fire flow for large Phase 1A developments
W10	Phase 2A E-W Water Main	Construct approximately 2,000 LF of 18-inch S-1 water main in Mill Creek Parkway from W7 to Deer Park Rd.	Developer	Developer Dependent	2A	Likely companion to Project T21
<b>Completed Projects</b>						
W1A	Phase 1B/1C Water Main	1,100 LF of 24-inch S-1 Water Main in Aumsville Hwy from Depot Ct. to Marion Co. Jail		2008	1C	Constructed by Fed Ex developer
W2	Phase 1A Water Tap	24-inch hot tap on exist. 48-inch transmission main to provide G-0 service		2004	1A	Constructed along with Kuebler Intertie project
W4	Mill Creek 24-inch G-0 Water Main Phase I	1st Phase of 8,400 LF of 24-inch G-0 water main from Cordon Road east to Gaffin Road south across Hwy. 22 to Aumsville Hwy.		2006	1B	Related to W3
W5	Mill Creek 24-inch G-0 Water Main Phase II	2nd Phase of 8,400 LF of 24-inch G-0 water main from Cordon Road east to Gaffin Road south across Hwy. 22 to Aumsville Hwy.		2006	1B,1C	Related to W3
<b>Projects No Longer Included</b>						
W6	Phase 1A E-W Water Main					Incorporated into W7
W9	Phase 2A E-W Water Main					Incorporated into W7

Mill Creek Corporate Center - Master Project List (2012)						
No.	Name	Description	Anticipated Funding Source	Construction Year	Phase	Comments
<b><i>Wastewater</i></b>						
S2B	Aumsdale Highway Sewer Ph. II	Construct approximately 1,500 LF of 10-inch sewer main from Depot Ct. to Kuebler Blvd.	URA	2012	1C	Companion to Aumsdale Hwy Project T1; Funded in FY 11-12 budget for Mill Creek URA
S3	Private Sewer Conversion	Convert private sewer in MCCC area to public system with metering provided as needed; Evaluate and correct crossing at 48-inch water transmission main	URA	TBD	1A, 2	Many elements of prior project are already complete; DAS is pursuing replacement of sewer in some areas to relocate with street ROW
S7	Phase 1A N-S Sewer Main (Southern Phase)	Construct approximately 2,500 LF of 10-inch sewer main from exist. trunk sewer to Turner Rd.	Developer/DDF	Developer Dependent	1A	Design complete and main stubbed out with DAS construction in 2010; companion to Project T19
S8	Phase 1C N-S Sewer Main	Construct approximately 2,500 LF of 18-inch sewer main in "A" St. through Phase 1C to Aumsdale Hwy.	Developer/DDF	Developer Dependent	1C	Preliminary design complete with design of W7; companion to Project T17
S9	Phase 2A N-S Sewer Main	Construct approximately 1,000 LF of 10-inch sewer main in "A" St. through Phase 2 from Mill Creek Parkway	Developer/DDF	Developer Dependent	2A	Preliminary design complete with design of W7; Likely companion to Project T17
S10	Phase 2A E-W Sewer Main	Construct approximately 2,000 LF of 10-inch sewer main in Mill Creek Parkway through Phase 2 to Deer Park Rd.	Developer/DDF	Developer Dependent	2A	Project may be optional depending on development and desire to relocate exist. private sewer
S11	Deer Park Rd. Sewer Main	Construct approximately 1,250 LF of 10-inch sewer main in Deer Park Rd. from Mill Creek Parkway	Developer/DDF	Developer Dependent	2A	Companion to Project T22; Developer may have option for reimbursement district
S13	Cordon Road Sewer Pump Station Force Main	Construct approximately 2,450 LF of 24-inch sewer force main in Maclay Rd. from Cordon Sewer Pump Station to Shenandoah Dr.	DDF/SDC	Flow increase dependent	TBD	Other improvements for growth in place. If larger generator comes in north portion, will require increased capacity; split cost 50/50 with DDF/SDC
S14	Cordon Road Sewer Pump Station Capacity Expansion	Install new pumps, variable frequency drives and other electrical upgrades to support increased capacity from 5.0 to 13.8 mgd.	DDF/SDC	Flow increase dependent	TBD	Linked to S13
<b><i>Completed Projects</i></b>						
S2A	Aumsdale Highway Sewer Ph. I	Approximately 850 LF of 15-inch and 21-inch sewer main from Depot Ct. to future "A" St.		2008	1C	Constructed by Fed Ex developer
S4	Mill Creek North Gravity Sewer Ph. I	1st phase of 8,800 LF of 21-inch gravity sewer from Cordon Rd. Pump Station east to Gaffin Road south across Hwy. 22 to Aumsdale Hwy.		2006	1B	Related to W3

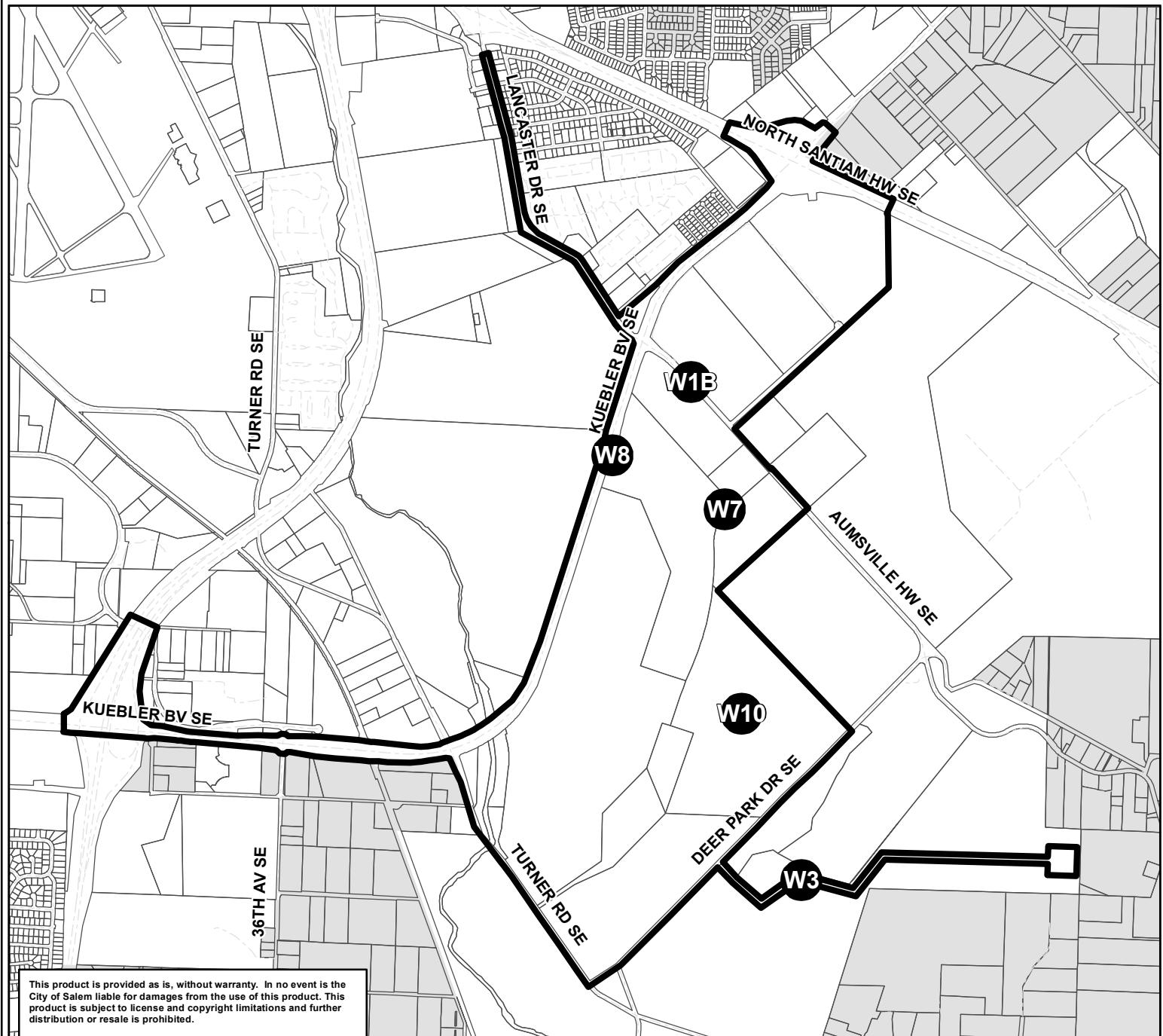
Mill Creek Corporate Center - Master Project List (2012)						
No.	Name	Description	Anticipated Funding Source	Construction Year	Phase	Comments
<b><i>Wastewater (continued)</i></b>						
S5	Mill Creek North Gravity Sewer Ph. II	1st phase of 8,800 LF of 21-inch gravity sewer from Cordon Rd. Pump Station east to Gaffin Road south across Hwy. 22 to Aumsville Hwy.		2006	1B, 1C	Related to W3
S12	Phase 1A N-S Sewer Main (Northern Phase)	Construct approximately 1,500 LF of 18-inch sewer main from Phase 1A E-W Street to existing trunk sewer.		2010	1A	
<b><i>Projects No Longer Included</i></b>						
S1	Phase 1A Sewer					Combined with S3
S6	Phase 1A E-W Sewer					Constructed with Central Open Space (Project D2) as part of required berm construction
<b><i>Stormwater</i></b>						
D2	Central Wetlands/Open Space	Develop Central wetland mitigation and stormwater detention site between Kuebler Blvd. and Mill Creek Parkway	URA, Federal Grant	2011-13	1A,1C,2	Earthwork construction phase complete; Planting phase in design; Funded in FY 11-12 budget for Mill Creek URA
D3	South Wetlands/Open Space	Develop south wetland mitigation and stormwater detention site between Mill Creek Parkway and Turner Rd	URA	Developer Dependent	2	Concept design and stormwater planning complete
<b><i>Completed Projects</i></b>						
D1	Phase 1B Storm	Connect stormwater discharge from Phase 1B to DPSST system		2006	1B	Related to W3
<b><i>Transportation</i></b>						
T1	Aumsville Highway	Improve Aumsville Highway approximately 3,750 feet with 3 lanes and sidewalks from DPSST to Saddle Club and underground franchise utilities	State Grant, URA, Developer	2012-13	1B, 1C	Companion with URA funded utility projects, W1B and S2B; ODOT JTA funds, URA and Home Depot fee-in-lieu
T3	Cordon Road at Pennsylvania Avenue	Signalize intersection and add left-turn lanes on Cordon Road.	DDF	10,000 ADT (25%)		Turn lanes completed, signalization remains
T5	Cordon Road at Gaffin Road	Signalize intersection and add southbound left-turn lane on Cordon Road and westbound right-turn lane on Gaffin Road.	DDF	10,000 ADT (25%)		Southbound left turn to Cordon completed; Gaffin Road lanes and signals remain
T6	Cordon Road at State Street	Add northbound right-turn lane on Cordon Road and eastbound left-turn lane on State Street.	DDF	10,000 ADT (25%)		Eastbound left-turn lane on State completed; north bound right turn lane on Cordon remain
T9	Kuebler Boulevard Signal Interconnect	Install signal interconnect on Kuebler Boulevard from Aumsville Highway to I-5 interchange.	URA	23,500 ADT (60%)		
T10	Kuebler Boulevard	Widen west side of Kuebler Boulevard from Highway 22 to Turner Road (9,000 LF) to add an additional southbound lane including adding southbound right turn lane at Aumsville Highway and Turner Road (assumes east side has been widened by Phase 1B and 1A).	URA	23,500 ADT (60%)		

Mill Creek Corporate Center - Master Project List (2012)						
No.	Name	Description	Anticipated Funding Source	Construction Year	Phase	Comments
<b>Transportation (continued)</b>						
T11	Kuebler Boulevard at 36th Street	Add eastbound and westbound right-turn lanes.	URA	23,500 ADT (60%)		
T12	Lancaster Drive	Improve Lancaster Drive to three-lanes from Kuebler Boulevard to Cranston Drive. (4,000 LF)	URA	30,500 ADT (80%)		
T13	Turner Road	Re-align Turner Road at Gath Road/Deer Park Road and add southbound and westbound left turn lanes.	URA	35,000 ADT (90%)		
T14	Turner Road	Construct full-street improvement on Turner Road from Kuebler Boulevard to the Mill Creek Bridge (1,500 LF) and the south side of Kuebler Boulevard from Turner Road to Mill Creek Bridge (1,000 LF). Includes signal modifications and Turner Road N. (500 LF).	URA	23,500 ADT (60%)		
T15	Kuebler Boulevard	Widen east side of Kuebler Boulevard from Highway 22 to the center of the central wetlands to add an additional northbound lane including a northbound right turn lane at Aumsville Highway (4,500 LF).	Developer	Developer Dependent	1B	
T16	Kuebler Boulevard	Widen East side of Kuebler Boulevard from the center of the central wetlands to the Mill Creek bridge including a right turn at the new Phase IA E-W Street (3,000 LF).	Developer	Developer Dependent	1A	
T17	Phase IC N-S Street	Construct N-S Street from Aumsville Highway to Phase IIA (2,000 LF).	DDF/URA/Developer	Developer Dependent	1C	
T19	Phase IA N-S Street	Construct N-S Street from Phase IA E-W Street to Turner Road (3,700 LF).	URA/Developer	Developer Dependent	1A	Partly constructed by State
T20	Phase IIA N-S Street	Construct N-S Street from Phase IC to the new E-W Street constructed in Phase IA (2,000 LF).	URA/Developer	Developer Dependent	2A	
T21	Phase IIA E-W Street	Construct new E-W Street ("Mill Creek Parkway") from Phase IA to Deer Park Road (2,000 LF).	Developer	Developer Dependent	2A	
T22	Deer Park Road	Construct full-street improvement from Aumsville Highway to Turner Road (6,500 LF). Developer may set up Reimbursement District per SRC 66.300.	Developer	Developer Dependent	2A	
T23	Turner Road	Construct full-street improvement from Mill Creek Bridge to Deer Park Road (2,500 LF). Developer may set up Reimbursement District per SRC 66.300.	Developer	Developer Dependent	2B	
T24	Phase 1A N-S Cul-de-sac	Construct new Phase 1A N-S street north of E-W street (1,800 LF) (cul-de-sac).	Developer	Developer Dependent	1A	Developer's option
<b>Completed Projects</b>						
T2	Kuebler Boulevard at (new) Phase IA E-W Street	Signalize intersection and add southbound left-turn lane on Kuebler Boulevard.	URA	Developer Dependent	1A	
T4	Cordon Road at Macleay Road	Add left-turn lanes on Macleay (signal and Cordon Road left-turn lanes to be installed by others).	DDF	10,000 ADT (25%)		SDC, County and other development

Mill Creek Corporate Center - Master Project List (2012)						
No.	Name	Description	Anticipated Funding Source	Construction Year	Phase	Comments
<b>Transportation (continued)</b>						
T18	Phase IA E-W Street	Construct E-W Street from Kuebler Boulevard to Phase IIA (2,000 LF).				
<b>Projects No Longer Included</b>						
T7	Kuebler Boulevard at I-5 Northbound Ramp				ODOT Performed	
T8	Kuebler Boulevard at I-5 Southbound Ramp				ODOT Performed	

# Mill Creek Corporate Center

Water Project Locations within the Mill Creek URA



## Water Projects

- W1B Aumsville Hwy Water Main
- W3 College Reservoir
- W7 Phase 1A N-S Water Main (Primary Loop)
- W8 Phase 1A N-S Water Main (Secondary Loop)
- W10 Phase 2A E-W Water Main

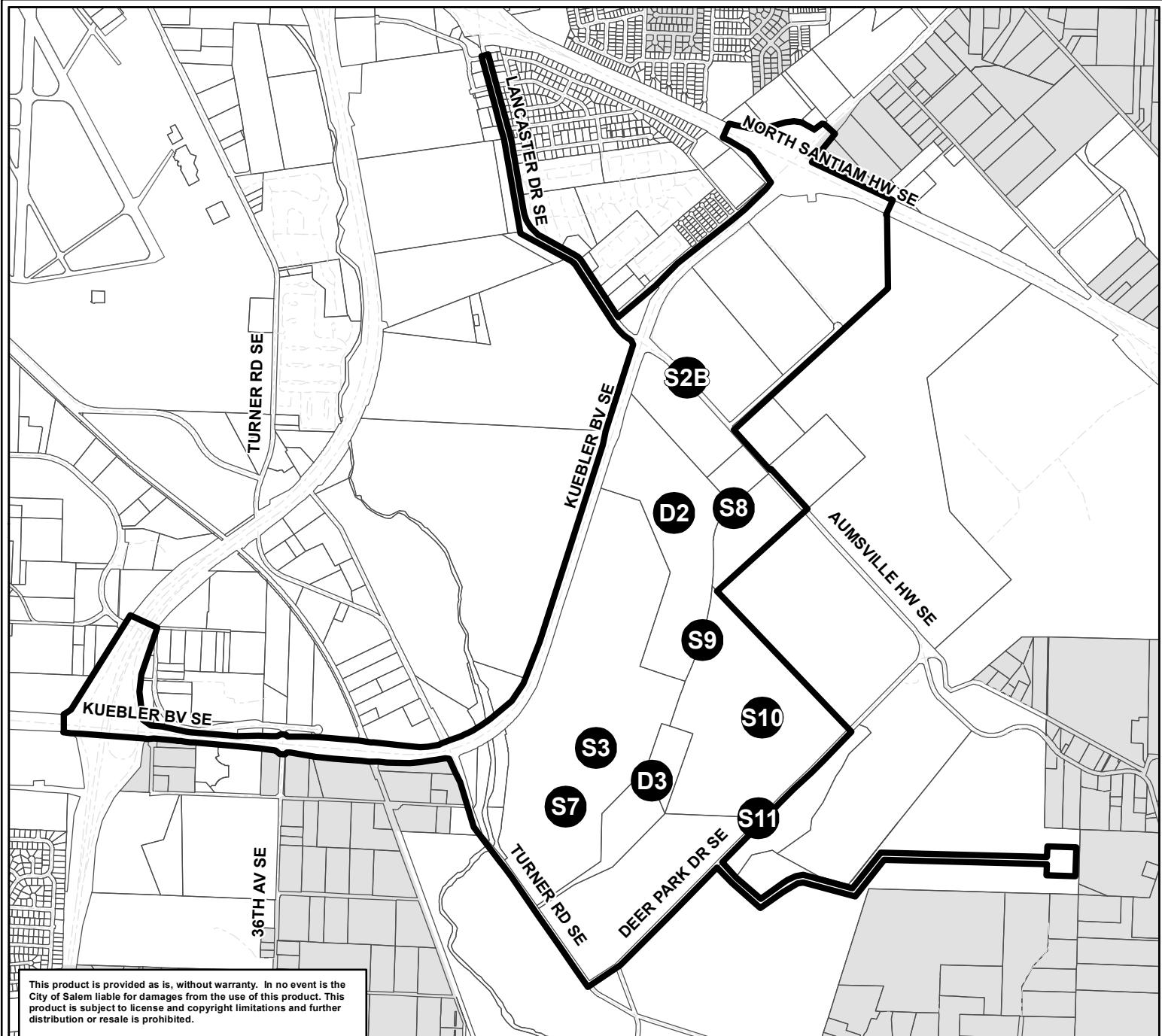
## Legend

- Water Projects
- Mill Creek URA

0 1,000 2,000 4,000 Feet

# Mill Creek Corporate Center

Sanitary and Stormwater Project Locations within the Mill Creek URA



## Sanitary & Stormwater Projects

- S2B** Aumsville Highway Sewer Ph. II
- S3** Private Sewer Conversion
- S7** Phase 1A N-S Sewer Main (Southern Phase)
- S8** Phase 1C N-S Sewer Main
- S9** Phase 2A N-S Sewer Main
- S10** Phase 2A E-W Sewer Main
- S11** Deer Park Rd. Sewer Main
- D2** Central Wetlands/Open Space
- D3** South Wetlands/Open Space

## Legend

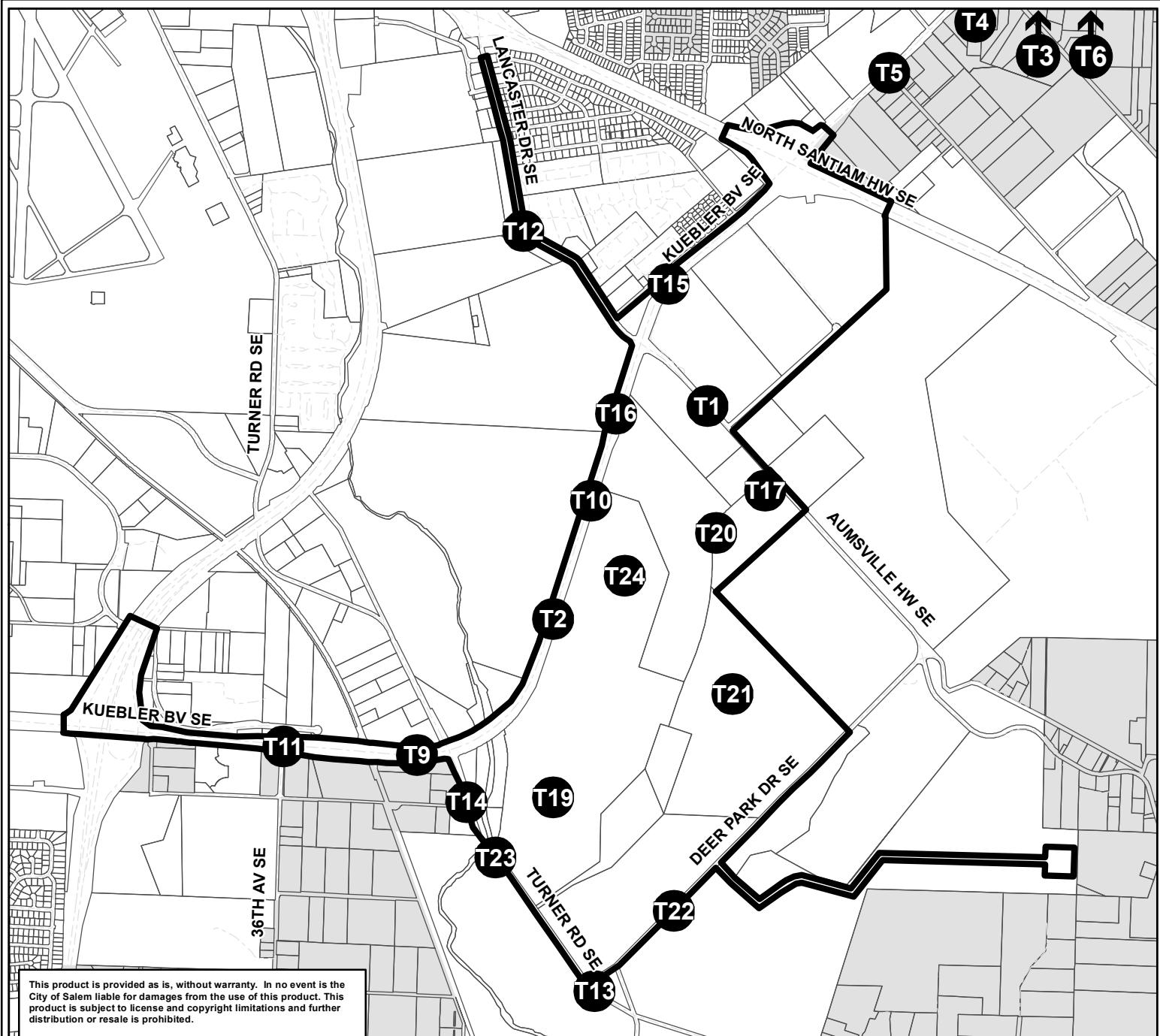
- Sanitary Sewer
- Stormwater
- Mill Creek URA

0 1,000 2,000 4,000 Feet

\* Completed Projects not displayed as of February 2012

# Mill Creek Corporate Center

Transportation Project Locations within the Mill Creek URA



## Transportation Projects

- T1 Aumsville Highway
- T2 Kuebler Boulevard at (new) Phase IA E-W Street
- T3 Cordon Road at Pennsylvania Avenue
- T4 Cordon Road at Macleay Road
- T5 Cordon Road at Gaffin Road
- T6 Cordon Road at State Street
- T9 Kuebler Boulevard Signal Interconnect
- T10 Kuebler Boulevard
- T11 Kuebler Boulevard at 36th Street
- T12 Lancaster Drive
- T13 Turner Road

- T14 Turner Road
- T15 Kuebler Boulevard
- T16 Kuebler Boulevard
- T17 Phase IC N-S Street
- T19 Phase IA N-S Street
- T20 Phase IIA N-S Street
- T21 Phase IIA E-W Street
- T22 Deer Park Road
- T23 Turner Road
- T24 Phase 1A N-S

## Legend

- Project Location
- Mill Creek URA

0 1,000 2,000 4,000 Feet

\* Completed Projects not displayed as of February 2012

**Exhibit C**  
to the  
**Amended Intergovernmental Agreement for the Development of the Mill  
Creek Corporate Center**

**Marketing and Sales Implementation Plan**

This Exhibit C to the Agreement constitutes an Implementation Plan under the Agreement, and is subject to the terms and conditions of, and shall be construed according to and consistent with the Agreement.

**Section 1. Purpose.** The Parties agree that the Property shall be marketed and sold by the State consistent with the provisions of this Marketing and Sales Implementation Plan, which represents a mutually-agreed-upon strategy for the marketing and sale of the Property in order to create the Mill Creek Corporate Center; provided, however, that once a Master Developer is selected, as described below, the Parties agree in good faith to consider revising or amending this Marketing and Sales Implementation Plan based on the input from the Master Developer, in light of legitimate needs of the Master Developer as identified by the Implementation Committee.

**Section 2: Master Plan and Development Strategy.** The Master Plan and Development Strategy, dated October 11, 2004 (the "Master Plan"), which is available at the following URL, is incorporated herein by reference:

[http://www.oregon.gov/DAS/FAC/MILLCREEK/docs/MCCC\\_MasterPlanDevStrategy\\_20100119.pdf](http://www.oregon.gov/DAS/FAC/MILLCREEK/docs/MCCC_MasterPlanDevStrategy_20100119.pdf)

The Master Plan describes an initial plan for the development of the Property that proposes development in phases; identifies proposed lots or parcels along with their anticipated uses; and identifies a large, integrated wetlands, park and trail system that will preserve and protect existing wetlands and create new wetlands to mitigate wetlands that will be lost as a result of development on other lots or parcels.

**Section 3: Selection of Master Developer.** The Parties agree that the State will, consistent with the provisions of this Section, market, at a minimum, that portion of the Property identified as Phase 1A, on the Exhibit A Map, for sale to a qualified Master Developer.

- (a) **Purpose:** The sale to a qualified Master Developer is intended to:
  - (i) Reduce the marketing and economic risks of the State, the City and the Agency;
  - (ii) Provide necessary financial resources to aggressively market and develop portions of the Property in a manner consistent with the principles and requirements of this Agreement; and

(iii) Provide crucial professional expertise for the Development of the Property as the Mill Creek Corporate Center.

**(b) Issuance of Request for Proposals.** The State shall develop, in consultation with the City and the Agency, an RFP for the selection of a qualified Master Developer to purchase, at a minimum, that portion of the Property identified on Exhibit A as Phase 1A. The RFP shall be submitted to the Implementation Committee for approval prior to its issuance. The obligations of the City and the Agency under the Agreement are conditioned upon the approval of the RFP by the Implementation Committee. The RFP shall, among other things:

(i) Establish a selection committee composed of representatives of the State, the City and the Agency;

(ii) Establish selection criteria; and

(iii) Provide that the final Master Developer must be approved by the Implementation Committee.

**(c) Purchase and Sale Agreement.** Once a Master Developer has been selected and approved by the Implementation Committee, the State shall negotiate a Purchase and Sale Agreement with the Master Developer. The Implementation Committee may require that the Purchase and Sale Agreement include conditions or provisions that the Implementation Committee deems necessary to protect the interest of the Parties. The Purchase and Sale Agreement shall also condition the sale upon compliance with the CC&Rs which shall also provide (i) that neither the Master Developer nor the State shall change the CC&Rs without the City's and the Agency's approval, and (ii) that the CC&Rs name the City, the Agency and the State as third-party beneficiaries with respect to land use and development obligations of owners.

**(d) Responsibilities of Master Developer.** The Master Developer shall develop and market Phase 1(A) and any other agreed-upon portion of the Property in close consultation with the Parties, and consistent with the goals, principles and requirements of the Agreement, and with guidelines established by the Implementation Committee. As a condition of closing of the sale of all or part of the Property to Master Developer, the Master Developer must have successfully negotiated a Development and Disposition Agreement (DDA) with the Parties. The final DDA shall include enforceable commitments by the Master Developer for:

(i) Timing and funding of on-site improvements;

(ii) Timing and funding of phased development;

(iii) Performance measures and remedies for non-performance, including, but not limited, the right to seek specific performance, and the reversion of property to State ownership upon non-performance;

- (iv) The development of a land division plat, acceptable to the State, the City and the Agency; and
- (v) A requirement to ensure local builders and business owners may purchase lots and parcels at a fair price, without having to pay an unreasonable premium or a price that penalizes them for choosing to construct any of the improvements themselves.

(e) **Future Phases.** The Parties will consider the potential for Master Developer to obtain options to purchase and develop other phases of the Property as described on the Exhibit A Map.

#### **Section 4. Marketing and Sale of Phases 1B and 1C.**

(a) Phases 1B and 1C, as identified on the map in Exhibit A, are the sites most readily served by off-site water, wastewater and transportation infrastructure improvements, and sufficient capacity exists on an adjacent State-owned site for stormwater detention. Phases 1B and 1C are designated by Business Oregon as “shovel-ready” and carry Industrial Site Certification certified by Business Oregon.

(b) The Parties acknowledge that potential purchasers have already expressed serious interest in quickly negotiating purchases for Phase I(B) or Phase I(C) or both. The Parties agree that the State should expeditiously pursue negotiations with, and if necessary, execute a Purchase and Sale Agreement with purchasers for Phases I(B) and I(C), even if a Master Developer has not yet been selected; provided, however, that such sales shall not compromise the Agency’s ability to maximize the tax increment that will be generated from the Property.

(c) Unless the Implementation Committee permits otherwise, Phase 1B may be divided by State into up to three parcels which may be sold to separate buyers. Further division of Phase 1B must be approved by the Implementation Committee.

#### **Section 5: Lots and Parcels not to be Acquired for Speculation; Generation of Tax Revenue; CC&Rs.**

(a) It is the intent of the Parties that the sale of lots and parcels within the Property are intended to create immediate economic benefits to the Parties, and no purchase shall be closed unless the sale contains a condition that the lot or parcel is not being acquired for speculation and will be developed in an expeditious manner, and includes provisions that ensure these conditions are met, and preserves the ability of the State to sell and develop the balance of the Property.

(b) It is likewise the intent of the Parties that the sale of lots and parcels within the Property are intended to generate tax increment revenue to ensure repayment of any debt incurred or issued by the Agency; therefore, all sales of lots and parcels shall contain a condition that the Property shall not be used in a manner that would result in an exemption in ad valorem taxation under Oregon law, except for the application of an enterprise zone, as approved by the Implementation Committee, as permitted by the Finance and Infrastructure Implementation Plan, Section 7.

(c) All sales in each phase shall require, as a condition of closing, that CC&Rs approved by the Implementation Committee are included in any deeds transferring title.

## **Section 6: Third Party Marketing Support.**

(a) The City and the Agency may enter into an agreement with a third party to assist in providing marketing support, provided that the agreement states that it may be terminated by either the City or the Agency in its discretion, or by the City or the Agency after a unanimous vote of the Implementation Committee. The City's or Agency's third-party contractor shall:

- (i) Develop an annual budget and work scope plan for marketing the phases and submit it to the Implementation Committee for approval;
- (ii) Collaborate with the Project Coordinators and the Implementation Committee to formulate a marketing message for all phases of the development of Property;
- (iii) Market the phases in accordance with any instructions given by the Implementation Committee;
- (iv) Send written reports monthly to the Implementation Committee and the Project Managers, on the status of marketing efforts for the phases;
- (v) Upon request by the Implementation Committee, attend Implementation Committee meetings to provide feedback on the level of interest from potential purchasers and answer questions from the Implementation Committee.

(b) Notwithstanding the above, neither the City or the Agency, nor their third party contractors, shall be deemed agents or brokers of the State, nor are they authorized to make any representations or offers on its behalf. The City, the Agency, and their third party contractor will refer all inquiries regarding price, terms and conditions of sale to DAS. All negotiations concerning the sale of the Property shall be between the potential purchaser and DAS.

(c) The State will reimburse the City and the Agency for the marketing costs approved by the Implementation Committee pursuant to subsection (a)(i) of this section, upon presentation and approval of an invoice for such costs. In addition, the State shall

pay all brokers' fees to purchasers' agents in accordance with any applicable agreement between the State and the broker. The City and the Agency are not responsible for payment of any commission, broker's or finder's fee owing to a purchaser's broker or finder. The City and the Agency have no authority to agree to such fees to be paid on behalf of the State without the prior written consent of the State.

(d) The City and the Agency will take the lead in coordinating and preparing written responses to the Business Oregon sponsored information requests for potential purchasers interested in locating in Phase 1B or Phase 1C at the Mill Creek Corporate Center.

(i) In coordinating such activities, the City and the Agency shall first forward such information requests to DAS to determine Master Developer's rights pursuant to the terms of the DDA. If the Master Developer does not have exclusive rights to negotiate with a potential purchaser, then the Agency and City will perform the duties outlined herein.

(ii) For each information request, the City will coordinate required input from relevant organizations including City departments.

(e) The marketing efforts of the City, the Agency, and their third party contractor are non-exclusive. The State retains ultimate responsibility for the sale of the Property, and may entertain offers from any interested person or entity, including offers from the Master Developer.

(f) Until a Master Developer has been selected, and a DDA has been executed, the State may act as Master Developer.

**Exhibit D**  
to the  
**Amended Intergovernmental Agreement for the Development of the Mill  
Creek Corporate Center**

**Stormwater and Wetlands Implementation Plan**

This Exhibit D to the Agreement constitutes an Implementation Plan under the Agreement, and is subject to the terms and conditions of, and shall be construed according to and consistent with the Agreement.

**Section 1. Preservation and Provision of Wetlands and Open Space.** The Property has many natural features that the Parties wish to maintain, enhance, and make available to the public as public assets. The Parties contemplate that the wetlands impacted by development on individual lots or parcels will be mitigated primarily within the Property, in conjunction with the area's stormwater detention facilities, and with the result of the creation and preservation of approximately 100 acres of open space. The wetlands, stormwater retention facilities and open spaces shall be consistent with the Master Plan referenced in Section 2 to Exhibit C of the Agreement.

**Section 2. Permit and Design.** The State will be responsible for hiring a consultant to design a wetlands mitigation plan and for obtaining all required permits associated with the wetlands on the Property. The City and the Agency will participate in the design of mitigation measures, to ensure integration with the City's stormwater system and compliance with the City's stormwater management plan. It is the intent of the Parties that the mitigation measures should address the Property's wetland and stormwater systems in a comprehensive manner, thereby relieving individual developers from the need to pursue separate permit applications.

**Section 3. Construction.** As set forth in the Wetlands Financing IGA, dated August 9, 2010, the State will solicit and hire contractors on behalf of the State to construct the wetland mitigation improvements called for by the wetland mitigation design plan and required by any governmental permits. Construction of the mitigation improvements is anticipated to be completed in phases, and will include the expansion of existing wetlands within the Property, as well as the creation of new wetland areas within the Property. The trigger for each phase shall be based upon the impacts of development on existing wetlands and the requirements of any governmental permits.

**Section 4. Funding.**

(a) **Permit and Design.** The State shall pay all costs associated with obtaining the required state and federal permits and all costs associated with the creation of the approved wetlands mitigation plan, including costs associated with modifications to the plan required as a result of regulatory review and approval, and costs incurred by the State associated with the design, bidding, solicitation for services, selection of contractors or other service providers; administrative overhead incurred by the State; or costs incurred in the maintenance of the wetlands after construction is complete.

(b) **Construction.** The City and the Agency will be responsible for all costs of construction for each phase of construction, up to a total amount for all phases of \$6.4 million, pursuant to the terms and conditions of the Wetlands Financing IGA. The \$6.4

million dollars shall not include any grant funds or subsidies awarded to the City or the Agency for construction of the wetlands. In the event construction costs exceed the \$6.4 million plus grant funds or subsidies, the parties will work together to find alternative sources of funding, or to find mutually satisfactory alternatives to the regulatory wetlands mitigation requirements. The phasing, timing and costs of such construction activities are estimated in the Finance and Infrastructure Plan set forth in Exhibit B. The details of construction of each future phase will be consistent with the mitigation plan approved by USACE and DSL and will be finalized by mutual agreement of the Parties before construction begins.

**(c) Monitoring and Maintenance.** The State shall be responsible for all costs and assume all regulatory liabilities for the wetlands during the establishment period. For purposes of this Agreement, "Establishment Period" means the period of time commencing with the date construction is substantially complete and ending on the date the State receives written confirmation from the U.S. Army Corps of Engineers and the Oregon Department of State Lands that the mitigation and reporting requirements have been fulfilled. Once the permitting agencies have granted final regulatory approval for the establishment of the wetlands in satisfaction of the State's obligation under its permits, the City's leaseback to the State shall terminate, and the State will return possession to the City.

**Section 5. Transfer of Title.** In consideration of the City's payment of the construction costs associated with the wetlands pursuant to the Wetlands Financing IGA, the State previously:

**(a)** Transferred title to the wetlands , legally described as Parcels 1 and 3, Partition Plat No. 2006-130, City of Salem, Marion County, Oregon, to the City, subject to an immediate leaseback to the State for purposes of i) constructing the wetlands, and ii) maintaining and monitoring the wetlands during the Establishment Period. The deed was in the form of a bargain and sale deed, and contained a restrictive covenant limiting the use of the Property to public open space purposes, such purposes to include, but not be limited to, wetlands and stormwater retention. The wetlands area will be used and maintained by the City, as specified in the State's bargain and sale deed. The State shall construct, and shall be responsible for obtaining final regulatory approval for the establishment of, the wetlands, in satisfaction of the State's obligations under permits previously issued by the Department of State Lands and U.S. Army Corps of Engineers. The lease to the State shall contain a clause that the State's leasehold shall not terminate until such time as DSL and USACE have granted final regulatory approval for the establishment of the wetlands in satisfaction of the State's obligation under the permits. The State shall remain obligated to comply with all obligations and requirements of the permits until the conclusion of the Establishment Period.

**(b)** Convey to the City a fee simple interest in a parcel of land not less than three (3) acres , at a location to be determined after collaboration among the Parties and the Master Developer. The consideration of the conveyance shall be the obligation of the City undertaken in Section 3 above. The conveyance of title to the currently unidentified parcel shall be no later than 30 days after the date of conclusion of the Establishment Period by DSL and USACE of the entire wetlands area.

(c) Convey to the City a conservation easement (i) protecting the trees on the "oak knoll" located in the southeast corner of the Property and (ii) permitting a trail to be built from the wetlands area to the "oak knoll" trees.

(d) The City's obligations undertaken under the Agreement, including the obligations undertaken under this Wetlands and Open Space Plan , shall be the consideration for the transfers of real property and any interest therein, and there shall be no monetary payment by the City to the State for any real property or interest therein transferred pursuant to this section.