

INTERGOVERNMENTAL AGREEMENT
Between
POLK COUNTY and THE CITY OF SALEM

1. PARTIES TO AGREEMENT

This Agreement is between Polk County, a political subdivision of the state of Oregon, hereafter called Polk, and the City of Salem, a political subdivision of the state of Oregon, hereafter called Salem, (Collectively referred to as “Parties”) and is made pursuant to ORS Chapter 190.

2. PURPOSE/STATEMENT OF WORK

The purpose of this Agreement is to establish the terms and conditions under which the Parties will jointly implement Schedule A (3) (d) and (e) of the National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Phase II General Permit, of which Polk is the Permit Registrant. These terms and conditions are further described in Section 5 and pertain to implementing the MS4 Phase II Permit requirements for Construction Site Runoff Control and Post-Construction Site Runoff for New Development and Redevelopment. The terms of this agreement only apply to development that is within Polk County’s jurisdiction and within the City of Salem’s adopted Urban Growth Boundary (UGB) that is depicted on Polk County’s Official Zoning Map, hereafter called the Agreement Area.

3. TERM AND TERMINATION

3.1 This Agreement shall begin once executed by both parties and be in place through the term of the Oregon Department of Environmental Quality (DEQ) Permit No. 116224, unless terminated or extended as provided herein.

3.2 This Agreement may be extended by agreement of the parties. Any modifications in the terms of such amendment shall be in writing.

3.3 This agreement may be terminated by mutual consent of both parties at any time or by either party upon 30 days’ notice in writing, and delivered by mail or in person. Any such termination of this agreement shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

4. OBLIGATIONS UNDER THE TERMS OF THIS AGREEMENT

4.1 UNDER THE TERMS OF THIS AGREEMENT, SALEM SHALL:

- a. Receive and review applications and issue evaluation for Erosion Prevention and Sediment Control (EPSC) and Green Stormwater Infrastructure (GSI) within the Agreement Area. Evaluations will be issued only if applicants comply with all applicable Salem Revised Code (SRC) requirements in effect at the time of application, including, SRC Chapter 70 “Utilities”, SRC Chapter 71 "Stormwater", SRC Chapter 75 "Erosion Prevention and Sediment Control", SRC Chapter 82

"Clearing and Grading of Land", and in conformance with the most current version of Salem's Public Works Design Standards. Salem shall provide inspection for all such EPSC and GSI permits during construction and for this service each individual applicant shall pay to Salem the permit fees adopted by the Salem City Council.

- b. Administer through its Public Works Department the rules and regulations adopted by Polk under this Agreement. During the inspection process, the Director shall notify Polk of all evaluations for which compliance has not been obtained.

4.2 UNDER THE TERMS OF THIS AGREEMENT, POLK SHALL:

- a. Update Polk County's Code of Ordinances to require construction site operators to obtain an Erosion Prevention and Sediment Control evaluation (EPSC) from Salem for construction projects that will result in a minimum land disturbance of 10,890 square feet (a quarter of an acre) or more within Polk County's jurisdiction and within Salem's adopted UGB. Polk County to issue EPSC permits upon receipt of an evaluation recommending such a permit.
- b. Update Polk County's Code of Ordinances to require a Green Stormwater Infrastructure evaluation (GSI) from Salem for projects that will create or replace 10,890 square feet (a quarter of an acre) or more of new impervious surface within Polk County's jurisdiction and within the Salem's adopted UGB. Polk County to issue a GSI permit upon a receipt of an evaluation recommending such a permit.
- c. Be responsible for determining when the MS4 Phase II General Permit requires an EPSC and/or GSI for a project, and notify the applicant.
- d. Provide Salem a copy of the permit and all other supporting documents for the project that requires obtaining an EPSC and/or GSI from Salem.
- e. Require property owners to sign and record a long-term operation and maintenance agreement with the Polk County Clerk for Post-Construction Stormwater Controls that are installed as part of a GSI.
- f. Be responsible for enforcement and inspections that are associated with long-term operation and maintenance requirements.
- g. Amend procedures and train Polk County staff to identify what projects require an EPSC and/or GSI from Salem.
- h. Maintain records for all permits that require an EPSC and/or a GSI.
- i. Remain responsible for compliance with any MS4 Phase II Permit requirements that another permit registrant or entity fails to implement.

- j. Notify Salem of changes prior to amending any rules, regulations or ordinances governed by this agreement that change the obligations of Salem under the agreement at least 60 days prior to first legislative or administrative action on the relevant rules, regulations or ordinances.

5. FUNDING

Salem will charge applicants a fee for the cost of service with the submission and/or issuance of an EPSC and/or a GSI evaluation.

6. COMPLIANCE WITH APPLICABLE LAWS

The parties agree that both shall comply with all federal, state, and local laws and ordinances applicable to the work to be done under this agreement. The parties agree that this agreement shall be administered and construed under the laws of the state of Oregon.

7. NONDISCRIMINATION

The parties agree to comply with all applicable requirements of Federal and State civil rights and rehabilitation statutes, rules and regulations in the performance of this agreement.

8. HOLD HARMLESS

To the extent permitted by Article XI, Section 7 of the Oregon Constitution and by the Oregon Tort Claims Act, each party agrees to waive, forgive, and acquit any and all claims it may otherwise have against the other and the officers, employees, and agents of the other, for or resulting from damage or loss, provided that this discharge and waiver shall not apply to claims by one party against any officer, employee, or agent of the other arising from such person's malfeasance in office, willful or wanton neglect of duty, or actions outside the course and scope of his or her official duties. For any and all claims against either Polk or Salem from a third party, Polk County agrees to defend and indemnify Salem for any and all claims arising from the actions of their employees and/or agents.

9. INSURANCE AND RISK MANAGEMENT

9.1 Each party shall insure or self-insure and be independently responsible for the risk of its own liability for claims within the scope of the Oregon tort claims act (ORS 30.260 TO 30.300).

10. MERGER CLAUSE

Parties concur and agree that this agreement constitutes the entire agreement between the parties. No waiver, consent, modification or change to the terms of this agreement shall bind either party unless in writing and signed by both parties. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. Parties, by the

signatures below of their authorized representatives, hereby agree to be bound by its term and conditions.

11. NOTICES

Any notice required to be given to Polk or Salem under this Agreement shall be sufficient if given, in writing, by first class mail or in person as follows:

Salem:

Brian D. Martin, PE
Public Works Director
555 Liberty St SE, Suite 325,
Salem, OR 97301

Polk:

Austin McGuigan
Community Development Director
850 Main St.
Dallas, OR 97338

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SIGNATURES

This agreement and any changes, alterations, modifications, or amendments will be effective when approved in writing by the authorized representative of the parties hereto as of the effective date set forth herein.

In witness whereof, the parties hereto have caused this agreement to be executed on the date set forth below.

CITY OF SALEM SIGNATURE

Signature

Print Name

Phone: _____

E-mail: _____

POLK COUNTY SIGNATURE

Signature

Print Name

Phone: _____

E-mail: _____