

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF SALEM, OREGON
AND
THE CONFEDERATED TRIBES OF SILETZ INDIANS
REGARDING
THE PROVISION OF CITY SERVICES
TO TRUST LANDS
WITHIN THE CITY OF SALEM**

This Memorandum of Understanding (“MOU”) is entered into as of the date shown below by and between the Confederated Tribes of Siletz Indians (“Siletz Tribe” or “Tribe”) and the City of Salem, Oregon (“City”).

I. PREAMBLE AND RECITALS

A. The Tribe is a federally recognized, sovereign Indian tribe which governs itself according to its Constitution and Tribal Code and exercises sovereign authority over its lands to the extent permitted by applicable law.

B. The Tribe has property held in trust by the United States within the City of Salem, and has applied or will apply to the Bureau of Indian Affairs to have additional properties taken into trust by the United States for the benefit of the Tribe (individually, “Trust Property”; collectively, “Trust Properties”).

C. The Siletz Tribe asserts that once taken into trust, a property and the activities on it under federal law applicable to Tribal trust lands are not subject to the regulatory authority of the City. The Siletz Tribe further asserts that the land and activities on it, since they are within the boundaries of the City, are entitled to receive those City services that the land’s occupants desire to receive on par with other properties owned in fee simple, at least so long as they are willing to pay for the services on the same basis as others within the City pay for the services.

D. The Siletz Tribe and the City of Salem are committed to a cooperative relationship regarding the Tribe’s lands located within the boundaries of the City under which the Tribe commits to compensating or reimbursing the City for any financial impacts, costs and expenses incurred by the City related to the Tribe’s Trust Properties and activities conducted thereon, and the City commits to providing City services on the same basis that it provides such services to other customers within City limits.

E. Nothing in this MOU affects or supersedes the separate Agreement Between the City of Salem and Confederated Tribes of Siletz Indians regarding the Provision of City Services to Trust Land Located at 3390 Blossom Drive NE, Salem, Oregon, executed July 14, 2023.

II. AGREEMENT

A. General Intention. It is the general intention of the Siletz Tribe to provide voluntary payments to the City in lieu of the taxes and fees that would be due if the Trust

Properties were owned in fee simple. It is the intention of the Tribe to accomplish this by paying for costs incurred by the City and for the requested City services to the Tribe's Trust Lands on the same basis as they are paid for by other property owners in the City and by working to ensure a cooperative interaction between the Tribe and the City with regard to the provision of services to the Trust Properties. This MOU establishes the framework for future agreements between the Siletz Tribe and City for provision of City services to Siletz Tribe Trust land within the city, but is not intended as a binding agreement.

B. Scope of MOU. This MOU resolves issues that the Tribe and the City have identified as being of mutual concern as of the date of this MOU. If issues of concern to either party arise in the future, it is the intent of the Tribe and the City to work cooperatively to resolve those issues by additional or supplemental agreements, formal or informal, or by amending this MOU, as may be appropriate, reflecting the spirit of this MOU. The City and the Tribe agree to participate in good faith negotiations toward such agreements whenever so requested in writing by the other party. The current list of Trust Properties is attached as Exhibit A.

C. Agreement Not to Discriminate. During the terms of this MOU, the City agrees not to discriminate against the Tribe in the provision of City services to the Tribe or the Trust Property, including but not limited to a pledge by the City not to enact any tax or service provision measures which would have the effect of singling out the Tribe or any Trust Property for separate treatment. The City further agrees that it will not unreasonably deny services to the Tribe or to any Trust Property.

D. Provision of City Services to Trust Properties. The City agrees that it will provide City utilities including water, wastewater (including sewer), stormwater, streetlight and City operations to the Tribe's Trust Properties on the same basis that it generally provides such services to other properties within the City. The Tribe agrees to pay the City for the ongoing provision of such services on the same basis that other properties pay the City for such services, and to compensate the City for costs associated with providing such services.

E. Water, Wastewater and Stormwater Services. The Tribe and the Tribe's Trust Properties are eligible for City utilities, including water, wastewater and stormwater services, in the same manner as all other potential customers.

1. Provision and Installation of Infrastructure for Services. Where infrastructure for City services must be installed on a Trust Property and will be accepted by the City as public infrastructure, the Tribe shall perform the actual installation of such infrastructure and, subject to applicable City regulations and design standards. Once installation and acceptance by the City have been completed the City shall be responsible for management of the infrastructure.

2. Application and Initial Payments for Services. As a condition of the City's provision of new water, wastewater and stormwater service to any Trust Property and of the Tribe's installation of the service, the Tribe shall file a standard application for such service, shall make the initial payments as provided in this section, and shall receive notification from the City that the application is

complete and authorization from the City to install the service. The City shall process the application and issue the authorization in accordance with the City's regulations and procedures for processing application and issuing authorizations for each service.

a. Water Meter Charge. The Tribe shall pay the applicable City charge for the size of meter applied for by the Tribe for the Trust Property. The City shall provide the meter to the Tribe.

b. Wastewater Inspection Connection Fee. The Tribe shall pay the applicable wastewater connection inspection fee. The City shall conduct the appropriate inspection.

c. System Development Charges. The Tribe shall pay the system development charges in effect and applicable to the type of development to be constructed. These charges represent a reimbursement to the City for an allocated proportional share of the cost of existing capital improvements that are utilized by a development.

3. General Provisions Regarding Services.

a. Salem Revised Code Provisions. In receiving water, wastewater and stormwater service from the City, the Tribe shall comply with the substantive provisions of chapters 70 through 75 of the Salem Revised Code. The Tribe does not agree to any enforcement mechanisms contained in the Salem Revised Code; rather, enforcement of the Tribe's compliance is specifically set forth in this MOU.

b. Water for Fire Protection Purposes. The Tribe shall conduct such tests as are necessary to determine whether there is sufficient water pressure and volume in the City's water system in the vicinity of the Trust Property to provide adequate pressure and volume for fire protection purposes. In the event there is not sufficient pressure or volume, then the Tribe shall be responsible for providing improvements to the water system in the vicinity of the Trust Property needed in order to provide adequate pressure and volume.

F. Transportation.

1. The Tribe shall be responsible for the construction and cost of transportation infrastructure improvements within the city to accommodate or mitigate the transportation impacts caused by development within Trust properties, on the same basis as other properties and development within the city. At the time the Tribe desires to develop a Trust property, the Tribe may either submit an application for land use approval, if needed pursuant to the City's Code,

or the parties will negotiate in good faith on a development agreement which shall specify the necessary transportation infrastructure improvements for the development, the estimated cost of those improvements and the Tribe's share of that costs and responsibilities for construction of the improvements; and such other provisions as the parties determine are desired.

2. Transportation System Development Charges. The Tribe agrees to pay Transportation System Development Charges on the same basis as other developers of land.

G. Parks System Development Charges. The Tribe agrees to pay Parks System Development Charges on the same basis as other developers of land.

H. Solid Waste Collection. Within the city, solid waste collection service is provided by a private business operating under a franchise issued by the City. It is the Tribe's intention to use the service provided by the franchisee. The Tribe reserves the right, however, at any time to make other arrangements for collection of solid waste from its Trust Properties.

I. Law Enforcement.

1. Authorization. Under federal law, the Tribe may be subject to concurrent state criminal jurisdiction over tribal lands under what is known as Public Law 280, codified at 18 U.S.C. § 1162 and 28 U.S.C. § 1360. Public Law 280 does not confer jurisdiction on the State over the Tribe itself or over civil regulatory matters on tribal lands; the Tribe enforces and applies its own laws and policies over these areas. Pursuant to federal law, the State and Tribe may share concurrent jurisdiction over criminal matters arising or taking place on tribal lands. Local units of state government such as counties and cities may exercise the State's delegated concurrent jurisdiction under Public Law 280. The Tribe also has the sovereign and tribal constitutional authority to enter into intergovernmental agreements with the state and local governments to authorize such governments to exercise some or all of its sovereign criminal jurisdiction and authority in the interest of public safety and effective law enforcement. The Tribe currently does not have its own active law enforcement and in this MOU agrees to provide compensation to the City in lieu of the tax revenue that would fund law enforcement services as if the Trust Properties were not in trust.

2. Cooperative Process. The Tribe and the City shall work cooperatively, and shall jointly seek the cooperation of the State of Oregon and Marion County, with the objective that the Tribe, City, State, and County execute as soon as possible a master agreement and any appropriate sub-agreements establishing the roles, responsibilities, authority, and expectations of each of them in relation to law enforcement services within the Trust Properties.

3. Standard Law Enforcement Services and Authority. Pending execution of a master agreement as referred to in subsection (2) of this section, and thereafter if

it is so authorized by the master agreement, the City shall provide standard law enforcement services on the Trust Properties. Further, in providing such services, City law enforcement personnel shall have the same authority to enter into the Trust Properties, and to take actions therein, as they would have to enter into any other land, facilities, or development within the City. As set out in other tribal law, law enforcement personnel under this MOU are permitted to carry firearms on tribal property only while in the performance of official duties.

J. Other Services Involving Fees and Charges. In the negotiations leading to this MOU, the City and the Tribe have attempted to identify those City services that the Tribe would like the City to provide to the Trust Properties, for which the City as a standard practice imposes fees or charges on those receiving the services. The City and the Tribe, in the course of negotiations, have identified the services set out in this MOU as services to be provided by the City to the Tribe.

In the event the Tribe identifies other City services that the Tribe would like the City to provide to the Trust Property, for which the City as a standard practice imposes fees or charges on those receiving the services, then the Tribe shall so inform the City and the City shall provide the services on the condition that the Tribe pay to the City those fees or charges that the City as a standard practice requires those receiving the services to pay. In the event the City's fees or charges vary according to classes of service recipients the Tribe shall pay the fees or charges applicable to the class of service recipient that includes the Trust Property. In establishing classes of customers, the City shall act in good faith and shall not use the establishment of classes as a basis to charge any Trust Property unique or discriminatory fees or charges. In the event the Tribe requests the City to provide non-standard services that are not provided generally the City agrees to provide those services and has the capacity to do so, the Tribe and the City by mutual agreement may establish a non-standard level of services to be provided by the City and specific fees and charges applicable to the agreed level of services.

K. Compensation to Cover City Services.

1. General Understanding. The Tribe and the City agree that if the Trust Properties were not exempt from City taxation, the City ordinarily would be able to obtain revenues to support its provision of services through any of a variety of taxes that the City either has adopted or could adopt, such as property taxes. Since the Trust Properties are exempt from City taxation, however, the City cannot use these means to obtain revenue to support its provision of services.

2. Intention. Notwithstanding its exemption from taxation, it is the Tribe's intention to voluntarily make service contributions to the City, to fairly and reasonably compensate the City for the cost of City services to the Trust Properties. In addition, it is the Tribe's intention to compensate the City for the cost of non-standard services that the Tribe may request from the City and that the City may agree to provide.

3. Voluntary Payment. With respect to the Trust Properties, the Tribe agrees to make an annual voluntary payment to compensate the City for the cost of providing City services to its Trust Properties. The Tribe shall pay the agreed amount on the same schedule that property taxes would be due to the City.

4. Operations Fee. The City's Operations Fee, authorized under SRC chapter 40, is an additional fee imposed by the City on the owner, tenant or other authorized representative for the direct and indirect use of or benefit from general City services. The Tribe agrees to be subject to the Operations Fee ("Fee"), established in SRC chapter 40, and will pay the Fee on the same schedule that the Fee would be due to the City.

5. Additional Agreement(s). Consistent with subsection (b) of this section, if the cost to the City of providing City services to the Trust Properties exceeds the agreed voluntary payment amount, the Tribe and the City may enter into additional agreements to compensate the City for that additional cost. The Tribe and the City agree to cooperate in determining the actual cost of providing City services to the Trust Properties and to negotiate any additional agreements in good faith.

6. Non-Standard Service Payments. The Tribe may desire that the City provide, in relation to its Trust Properties, services that are not standard City services or that are provided only pursuant to a special agreement calling for a requester's payment for the services. In the event the Tribe desires the City to provide such services, and the City is willing to provide the services, then the City shall provide the services on a cost recovery basis. Such costs may be added to the voluntary payment amounts already agreed to by the Tribe, or, if appropriate, may be subject to separate agreement or arrangement between the City and the Tribe. In the event of a dispute between the Tribe and the City over whether services are controlled by other provisions of this MOU or are nonstandard services described in this subsection, the matter shall be submitted to arbitration under section (N) of this MOU.

L. Security for Payments. Ordinarily, in the event the Tribe were to default in the making of payments provided for in this MOU, the City would be able to obtain a judgment against the Tribe and the judgment would be a lien against one or more Trust Properties. Under federal law, tribal lands held in trust by the United States, however, are not subject to liens and foreclosure. If the Tribe does not timely make any of the payments due the City under this MOU, the City may invoke dispute resolution and, after completion of attempts to resolve the dispute as set forth in this MOU, such attempts being unsuccessful, terminate this MOU and cease services hereunder. The City commits that it will not cease services hereunder so long as the Tribe timely pays for such services, subject to the provisions herein.

M. Calculation of Voluntary Payment Amount.

1. Payment by Tribe for Services. In exchange for the services of the City, as set forth in this MOU, the Tribe agrees to pay as a voluntary contribution to the City an annual fee calculated by multiplying the assessed value of all Trust Properties and improvements to Trust Properties located in the City by the property tax levy rate levied by the City. The City shall invoice the Tribe on or before March 1 of each year, provided if billing is delayed as a result of delays in valuing the properties, the City shall invoice the Tribe within 30 days of receipt of the valuation. Monetary payments by the Tribe to the City shall be made annually by June 1 of each year and shall include any amounts not paid for prior years in the event of a valuation delay.

2. Assessed Valuation. The assessed valuation shall be the “regular” assessed valuation established annually by the Marion County Assessor’s Office. In the absence of a valuation assigned to Trust Properties by the County Assessor’s Office, the Tribe will commission an independent appraisal of the Trust Properties’ value and will provide that appraisal on an annual basis to the City. The City shall notify the Tribe if assessed values are not available and the Tribe shall provide such appraisals on or before February of each service year.

3. New Trust Lands or Construction. The current list of Trust Properties is attached as Exhibit A. In the event that the Tribe obtains additional land in trust within the City or constructs improvements on any of its Trust Properties within the City, it agrees to notify the City in writing and to negotiate a phased-in increase of the annual payment to reflect the value of the new construction since the increased demand on the City for services will begin when then construction starts and will not be automatically reflected in the assessed value of the property until a later time. The valuation will be fixed when the relevant construction is completed. The Tribe and City will meet annually to update additional Trust Properties within the City, discuss concerns and activities, and address future plans. If the Tribe fails to notify the City of new Trust Properties within the City, the City shall have the right to retroactively bill the Tribe for such properties up to three years prior to the notification.

4. New Taxes or Fees. In the event the City of Salem enacts a new tax or fee not in place on the effective date of this MOU, the City may initiate negotiations to amend this MOU under section (Q) of this MOU by giving written notice in the manner provided in section (S) of this MOU. In the event of such a notice, the Tribe agrees to enter into good faith negotiations regarding the proposed amendment.

N. Remedies. This section provides remedies that may be included in future agreements consistent with this MOU. This MOU, as a non-binding agreement, is not subject to the remedies set forth herein.

1. Notice. In the event the City or the Tribe believes that the other party has not complied with any provision of the agreement, the City or the Tribe, before initiating any other remedy, shall first give the other party written notice in the manner provided in the agreement. The notice shall identify the specific provision of the agreement that the other party allegedly has not complied with and shall set out the factual basis for the alleged noncompliance.

2. Opportunity to Cure. In the event the party alleged to have not complied with the agreement cures the alleged noncompliance within 30 days of the notice or, in the event it is not reasonably practicable to cure the alleged noncompliance within 30 days, initiates steps to cure the noncompliance within 30 days of the notice and proceeds in good faith and with due diligence thereafter to complete the cure and does not complete the cure as soon as is reasonably practicable, then the other party shall not exercise any other remedy under the agreement.

3. Arbitration. If a party has not cured an alleged noncompliance as authorized under subsection (b) of this section, then the party alleging noncompliance may give the other party written notice in the manner provided in the agreement, initiating arbitration. Within 15 days of the notice initiating arbitration, representatives of the City and the Tribe shall meet to resolve the dispute and, if they do not resolve the dispute, to agree within the 15-day period on an arbitrator. If the City and the Tribe cannot agree on an arbitrator, then by the end of the 15-day period, each shall appoint an arbitrator and, within 15 days thereafter, the two arbitrators so appointed jointly shall select a third arbitrator. In the event the two arbitrators cannot agree on a third arbitrator, then the third arbitrator shall be appointed, on petition by either party, by the presiding civil judge of the Marion County Circuit Court. Within 45 days after the arbitrator or the arbitration panel has been selected, the arbitrator or panel shall conduct and complete an arbitration hearing on the matter in dispute and shall render its decision. The decision of the arbitrator or panel shall be binding on the City and the Tribe. In the event the City and the Tribe agree on a single arbitrator, then they each shall pay one-half of the compensation required by the arbitrator. In the event the matter is determined by an arbitration panel, then each party shall pay the compensation required by the arbitrator it selected and the City and the Tribe each shall pay one-half of the compensation required by the third arbitrator.

4. Compliance with Arbitration Decision.

a. Finality. The decision of the arbitrator or arbitration panel rendered under subsection (3) of this section shall be final for the City and the Tribe.

b. Enforcement. The prevailing party may enforce the decision of the arbitrator or arbitration panel on the effective date of the decision, which shall be set out in writing in the decision itself. In the event the City or the Tribe fails to comply with an arbitration decision, the other party, after

giving written notice as set out in the agreement, may exercise one or more of the following remedies:

- i. Exercise of Security Rights. Exercise any rights not already exercised in relation to any security provided by the other party under the agreement;
- ii. Terminate Performance of Agreement. Terminate performance of any of its obligations under the agreement not less than 10 days after giving written notice of noncompliance to the other party as set out in subsection (1) of this section, pending compliance of the other party with the arbitration decision. However, if within the 10-day period the other party notifies the enforcing party that it disputes the allegation of noncompliance, termination of performance shall not occur until the issue of compliance is decided by a court of competent jurisdiction, as set out in subsection (7) of this section; or
- iii. Judicial Enforcement. Seek enforcement of the arbitration decision by a court of competent jurisdiction, as set out in subsection (7) of this section.

5. Standing. Enforcement of the agreement, and standing to initiate an arbitration, alternative dispute resolution, or judicial proceeding alleging noncompliance with the agreement, is limited to the City and the Tribe. No provision or language in this section or in the agreement shall be deemed to confer standing or any rights or benefits on any third party to enforce the rights of either the City or the Tribe or to grant any substantive legal rights in addition to those specifically granted the City and the Tribe in the agreement.

6. Extent of Remedies. Remedies under the agreement and this section are limited to actual damages and specific performance, provided that actual damages includes interest as set out in subsection (11) of this section. It is the intent of the City and the Tribe that remedies shall not include claims other than those relating directly to compliance with the specific terms of the agreement, including but not limited to claims in tort or for punitive or indirect damages. The City and the Tribe shall be responsible for their own attorney costs associated with enforcement of the agreement.

7. Court Jurisdiction. The City and the Tribe consent to the jurisdiction of the Circuit Court for Marion County for an action brought by the other party, for the following claims:

- a. Enforcement of an arbitration decision which is not being complied with, pursuant to subsection (4)(b)(iii) of this section; or

b. Resolution of a dispute between the City and the Tribe regarding whether an arbitration decision is being complied with, pursuant to subsection (4)(b)(iii) of this section.

8. Limited Waiver of Tribal Sovereign Immunity. The City and Tribe understand that as a sovereign nation, the Tribe is immune from unconsented suit. In a future agreement between the Tribe and the City, the Tribe may grant a limited waiver of its sovereign immunity, pursuant to tribal law, from unconsented suit for the limited purpose of consenting to the specific actions authorized in that future agreement. The Tribe does not grant a limited waiver of its sovereign immunity under this MOU. Any future limited waiver by the Tribe of its sovereign immunity would be made only in favor of the other party and not for any other person, party or entity, and would be made only to the extent of the specific remedies set out in the future agreement. Except as expressly provided, any limited waiver would not allow any actions, claims or awards to be brought or enforced against the Tribe or the individual members of the Siletz Tribal Council, officers, attorneys, employees, agents, or any other person or entity acting on behalf of either the Tribe or its Trust Properties.

9. Consent to Jurisdiction. The City and the Tribe each separately consent to the jurisdiction of the courts set out in subsection (7) of this section, for the claims described therein. The Tribe specifically waives any legal right it may have under federal law to exhaustion of Tribal Court remedies before an action may be brought by the City in the named courts.

10. Alternative Dispute Resolution. The City and the Tribe, by written agreement, may agree to pursue alternative dispute resolution methods rather than the arbitration and judicial proceedings set out in this section. In the event the City and the Tribe agree to pursue alternative dispute resolution methods, the parties may waive the dispute resolution methods set out in this section by written agreement.

11. Interest. Except as expressly provided otherwise in this section, any amounts due to one party from the other under the agreement, whether specifically provided for in the agreement or provided for in an arbitration decision under the agreement, shall bear interest at the legal rate of interest established by Oregon law from the due date until paid. Late payments of the rates and charges for services provided by the City to the Tribe shall bear interest at the standard rate established by the Salem Revised Code.

O. Effective Date. This MOU shall be effective upon full execution.

P. Termination. This MOU shall remain in effect until:

1. The MOU is terminated by written agreement of the City and the Tribe; or

2. The MOU is terminated under section (Q) of this MOU.

Q. Amendment and Termination. Either the City or the Tribe may at any time give the other party written notice in the manner provided in section (S) of this MOU, initiating negotiations to amend, replace, or terminate this MOU. In the event of such a notice, the parties shall enter into good faith negotiations regarding the proposed amendment, replacement, or termination. This MOU shall remain in effect, however, until amended, replaced, or terminated as a result of the negotiations unless sooner terminated under section (P) of this MOU.

R. Disclaimers.

1. Taxation by the City. Nothing in this MOU shall be deemed to authorize the City to impose any tax, fee, charge, or assessment upon the Tribe or any Tribal activity on any Trust Property except for the voluntary payments, fees and charges expressly authorized by this MOU.

2. Preservation of Tribal Self-Government. Nothing in this MOU shall be deemed to authorize the City to regulate in any manner the government of the Siletz Tribe or Tribal Trust Properties except as set forth herein.

3. Rights Limited to City and the Tribe. This MOU is exclusively for the benefit of and governs only the respective authorities and the relations between the Tribe and the City. Nothing in this MOU shall be construed to create or grant any rights to any third party.

S. Notices. All notices provided for in this MOU shall be given by first class mail, postage prepaid, to the following addresses or to such alternative addresses as are provided for in a written notice given in accord with the provisions of this section:

City Manager, City of Salem
555 Liberty St. SE
Room 220
Salem, Oregon 97301

Chief Executive Officer
Confederated Tribes of Siletz Indians
P.O. Box 549
Siletz, Oregon 97380

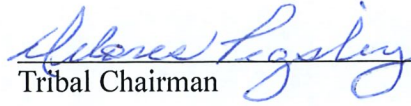
T. Severability. In the event any section or provision of this MOU is held invalid, then either party may initiate negotiations under section (Q) of this MOU to amend or replace this MOU in response to the invalidity and, if the party is not satisfied with the outcome of the negotiations, the party may terminate this MOU by giving 30-day written notice of termination to the other party. If neither party exercises those rights, however, it is the intent of the parties that the remaining sections and provisions of the MOU shall continue in full force and effect.

U. Integration. This MOU is the complete and exclusive expression of the City's and the Tribe's intent.

CITY OF SALEM, OREGON

CONFEDERATED TRIBES OF SILETZ
INDIANS

City Manager


Tribal Chairman

APPROVED AS TO FORM:

APPROVED AS TO FORM:

City Attorney


Tribal Attorney

Date: _____

Date: 12/27/2024