

AIRPORT SERVICE DEVELOPMENT LOCAL MATCHING FUNDS AGREEMENT

This Airport Service Development Local Matching Funds Agreement (the “Agreement”) is made and entered into effective as of the ___ day of December 2022 (the “Effective Date”), by and between Travel Salem, an Oregon nonprofit corporation (“Travel Salem”) and the City of Salem, an Oregon municipal corporation (“City”), (collectively the “Parties”).

RECITALS

- A. The City of Salem has been awarded a federal grant in the amount of \$850,000 from the Small Community Air Service Development Program to fund a minimum revenue guarantee (“MRG”) of \$1,200,000 to recruit, initiate, and support commercial air service from the Salem Municipal Airport to the Los Angeles Basin, with the potential for flights to Las Vegas, the San Francisco Bay Area, and Phoenix. It is estimated that such service will commence during the spring of 2023 by an airline to be determined (“Airline”).
- B. Travel Salem wishes to provide the requisite \$350,000 in matching local funds to support the MRG for 24 months after air service commences (the “Matching Funds”).
- C. Travel Salem agrees to make available, and the City of Salem agrees to accept, the Matching Funds upon the terms and conditions contained in this agreement.

AGREEMENT

Now, Therefore, in consideration of the promises set forth below, the Parties agree:

- 1. **Matching Funds.** Travel Salem agrees to hold \$350,000 in Matching Funds in trust, as custodian and guarantor of such funds, to support the MRG, for 24 months after the commencement of commercial air service from the Salem Municipal Airport.
- 2. **Guarantee of Matching Funds.** Travel Salem has committed to collecting \$350,000 in funds from local pledges. Should Travel Salem be unable to convert sufficient local pledges to Matching Funds, Travel Salem will utilize its own eligible funding sources while converting local pledges to cash.
- 3. **City Reliance on Travel Salem Matching Funds Guarantee.** The City is obligated by acceptance of the MRG grant to pay the Matching Funds to the Airline pursuant to the MRG program rules and City’s agreement with the Airline. The Parties understand and agree that City’s agreement with Airline and its commitment to pay the Matching Funds is made in reliance on Travel Salem’s Matching Funds guarantee as set forth in this agreement. The Parties further understand and agreement that a failure to receive the Matching Funds from Travel Salem will result in damages to City. Travel Salem affirmatively waives any defense to its obligation to pay the Matching Funds to the City on the basis that the payment is or may be considered a charitable donation.

4. **Minimum Revenue Guarantee.** If any amount of the Matching Funds is necessary to support the MRG within 24 months after the commencement of commercial air service from the Salem Municipal Airport, Travel Salem will provide to the City with the amount needed, up to \$350,000.
5. **Disbursements from Travel Salem Trust Account.** Within 30 days of a request from the City for Matching Funds based on the documented request from the airline, Travel Salem will remit such funds to the City. The City, together with the matching federal grant funds, will remit MRG to the Airline.
6. **Term.** This Agreement shall be effective on the date of the last signature hereon and shall terminate at the end of the MRG period.
7. **Documents.** The parties agree to sign all documentation needed to effectuate the transfer or expenditure of the Matching Funds, including, but not limited to, tax forms.
8. **Default.** Any of the following shall constitute a default under this Agreement:
 - A. Failure to comply with any covenant, condition or obligation pursuant to this Agreement.
 - B. Failure to remit Matching Funds within 30 days after written request by City.
9. **Rights and Remedies on Default.** In the event Travel Salem is in default of this Agreement, City may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to:
 - A. Termination of this Agreement;
 - B. Initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief;
 - C. These remedies are cumulative to the extent the remedies are not inconsistent, and City may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.
10. **Notices.** All notices and other communications under this Agreement must be in writing and will be deemed to have been given if delivered personally, sent by electronic mail, mailed by certified mail, or delivered by an overnight delivery service (with confirmation) to the parties at the following addresses or email addresses (or at such other address or email address as a Party may designate by like notice to the other Parties):

Angie Onyewuchi, President & CEO
Travel Salem
P.O. Box 271
Salem, OR 97308

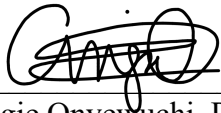
John Paskell, Airport Manager
City of Salem
2990 25th St. SE
Salem OR 97302

Any notice or other communication will be deemed to be given (1) on the date of personal delivery or transmission by electronic mail, except that transmission by electronic mail after 5:00 p.m. recipient's local time will be deemed to be given the following business day, (2) at the expiration of the third day after the date of deposit in the United States mail, or (3) on the date of confirmed delivery by overnight delivery service.

11. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which will be considered an original.
12. **Choice of Law.** This Agreement shall be governed by the laws of the State of Oregon without regard to conflict of laws principles. Exclusive venue for litigation of any action arising under this Agreement shall be in the Circuit Court of the State of Oregon for Marion County unless exclusive jurisdiction is in federal court, in which case exclusive venue shall be in the federal district court for the district of Oregon. Each party expressly waives any and all rights to maintain an action under this Agreement in any other venue, and expressly consents that, upon motion of the other party, any case may be dismissed or its venue transferred, as appropriate, so as to effectuate this choice of venue.
13. **Severability.** If any provision of this Agreement is deemed to be invalid or unenforceable in any respect for any reason, the validity and enforceability of such provision in any other respect and of the remaining provisions of this Agreement will not be impaired in any way.
14. This Agreement may be amended only by written instrument executed with the same formalities as this Agreement.
15. This Agreement embodies the full and complete understanding of the Parties respecting the subject matter hereof. It supersedes all prior agreements, negotiations, and representations between the Parties, whether written or oral.

TRAVEL SALEM

CITY OF SALEM



Angie Onyewuchi, President & CEO

By: Keith Stahley, ICMA-CM, City
Manager

Dated: December 5, 2022

Dated: _____