

IMPROVEMENT AND REIMBURSEMENT AGREEMENT MILL CREEK CORPORATE CENTER ON-SITE INFRASTRUCTURE

After recording, return to:
City of Salem, Legal Department
555 Liberty St SE
Salem, OR 97301-3503

This is an agreement between the State of Oregon Department of Administrative Services (“State”), City of Salem, an Oregon municipal corporation (“City”), and the Urban Renewal Agency for the City of Salem, an Oregon quasi-municipal corporation (“Agency”), together the “parties,” for the construction and reimbursement of certain on-site infrastructure improvements and other costs related to development of the Mill Creek Corporate Center (Agreement).

RECITALS:

1. The State, City, and Agency executed an Intergovernmental Agreement (IGA) in 2005 and amended thereafter to coordinate implementation of the Salem Regional Employment Center development program (later referred to as the “Mill Creek Corporate Center”), including financing of required on and off-site infrastructure.
2. The IGA establishes guiding principles for the development program that emphasize joint and flexible decision making among the parties. Exhibit B of the IGA states that the City and Agency shall be responsible for funding off-site infrastructure and that a Master Developer or Developer shall be responsible for on-site infrastructure, consistent with the master project list. In the absence of a Master Developer the State shall take responsibility. The master project list is updated as project costs and conditions change and was last approved in October 2012. The 2012 updates were contained in the executed First Amendment to the Mill Creek Corporate Center Infrastructure Agreement (Exhibit B of the IGA).
3. The Salem City Council adopted an order establishing a development district, and the Mill Creek Industrial Park Urban Renewal Area Plan to provide additional financing of on and off-site infrastructure. The Mill Creek Industrial Park Urban Renewal Area Plan was amended on March 13, 2017 to broaden the list of infrastructure projects eligible for urban renewal area funding, beyond certain off-site improvements.
4. The 2012 master project list identifies construction of two on-site improvements as a Developer responsibility: 1) approximately 3,500 linear feet of S-1 water main, from Aumsville Highway to Mill Creek Drive (Project W8), and 2) construction of Mill Creek Drive, from Kuebler Boulevard to Phase IIA (Project T18), as shown in Attachment 1 to this Agreement. The State completed construction of Project T18 in 2011 but did not install stormwater management facilities, striping, and required landscaping. Before accepting Mill Creek Drive as a City street these improvements must be completed to comply with City standards. Project W8 and T18 are needed to support development of the Henningsen Cold Storage Facility and PacTrust developments.
5. On January 20, 2017 the Mill Creek Corporate Center Implementation Committee (IC) recommended that the City and Agency initiate final design and bid preparation for the waterline and Mill Creek Drive improvements and that DAS reimburse the City for costs associated with these projects. City and Agency oversight of these projects is expected to generate cost savings because the projects can be coordinated with other planned improvements in summer 2017 and be completed prior to final paving of a pedestrian/bicycle access road.

6. The parties wish to formalize responsibility for the reimbursement of costs associated with the waterline, Mill Creek Drive, and prior expenses incurred to complete an update to the U.S. Army Corps of Engineers Biological Opinion for the Corporate Center. The State's reimbursement to the City and Agency is expected to total up to \$1,500,000. The final amount shall be based on final receipts and invoices provided to the State and including but not limited to contractor invoices and City staff time for construction oversight.

NOW THEREFORE, the parties agree as follows:

State Responsibilities

1. The State agrees to reimburse the City and Agency as follows:
 - a. Prior to wiring funds the State shall provide notice to the City and Agency, including the final amount, project description, and date of planned wiring.
 - b. **Project W8.** Up to \$1,100,000 to the City for final design and construction of a new 12 inch waterline loop, described as Project W8 in the approved master project list and shown in Attachment A. State shall provide an initial deposit to the City, based on the engineer's estimate, on or before July 1, 2017. State shall provide to the City a final payment, following construction completion and receipt of final invoices from the City. If final invoices are less than the initial deposit provided to the City, the City shall reimburse the State for the balance of funds.
 - c. **Project T18.** Up to \$335,000 to the Agency for striping, street tree replacement, stormwater facility installation, and other improvements required to complete Mill Creek Drive. This project is described as Project T18 in the approved master project list and shown in Attachment A. The State's final reimbursement shall be paid following the sale of any parcel of the Mill Creek Corporate Center that closes after the date this Agreement is executed by all parties, and upon completion of the project and receipt of invoices from the City, whichever is later."
 - d. **Silt Fencing, IC Action Items 1508 and 1603.** Up to \$42,000 to the Agency to reimburse 50 percent of the Agency's costs associated with installation of silt fencing to deter streak horned larks and to complete an update to the Biological Opinion for the Mill Creek Corporate Center to address the presence of streak horned larks on the property. The Mill Creek Implementation Committee executed Action Item 1603 on March 8, 2016 and Action Item 1508 on July 17, 2015 regarding cost sharing of these items.

City Responsibilities

2. The City agrees to complete the required improvements and to provide final invoices and/or engineers estimate, as follows:
 - a. The City shall provide to the State a copy of the engineer's estimate for the waterline and the Mill Creek Drive improvements. Following construction completion the City shall provide final invoices for the projects. A copy of the final payment receipt for the Biological Opinion shall also be provided to the State. The City shall provide wiring instructions to the State for the transfer of funds.

- b. City shall complete or cause to be completed the required improvements according to the specifications and standards on file in the office of the City of Salem Public Works Director, and as detailed on the approved construction plans. Specifications for the waterline contract shall include final paving of the bicycle/pedestrian path, described as Condition 2g in the Subdivision Plat No. 08-5A for Henningsen Cold Storage.
- c. City's responsibility includes providing all surveying, inspection, and project management services necessary for the required improvements prior to and during construction, and to prepare and furnish acceptable as-built drawings to the State upon completion of the Required Improvements, all in conformance with City Standards. Associated costs eligible for reimbursement include City staff time, equipment, consultant services.
- d. City shall complete or cause to be completed the Required Improvements within 9 months of the date of this Agreement.

Mutual Obligations

The parties' obligations as set forth herein shall be binding upon the State, City, and Agency and their heirs, successors, and assigns.

- 3. The provisions of this Agreement shall run with the land described herein on Exhibit B, and be binding and inure to the benefit of heirs, personal representatives, successors and assigns of the parties.
- 4. This Agreement shall be effective upon the execution by all parties hereto and shall remain in effect for one year. This Agreement may be extended for an additional period of time by written agreement of all parties.

<signor's name>

BY: _____
<signor's title>

STATE OF OREGON)
) ss.
County of _____)

This instrument was acknowledged before me on _____ by <signor's name> as <signor's title> of _____.

Notary Public – State of Oregon
My commission expires: _____

CITY OF SALEM

BY: _____
City Manager

STATE OF OREGON)
) ss.
County of _____)

This instrument was acknowledged before me on _____ by Steve Powers as City Manager of the City of Salem, Oregon.

Notary Public – State of Oregon
My commission expires: _____

URBAN RENEWAL AGENCY

BY: _____

STATE OF OREGON)
) ss.
County of _____)

This instrument was acknowledged before me on _____ by <signor's name> as <signor's title> of _____.

Notary Public – State of Oregon
My commission expires: _____