

## **INTERGOVERNMENTAL AGREEMENT**

### **Underwater Inspection of Geren Island Bridge for the City of Salem**

**THIS AGREEMENT** is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State;" and the City of Salem, acting by and through its elected officials, hereinafter referred to as "Agency," both herein referred to individually or collectively as "Party" or "Parties."

### **RECITALS**

1. By the authority granted in Oregon Revised Statute (ORS) 190.110, state agencies may enter into agreements with units of local government for the performance of any or all functions and activities that a party to the agreement, its officers, or agents have the authority to perform.
2. As used in this Agreement, a non-NBI bridge is defined as a bridge with a span less than twenty (20) feet and open to public vehicular traffic. The Geren Island Bridge is a single lane structure, owned by the City of Salem. The bridge is 428 feet long, not open to the public, and considered a non-NBI bridge.
3. Non-NBI bridges are not required to be inspected by the National Bridge Inspection Standards, however to continue to ensure all bridges are safe, Agency desires that the Geren Island Bridge be inspected.

**NOW THEREFORE**, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

### **TERMS OF AGREEMENT**

1. Under such authority, Agency wishes to retain the services of the State to perform an underwater inspection of the Geren Island Bridge for the City of Salem Oregon, as shown on Exhibit A, attached hereto and by this reference made a part hereof. Payment for said services shall not exceed a maximum amount of \$3,000 in Agency funds. If additional funds are required to finance this Agreement, both Parties shall approve and execute an Amendment.
2. Said services shall be requested at least five (5) days in advance by Agency's Facilities Engineering Program Manager via email to Rick Shorb, ODOT Senior Dive Inspector; 455 Airport Rd SE Bldg K, Salem, OR; [Rick.L.SHORB@odot.state.or.us](mailto:Rick.L.SHORB@odot.state.or.us) and a copy to Craig Shike, ODOT Bridge Operations and Standards Managing Engineer; [Craig.L.SHIKE@odot.state.or.us](mailto:Craig.L.SHIKE@odot.state.or.us)
3. The term of this Agreement shall begin on the date all required signatures are obtained and shall terminate on August 31, 2017, on which date this Agreement automatically terminates unless extended by a fully executed amendment.

## **STATE OBLIGATIONS**

1. State shall perform the services described in Terms of Agreement, paragraph 1 above.
2. State shall perform the inspection and the ODOT Underwater Inspection Team shall inspect the requested bridge(s) using the NBI protocol. Some deviations may be needed to account for the actual type of users and loadings that the bridge actually sees.
3. State shall provide recommendations to Agency for maintenance, repairs or follow-up inspections. Recommendations shall be recorded on the Underwater Inspection Report. The report shall focus on the maintenance and repair recommendations, and shall identify the deficient bridge element or problem, an action for its correction or monitoring and a priority. Deficiencies identified as substantially endangering the load capacity of the bridge shall be identified and presented to the Agency Facilities Engineering Program Manager as requiring urgent action.
4. State is responsible for providing all necessary equipment, tools and materials needed to perform the work.
5. The ODOT Senior Dive Inspector shall notify the Agency Facilities Engineering Program Manager at least five (5) working days prior to the scheduled inspection to allow time to close off the bridge, notify the City of Salem staff, and/or provide access to the bridge if locked.
6. Within 30 days of the completed inspection, State shall create a bridge inventory file for the non-NBI Bridge inspection to integrate into the Internet Bridge Inspection website. The inventory file shall contain all information obtained during inspection.
7. The ODOT Senior Dive Inspector shall notify the Agency Facilities Engineering Program Manager via e-mail when the report for the requested bridge inspection has been entered into the ODOT bridge database.
8. State shall monitor the budget for performance of this Project.
9. State shall be responsible for the review of the non-NBI Bridge inventory, inspection, and maintenance recommendation reports (reports) located on ODOT's Internet Bridge Inspection Web Site.
10. Performance of inspection and inventory work for this Agreement shall be performed by the ODOT Underwater Inspection Team at ODOT cost. Charges shall include employee salary cost, dive pay, and vehicle rental cost. Employee salary cost shall be billed at employees' regular hourly rate including fringe benefits. Dive pay shall be billed at the daily rate or portion of the daily rate split between bridges inspected on the inspection date. Vehicle rental cost will include the hourly vehicle cost and any associated equipment charges.

11. State shall submit an invoice for 100 percent of actual costs incurred by State on behalf of the Agreement directly to Agency's Facilities Engineering Program Manager for review and approval. The invoice shall be in a form identifying the inspected bridge, State Agreement number 31875, and shall itemize and explain all expenses for which reimbursement is claimed. The invoice shall be submitted within 45 days of the inspection. Said maximum amount shall include reimbursement for all expenses. Travel expenses shall not be reimbursed
12. State certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of State, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind State.
13. State's Project Manager for this Project is Rick Shorb, Senior Dive Inspector, 455 Airport Rd. SE Bldg K, Salem, Oregon, 97301, 503-986-2979, rick.l.shorb@odot.state.or.us, or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact information changes during the term of this Agreement.

#### **AGENCY OBLIGATIONS**

1. The Agency shall provide the ODOT Senior Dive Inspector available information on the non-NBI bridge to be inspected including a copy of the bridge plans, bridge location(s), photographs, types of users and loadings that the requested bridge(s) typically sees, and known potential work hazards in the vicinity of the bridge site, including but not limited to the existence of confined spaces, hazardous materials, condition of any access ladders or fall restraint or railing systems.
2. The bridge to be inspected is located on Agency owned and managed property. Agency hereby grants State the right to enter onto and occupy Agency right-of-way within the Project limits.
3. Agency shall maintain responsibility for monitoring the condition of their bridge and determining the appropriate course of action to be taken regarding repair or rehabilitation associated with deficiencies identified in reports as requiring urgent action.
4. In consideration for the services performed, Agency agrees to pay State within forty-five (45) days of receipt by Agency of the Project invoice a maximum amount of \$3,000. Said maximum amount shall include reimbursement for all expenses. Travel expenses shall not be reimbursed.
5. Agency certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement.

6. Agency certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.
7. Agency's Project Manager for this Project, Ken Roley, Facilities Engineering Program Manager, City of Salem, Public Works Department, 555 Liberty St. SE, Suite 325, Salem, OR 97301, 503-588-6211, kroley@cityofsalem.net, or assigned designee upon individual's absence. Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.

## **GENERAL PROVISIONS**

1. This Agreement may be terminated by mutual written consent of both Parties.
2. Agency may terminate this Agreement effective upon delivery of written notice to State, or at such later date as may be established by Agency under any of the following conditions:
  - a. If State fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
  - b. If State fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from Agency fails to correct such failures within ten (10) days or such longer period as Agency may authorize.
  - c. If Agency fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
  - d. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or Agency is prohibited from paying for such work from the planned funding source.
3. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
4. Both parties shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Both parties expressly agree to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of

1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

5. Any publicity or advertising regarding the work performed under this Agreement must be approved by both State and Agency prior to release and must acknowledge the support of Agency, and if applicable any other grantor agency.
6. Neither Party shall enter into any subcontracts for any of the work scheduled under this Agreement without obtaining prior written approval of the other Party.
7. Both Parties acknowledge and agree that both Parties, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of both Parties which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after final payment (or completion of Project -- if applicable.) Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by the requesting Party.
8. Both Parties shall perform the service under this Agreement as independent contractors and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the services under this Agreement including, but not limited to, retirement contributions, workers compensation, unemployment taxes, and state and federal income tax withholdings.
9. All employers, including State and Agency, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability insurance with coverage limits of not less than \$500,000 must be included. State and Agency shall ensure that each of its contractors complies with these requirements.
10. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or Agency with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.

11. With respect to a Third Party Claim for which State is jointly liable with Agency (or would be if joined in the Third Party Claim), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of State on the one hand and of Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.
12. With respect to a Third Party Claim for which Agency is jointly liable with State (or would be if joined in the Third Party Claim), Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.
13. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
14. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
15. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of

State/Agency  
Agreement No. 31875

Agency to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

**THE PARTIES**, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

**SIGNATURE PAGE TO FOLLOW**

State/Agency  
Agreement No. 31875

**CITY OF SALEM**, by and through its  
elected officials

By \_\_\_\_\_  
Steve Powers, City Manager  
Date \_\_\_\_\_

By \_\_\_\_\_  
Date \_\_\_\_\_

**Agency Contact:**

Ken Roley, Facilities Engineering Program  
Manager  
City of Salem, Public Works Department  
555 Liberty St. SE, Suite 325  
Salem, OR 97301  
503-588-6211  
kroley@cityofsalem.net

**State Contact:**

Rick Shorb  
Senior Dive Inspector  
455 Airport Rd. SE Bldg K  
Salem, Oregon, 97301  
503-986-2979  
rick.l.shorb@odot.state.or.us

**STATE OF OREGON**, by and through  
its Department of Transportation

By \_\_\_\_\_  
Thomas Lauer, Technical Services  
Manager/Chief Engineer

Date \_\_\_\_\_

**APPROVAL RECOMMENDED**

By \_\_\_\_\_  
Bruce V. Johnson, State Bridge Engineer

Date \_\_\_\_\_

By \_\_\_\_\_  
Craig Shike, Bridge Operations and  
Standards Managing Engineer

Date \_\_\_\_\_



EXHIBIT A  
GEREN ISLAND  
ACCESS ROUTE

TAKE OR-22 EAST  
PAST STAYTON  
TO OLD MEHAMA ROAD EXIT

