

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE CITY OF SALEM AND
THE SALEM AREA MASS TRANSIT DISTRICT
FOR
POLICE SERVICES (FY2017-2018 and FY2018-2019)**

This INTERGOVERNMENTAL AGREEMENT (hereinafter referred to as the "Agreement") is made by and between the SALEM AREA MASS TRANSIT DISTRICT, an Oregon special district, acting by and through its governing body (hereinafter referred to as the "District"), and the CITY OF SALEM, an Oregon municipal corporation, acting by and through its governing body (hereinafter referred to as the "City"), referred to collectively herein as the "Parties."

RECITALS

- A.** This Agreement is authorized under ORS 190.010 *et seq.*; and
- B.** The Parties have a public interest in assuring adequate law enforcement in the vicinity of the transit bus mall located within City of Salem (hereinafter referred to as the "Downtown Transit Center"); and
- C.** This Agreement is for the purpose of providing coordinated police services for the Downtown Transit Center. The Downtown Transit Center, as used herein, includes the one square-block area bordered by High Street NE, Court Street NE, Church Street NE and Chemeketa Street NE in the downtown area of the City of Salem and includes all sidewalks within that block of the Downtown Transit Center located at 220 High Street NE.
- D.** The Parties find that the performance of this Agreement is in the best interest of both the City and the District and that this undertaking will benefit the public.

AGREEMENT

NOW THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. City Obligations

- 1.1** The City shall assign a minimum of one (1) sworn police officer on an on-call basis to respond directly to calls for police services at the Downtown Transit Center. "On-call" as used herein means the City shall provide the District with the ability to call a sworn officer assigned to the Downtown Enforcement Team directly should police services be necessary. Should officers from the Downtown Enforcement Team be unavailable, the City will ensure that the District has the phone number necessary to contact another on-duty Salem Police Officer directly. On-call status only applies to the hours and days specified in subsection 1.1.1 below.
 - 1.1.1** An assigned police officer shall be available to respond to the Downtown Transit Center on an on-call basis for a period of not less than forty five (45)

hours per week. The hours of on-call service will be from 1200 hrs to 2100 hrs Monday through Friday. The District will be provided with the phone number to the assigned officer for direct contact for police services at the Downtown Transit Center. The Parties understand that there may be times when an officer assigned to the Downtown Transit Center may not be available when, for example, responding to a critical police emergency.

1.1.2 The City will not be required to have an officer on-site at the Downtown Transit Center during the contractual period specified in subsection 1.1.1. The officer will be contacted via phone and should be within a distance to respond to the Downtown Transit Center in a timely fashion should police services be necessary.

1.1.3 Should the District need police services outside the contractual period specified in subsection 1.1.1, the District should call the non-emergency or emergency numbers to Willamette Valley Communications Center (WVCC) and report the incident.

1.2 It is the intent of the Parties that any police officer assigned to on-call status at the Downtown Transit Center shall be part of the Downtown Enforcement Team and that any assignment to the Downtown Enforcement Team is intended to be for a minimum of two (2) years in length, where reasonably possible, in order to provide continuity. It is in the sole discretion of the City to determine the duration of an officer's assignment to the Downtown Enforcement Team. The officers on the Downtown Enforcement Team shall act as back-up for the officer assigned to on-call status at the Downtown Transit Center and shall provide relief for said on-call officer during meal breaks. In the event the on-call officer is on a break or is otherwise not available, the City will provide the District with the phone number to reach another officer in the event police services become necessary.

1.3 Except for cases involving an internal affairs investigation or where otherwise prohibited by law, by Court order, or by order of the Marion County District Attorney pursuant to Oregon's Public Records Law, the City shall make its daily Downtown Transit Center assignment records and statistical data for calls for service relating to the Downtown Transit Center and any statistical data related to the officer(s) assigned to on-call status at the Downtown Transit Center pursuant to Subsection 1.1 of this Agreement available to the District for inspection upon no less than seventy-two (72) hours prior written notice and between the hours of 8:00 a.m. and 5:00 p.m. weekdays excluding holidays on which there is no transit service. Any specific report that is requested by the District must meet the Public Records law requirements relating to the release of reports. The District understands that it is not the custodian of any of the City's records described under this subsection, and it shall not release any such City records to any third party or entity for any reason whatsoever.

1.4 Officers, upon being assigned to on-call status at the Downtown Transit Center, shall receive a briefing concerning the District's Police Ordinance 2000-1 as amended, Courthouse Square Police Ordinance 2004-01 as amended, Public Business

Ordinance 2000-2, Non-Smoking Ordinance 2000-3 as amended, and diversity and customer services issues pertinent to District operations. Records of these briefings shall be maintained by the supervisor of the assigned officers, documenting the date of the briefing and who attended. Officers assigned to the Downtown Enforcement Team and those assigned to on-call status with the District will have access to the District's private security company as well as the databases associated with Downtown Transit Center activity.

2. District Obligations

2.1 The District shall pay to the City the sum of **\$130,800.00 (one hundred and thirty thousand eight hundred dollars)** for the fiscal year beginning July 1, 2017, and ending June 30, 2018, and the sum of **\$134,200.00 (one hundred and thirty-four thousand two hundred dollars)** for the fiscal year beginning July 1, 2018, and ending June 30, 2019 for services provided pursuant to this two (2) year Agreement.

2.2 The District shall make four (4) equal payments to the City for fiscal year 2017-2018. These payments shall total the sum payable for that fiscal year as set forth in subsection 2.1 above. These payments shall be made quarterly on or before the fifteenth day following the **end** of each quarter of the fiscal year, e.g. on or before January 15, 2018, for the quarter commencing October 1, 2017, and ending December 31, 2018.

The District shall make four (4) equal payments to the City for fiscal year 2018-2019. These payments shall total the sum payable for that fiscal year as set forth in subsection 2.1 above. These payments shall be made quarterly on or before the fifteenth day following the **end** of each quarter of the fiscal year, e.g. on or before January 15, 2019, for the quarter commencing October 1, 2018, and ending December 31, 2019

2.3 The District shall designate one or more members of its staff as the liaison between the District and the City on transit security issues. The District shall acquire such security training for said designee(s) as may be necessary and shall provide the name(s) and contact phone numbers of said designee(s) to the City.

3. General Provisions

3.1 Term and Termination.

3.1.1 This Agreement shall be effective as of **July 1, 2017**, and shall continue in effect through and including **June 30, 2019**, unless earlier terminated as provided herein.

3.1.2 This Agreement may be terminated upon the mutual written consent of the Parties at any time.

3.1.3 Either Party to this Agreement may terminate this Agreement without cause at any time, upon not less than ninety (90) days' prior written notice to the other.

3.1.4 The District shall have the right to terminate this Agreement upon not less than thirty (30) days' prior written notice to the City in the event the District is dissatisfied with the police services supplied by the City, provided however, that the City has been given not less than thirty (30) days' advance written notice of the reasons for the District's dissatisfaction and the City has not cured same to the satisfaction of the District. If this Agreement is terminated by the District as set forth in this subsection, there shall be no refund of any quarterly payments made pursuant to Subsection 2.2 of this Agreement for the period prior to termination.

3.1.5 The City shall have the right to terminate this Agreement upon not less than thirty (30) days' prior written notice to the District in the event that the City is dissatisfied with the fulfillment of this Agreement by the District, provided however, that the District has been given not less than sixty (60) days' prior written notice of the reasons for the City's dissatisfaction and has not cured same to the satisfaction of the City.

- 3.2 Neither Party to this Agreement nor the officers, employees nor agents of either party are agents of the other. Each Party shall be separately and exclusively responsible for the acts, errors and omissions of its own officers, employees and agents. Nothing in this Agreement is intended to nor shall be construed to grant to the District any authority or responsibility to supervise, control, train, discipline or assign any police officer of the City. It is the limited purpose of this Agreement to provide assurance to the District that there will be an assigned police presence at the Downtown Transit Center and to assure the City that there will be funds available from the District to help defray the cost of that presence.
- 3.3 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. 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 the choice of venue made in this section.
- 3.4 This Agreement sets forth the entire understanding between the Parties with respect to the subject matter hereof. All previous written and oral agreements, promises, representations, negotiations and course of dealings are hereby superseded and terminated. No evidence of any oral waiver or modification of this Agreement shall be offered or considered in any proceeding to determine or enforce the provisions of this Agreement.
- 3.5 This Agreement may not be altered, modified, supplemented, or amended in any manner whatsoever except by mutual agreement of the Parties set forth in writing and executed with the same formalities as this Agreement.
- 3.6 The Parties agree to observe and comply with all applicable laws, ordinances, rules, regulations and executive orders of the federal, state and local government now existing or hereinafter in effect which may in any manner affect the performance of

this Agreement. The following laws of the State of Oregon are hereby incorporated by reference into this Agreement: ORS 279B.220, 279B.230 and 279B.235.

- 3.7 Subject to the limitations established under the Oregon Constitution and the Oregon Tort Claims Act, each Party to this Agreement agrees indemnify, defend, save and hold harmless the other and the other's officials, agents and employees against any and all claims, demands, causes of action, suits, proceedings, damages, costs, reasonable attorney's fees or liabilities including appeals (hereinafter "Claims") arising out of, pertaining to or in any way connected to any negligent, reckless or intentional act, error or omission by that Party in the performance of any provision of this Agreement. Each Party shall give to the other notice in writing of any such Claims within twenty (20) days of the date that Party receives notice of any such Claims. Neither Party shall settle, compromise or take any action that may be prejudicial to the other Party's defense of or interest in such Claims without the express written consent of the other Party.
- 3.8 The Parties further agree that each shall obtain and maintain in full force at all times during the term of this Agreement, a policy of general liability insurance with liability limits of at least **\$2,000,000.00** (two million dollars) per occurrence, which names the other Party, its officers, agents, and employees as additional insured parties. The City, as a government body, may fulfill this insurance obligation through a program of self-insurance, provided that the self-insurance program complies with all applicable laws and provides insurance coverage equivalent to both type and level of coverage to that listed in this subsection.
- 3.9 In the event any term or provision of this Agreement shall be held to be invalid and unenforceable by a court of competent jurisdiction, the remaining portions shall be valid and binding upon the Parties.
- 3.10 Any notice provided for under this Agreement shall be sufficient if in writing and (1) delivered personally to the other party; (2) deposited in the U.S. Mail, postage prepaid, sent certified mail, return receipt requested; (3) sent overnight by commercial courier; or (4) sent by facsimile transmission, provided receipt of such facsimile is confirmed, in writing, on the first business day following the date of transmission. Notice shall be sent to the following address or to such other address as each Party may specify in writing:

IF TO THE CITY:

Gerald Moore, Chief of Police
City of Salem Police Department
555 Liberty Street SE, Room 130
Salem, OR 97301
Fax: (503) 589-2019

IF TO THE DISTRICT:

Allan Pollock, General Manager
Salem Area Mass Transit District
555 Court St NE, Suite 5230
Salem, OR 97301-3980
Fax: (503) 566-3933

Any notice delivered by personal delivery shall be deemed to be given upon actual receipt. Any notice sent by United States mail shall be deemed to be given five (5) days after mailing. Any notice sent by overnight courier shall be deemed to be given five (5) days after dispatch. Any notice sent by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. To be effective against either Party, such facsimile transmission shall be confirmed by telephone notice to the other Party.

IN WITNESS WHEREOF, the Parties have authorized this Agreement to be signed in their respective names by their duly authorized representative as of the dates set forth below.

CITY OF SALEM

By: _____
Steve Powers, City Manager

Dated: _____

**SALEM AREA MASS TRANSIT
DISTRICT**

By: 
Allan Pollock, General Manager

Dated: 5/26/17

Approved as to legal form:



Digitally signed by Ben C.
Fetherston, Jr.
DN: cn=Ben C. Fetherston,
Jr., o=Fetherston
Edmonds, LLP, ou,
email=bfetherston@fe-
attorneys.com, c=US
Date: 2017.05.09 15:08:31
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