

IMPROVEMENT AGREEMENT FOR KUEBLER BOULEVARD MILL CREEK CORPORATE CENTER

This is an agreement between the State of Oregon Department of Administrative Services (“State”) and the City of Salem, an Oregon municipal corporation (“City”) related to the financing and construction of improvements on a portion of Kuebler Boulevard, SE and referenced in the Construction Deferral Agreement between the State and the City (recorded on November 16, 2009) in support of development at the Mill Creek Corporate Center (Corporate Center).

RECITALS:

1. The State, City, and the Urban Renewal Agency of the City of Salem (“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. Improvements to Kuebler Boulevard, SE, along the Mill Creek Corporate Center property frontage, are contemplated in the IGA and are required improvements identified in the Urban Growth Area permit and subdivision tentative plan for the property.
2. A Construction Deferral Agreement was executed between the City and State and recorded on November 16, 2009 (“Deferral Agreement”), referencing that the State was responsible for approximately 4,000 feet of Kuebler Boulevard improvements, from the Highway 22 bridge to 1,200 feet south of Aumsville Highway. The Deferral Agreement was executed to allow the City to issue final plat approval for a phase of the subdivision.
3. A portion of the Kuebler improvements referenced in the 2009 Deferral Agreement were constructed in 2013, along with other improvements on Aumsville Highway. There is approximately 2,700 feet of Kuebler Boulevard improvements still needed (“Kuebler Improvements”). The anticipated cost to complete the remainder referenced in the Deferral Agreement is \$2,025,000.
4. The widening of Kuebler Boulevard, from the Highway 22 bridge, south to Turner Road, SE is not anticipated to be completed for a minimum of five years.
5. The State is negotiating the sale of the remaining 90 acres on Site A, which property is subject to the Deferral Agreement (“Development Site”). The prospective purchaser has requested that the Deferral Agreement be removed as an encumbrance on the title for the Development Site by the time of close of the sale. The City and State wish to enter into an Improvement Agreement to formalize responsibility for the Kuebler Improvement referenced in the Deferral Agreement, and to allow the removal of the Deferral Agreement from the title to the Development Site.

NOW THEREFORE, as consideration of agreeing to release the Development Site from the obligations contained in the Deferral Agreement, the parties agree as follows:

1. State Responsibilities. The State agrees as follows:

- a. At the time of close of the sale of the Development Site, State shall transfer to the City Two Million, Twenty-Five Thousand Dollars (\$2,025,000) for the construction of the Kuebler Improvements.
- b. The amount set forth in subsection (a) above constitutes the estimated cost of constructing the Kuebler Improvements. Notwithstanding the transfer of the funds set forth in subsection (a) of this section, the State remains responsible for completion of the Kuebler Improvements, and shall reimburse the City for the reasonable costs to complete the Kuebler Improvements on terms mutually agreeable to the parties.

2. City Responsibilities. The City agrees as follows:

- a. The City shall place the funds received from the State into a Trust and Agency Account and maintain funds until such time as they are needed for the Kuebler Improvements.
- b. City shall complete or cause to be completed the required improvements according to the specifications and standards on file with the City, and as detailed on the approved construction plans.
- c. If, upon the completion of construction of the Kuebler Improvements or upon the termination of this agreement, the actual cost of construction is less than the money paid by the State to the City under this agreement, the City shall promptly return any excess funds to the State in a manner specified by the State.
- d. The City shall prepare and execute a Release of the Deferral Agreement, in a form reasonably satisfactory to State, which shall not be recorded until the close of sale of the Development Site.

3. Mutual Obligations

- a. The parties may, by mutual agreement, elect to have the State or a third party construct the Kuebler Improvements. In that event, the City shall make available the funds transferred by the State for the construction.
- b. The parties' obligations as set forth herein shall be binding upon the parties and their heirs, successors, and assigns.
- c. This Agreement shall be effective upon the execution by all parties hereto and shall remain in effect until the improvements are constructed.

<signor's name>

BY: _____

<signor's title>

STATE OF OREGON)

) SS.

County of _____)

This instrument was acknowledged before me on _____ by Shannon Ryan as EAM Administrator of the Oregon Department of Administrative Services.

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: _____