

**INTERGOVERNMENTAL AGREEMENT
TO SUPPORT ZONE CHANGE
FOR EMPLOYMENT SUB-DISTRICT OF JUNIPER RIDGE**

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement" or "IGA") is between the STATE OF OREGON, acting by and through its Department of Transportation, ("ODOT") and the CITY OF BEND ("City").

A. Recitals

1. By the authority granted in ORS 190.110 state agencies may enter into agreements with units of local governments to cooperate for the performance of any lawful purpose.
2. In 2009, City created the Juniper Ridge Overlay Zone as a Special Plan Area and amended Chapter 2.7 of its Development Code to provide special provisions for development within the Overlay Zone. Chapter 2.7 was amended in 2010 by Ordinance No. 2152 to include a Vehicle Trip Limit and implementing provisions within the 306-acre Employment Sub-District of the Juniper Ridge Overlay Zone. The Ordinance referencing the Vehicle Trip Limit provision is attached as Exhibit "A" and is incorporated into this Agreement.
3. Within the Employment Sub-District, City proposes to rezone 256.2 acres of land (including 252.9 acres owned by City and 3.3 acres owned by others) from Urban Area Reserve (UAR) to Light Industrial (IL) (PZ 10-195), as shown on the Juniper Ridge Zone Change Map, attached as Exhibit "B" and incorporated into this Agreement.
4. City has developed a Traffic Impact Analysis, (TIA) dated July 2010 which concludes that the proposed zone change will have a significant effect upon planned and existing transportation facilities as defined by OAR 660-012-0060(1).
5. Where there is a finding of a significant effect, OAR 660-012-0060(2)(b) provides that a local government can comply with OAR 660-012-0060 by adopting measures to demonstrate that allowed land uses are consistent with the planned function, capacity and performance standards of the transportation system and/or by amending its TSP or comprehensive plan to provide planned transportation facilities and improvements adequate to support the proposed land uses at the end of the planning period.
6. City and ODOT have developed a comprehensive mitigation strategy that includes land use measures, transportation demand measures and transportation improvements to local and state highway facilities that will mitigate the significant effect of the proposed zone change.
7. City and ODOT have agreed to a strategy to develop and fund identified transportation improvements to ensure that the improvements will reasonably likely be provided by the end of the planning period. ODOT's funding commitment is subject to

Oregon Transportation Commission approval of the Statewide Transportation Improvement Program (STIP) in the future.

8. Improvements to state facilities are considered to be planned facilities only when ODOT issues a written letter stating that the improvements are reasonably likely to be provided by the end of the planning period. OAR 660-012-0060(4)(b)(D).

9. This agreement is intended to memorialize the terms, conditions and funding agreements between City and ODOT required to mitigate the significant effect to transportation facilities and to provide a factual basis so ODOT can issue a letter to the City stating that the identified improvements to the state highway system will reasonably likely be provided by the end of the planning period consistent with OAR 660-012-0060(4)(b)(D).

B. Agreement

1. ODOT and the City agree that the proposed zone change will be subject to the Vehicle Trip Limit that will limit peak hour trips generated from the Employment Sub-district to 2,220 peak hour trips, consistent with Exhibit "A." The peak hour is the time between 4:00 P.M. and 6:00 P.M.

2. ODOT and the City agree that transportation improvements identified in the Schedule below are needed to mitigate the effect of the 2,220 peak hour trips associated with the proposed zone change.

3. ODOT and the City agree that the identified transportation improvements can be developed in phases and agree to the phasing sequence identified in Table 1 below.

4. ODOT and the City agree that the estimated cost for these improvements in 2010 is \$53,360,000. The parties agree that these costs are estimates and could increase or decrease between 2010 and the time the projects are constructed. The parties agree to share any increased or decreased costs in proportion to the percentage contributed in Table 1.

5. ODOT and the City agree to share the cost of making these transportation improvements in the manner described in Table 1 below subject to further refinement of specific responsibilities as defined in subsequent Cooperative Improvement Agreements.

TABLE 1

PHASE	PM PEAK HOUR TRIPS	PROJECT ID	MITIGATION IMPROVEMENT	TOTAL COST	CITY FUNDED		ODOT FUNDED
					US-97	LOCAL	
1	700	A	Empire Avenue / 18th Street Roundabout	\$4,000,000	\$0	\$4,000,000	\$0
		B	Empire / US-97 Northbound Ramp Terminal	\$1,600,000	\$1,600,000	\$0	\$0
		C	Empire / US-97 Southbound Ramp Terminal Third Street to US-97	\$3,600,000	\$3,600,000	\$0	\$0
2	600	D	US-97 / Cooley Road Improvements	\$30,000,000	\$11,385,000	\$0	\$18,615,000
		E	US-97 / Robal Road Improvements	\$1,500,000	\$492,600	\$0	\$1,007,400
		F	US-97 Raised Median - Nels Anderson Place	\$10,000	\$3,284	\$0	\$6,716
3	580	G	18 th Street Corridor Improvements Cooley to Empire - 3 lanes	\$4,400,000	\$0	\$4,400,000	\$0
4	340	H	US-97 SB Auxiliary Lane - Empire Avenue to Butler Market Road	\$3,250,000	\$1,316,250	\$0	\$1,933,750
		I	Purcell Street Extension - Cooley to Yeoman	\$5,000,000	\$0	\$5,000,000	\$0

Table 1 Notes:

A trip is a net-new motor vehicle trip generated by the site that would access the transportation system during a weekday PM peak hour (i.e. the highest hour of volume between 4:00 PM and 8:00 PM). Net new trips are trips added to the site that do not include "pass-by" trips as defined in the ITE Trip Generation.

The phasing analysis and modeling is found in the Juniper Ridge Transportation Study Phasing Analysis Memorandum for Employment Sub District (ESD) 2010.

Project Costs were developed by the City from the following sources:

- Empire and 18th Roundabout: Empire Avenue Extension Preliminary Design Report 2008
- Empire Northbound Ramp Terminal: Juniper Ridge Transportation Study, DKS, 2010 and City of Bend SDC project list estimates, 2010
- Southbound Ramp Terminal: Juniper Ridge Transportation Study, DKS, 2010 and City of Bend SDC project list estimates, 2010
- US-97 / Cooley Road and Robal Road: City of Bend US 97/Cooley Rd Intersection Mid-Term Improvement, 2008
- US 97 Raised Median - Nels Anderson: City of Bend typical estimate
- 18th Street Corridor Improvements: City of Bend SDC project list estimates, 2010
- US -97 SB Auxiliary Lane: Juniper Ridge Transportation Study, DKS, 2010 and City of Bend SDC project list, 2010
- Purcell Street Extension: City of Bend SDC project list estimates, 2010

The City cost estimate share that is proportional for the projects located on the ODOT system is derived from the City of Bend Transportation SDC growth analysis methodology, 2010 and the City of Bend Code Section 4.7 "pro-rata" calculations.

C. City Obligations

1. City will implement the Vehicle Trip Limit in a manner consistent with Table 1 and Exhibit "A."
2. City will construct or require construction of the local facilities "A," "G" and "I" in accordance to the sequence identified in Table 1 and will not approve development proposals in subsequent phases until those identified local improvements in a preceding phase have been completed.
3. City will contribute funds estimated in Table 1 that are necessary to make the identified improvements to State transportation facilities, subject to any modifications made by the parties under Section (B)(4) of this Agreement. Detailed funding commitments, project schedules and project scope for each project will be set forth in a Cooperative Improvement Agreement that is agreed to by City and ODOT. City will not approve development proposals in subsequent phases until a Cooperative Improvement Agreement to construct the identified improvements to state highway facilities in the preceding phase has been agreed to in writing by ODOT and the City.
4. City will maintain a ledger documenting the number of peak hour vehicle trips assigned to development proposals and provide ODOT with an annual report. *pre or post Les Schwabs, Sutterra, Pac Power?*
5. City will require that all TIAs be developed in accordance with the City of Bend and ODOT standards for ODOT facilities including transportation demand management measures consistent with the Juniper Ridge Transportation Management Association (TMA) program. City shall require that each TIA consider feasible transportation demand management (TDM) measures to minimize peak hour vehicle trips generated by proposed development.
6. City agrees to meet with ODOT Region 4 annually to discuss the annual peak hour trip allocation report, TDM monitoring reports, and project schedules, funding and phasing schedules.
7. The City shall not grant site plan approval for any development proposal that exceeds a cumulative site total of 2,050 peak hour trips until all Phase 4 mitigation improvements identified in the schedule are constructed or agreed to be constructed in Cooperative Improvement Agreement(s) or Development Agreement(s).

D. ODOT Obligations

1. ODOT will issue a letter to the City indicating that the identified mitigation improvements to state highway facilities are reasonably likely to be provided by the end of the planning period as required by OAR 660-012-0060(4)(b)(D).
2. ODOT will act in good faith to timely enter into Cooperative Improvement Agreements with City to construct identified improvements to State highway facilities.

Detailed funding commitments, project schedules and project scope for each state highway project will be set forth in a mutually agreed upon Cooperative Improvement Agreement.

3. ODOT agrees to meet with City annually to discuss the annual peak hour trip allocation report, TDM monitoring reports and project schedules, funding and phasing schedules.

E. General Provisions

1. **Term.** This Agreement shall be binding and in effect from the Effective Date through June 30, 2030. This Agreement does not modify but does provide implementing and more detailed provisions evidencing the Parties Intent related to the Vehicle Trip Limit and Schedule adopted by the City by Ordinance No. NS-2152 which is attached as Exhibit "A" and associated with the proposed zone change for the Employment Sub-District.

2. **Termination.** This Agreement will be terminated if the City does not approve the zone change for the subject parcel. This Agreement may also be terminated by mutual written consent of both parties. Any termination of the Agreement shall not prejudice any rights or obligations accrued to the parties prior to termination and does not affect the Vehicle Trip Limit adopted by the City in Ordinance No. NS-2152 as identified in Exhibit "A" that is associated with the proposed zone change for the Employment Sub-District.

3. **Access to Applicable Records.** Each party acknowledges and agrees that the other party, the Secretary of State's Office of the State of Oregon, and their duly authorized representatives shall have access to the books, documents, papers, and records of the other party which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts during the course of this agreement. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by either party.

4. **Entire Agreement.** This Agreement and attached exhibits constitute the entire agreement between the parties on the subject matter of this agreement. There are no understandings, agreements, or representations, oral or written, not specified in this Agreement regarding this Agreement.

5. **Amendments to IGA.** The terms of this Agreement may be amended by mutual written consent of the Parties so long as such amendments are consistent with Vehicle Trip Limit identified in the Ordinance. If City amends the Vehicle Trip Limit set forth in Ordinance No. NS-2152 the IGA can be amended by mutual written consent to be consistent with the amended ordinance.

6. **No Partnership.** Neither party is, by virtue of this Agreement, a partner or joint venture with the other in connection with activities carried out under this Agreement,

and neither party shall have any obligation with respect to the other's debts or any other liabilities of any kind or nature except as specifically provided in this IGA.

7. Assignment. This Agreement shall not be assigned by either party to the Agreement, except by written consent of the other party, which consent shall not be unreasonably withheld.

8. Dispute Resolution/Venue. The parties intend that, in an impasse or disagreement should occur on issues pertaining to this Agreement, a collaborative process will be initiated to resolve the difference. In the event of any issue in controversy under this Agreement, the parties will first pursue Alternative Dispute Resolution procedures to voluntarily resolve those issues, including but not limited to conciliation, facilitation, mediation and fact finding. In the event that Alternative Dispute Resolution is unsuccessful, this IGA shall be governed by Oregon Law, and if a suit is filed to enforce its terms, venue shall be in Deschutes County.

9. Contacts.

City of Bend
Attn: Transportation Engineering Manager
710 NW Wall Street
PO Box 431
Bend, OR 97709
Fax No.: 541-389-2245

State of Oregon
Department of Transportation
Attn: Region 4 Manager
63085 N. Highway 97, Ste. 101
Bend, OR 97701
Fax No.: 541-388-6025

F. Authority to Sign

The Parties represent that this Agreement is signed by personnel who have been authorized to do so by their respective agencies.

G. Effective Date

This fully executed Agreement shall become effective on the date that Ordinance No. is effective.

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals as of the day and year written below.

The Oregon Transportation Commission adopted Delegation Order No. # 2, on December 29, 2008, which grants authority to the Executive Director to approve and execute agreements involving day-to-day activities.

Approved by the Bend City Council and execution by City Manager authorized at Bend City Council meeting on November 3, 2010.

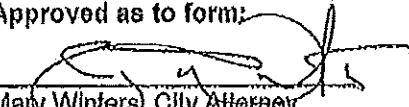
SIGNATURES ON NEXT PAGE

CITY OF BEND


Eric King, City Manager

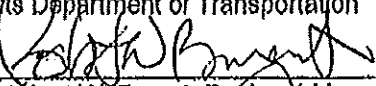
Date 11/19/10

Approved as to form:


Mary Winters, City Attorney

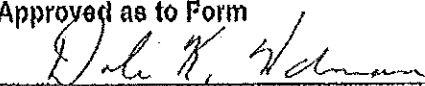
Date 11-19-2010

STATE OF OREGON, by and through
its Department of Transportation


Robert W. Bryant, Region 4 Manager

Date 11.24.10

Approved as to Form


Assistant Attorney General

Date 11/24/10

Exhibit "A" Ordinance No. NS-2152
Exhibit "B" Map

Exhibit A

H. Vehicle Trip Limit. Development within the Employment Sub-District shall be limited to a maximum of 2,220 PM peak-hour vehicles trips that will be allocated consistent with the terms of Intergovernmental Agreement No. 27115 and phased in accordance with the following Mitigation Table:

Table 2.7.2030.B Mitigation Improvements

PHASE	PM PEAK HOUR TRIPS	MITIGATION IMPROVEMENT
1	700	Empire Avenue / 18 th Street Roundabout
		Empire Avenue / US-97 Northbound Ramp Terminal
		Empire Avenue / US-97 Southbound Ramp Terminal Third Street to US-97
2	600	US-97 Improvements between Nels Anderson and Bowery Lane
3	580	18 th Street Corridor Improvements Cooley Road to Empire Avenue
4	340	US-97 Southbound Improvements Empire Avenue to Butler Market Road
		Purcell Street Extension Cooley Road to Yeoman Road

1. The Vehicle Trip Limit shall be considered the Employment Sub-District Transportation Mitigation Plan and shall apply to all land use applications that propose development that will generate peak hour vehicle trips. A PM Peak Hour trip is defined as a trip occurring between 4:00 PM and 6:00 PM, as further defined by the Institute of Transportation Engineers Trip Generation Manual.
2. No land use application shall be deemed complete unless it includes a Traffic Impact Analysis (TIA) that complies with the City of Bend standards for preparing a TIA identified in Chapter 4.7, and includes an evaluation of Transportation Demand Management Measures (TDM) that will minimize peak hour vehicle trips generated by the proposed development.
3. The City shall provide written notification to ODOT when a land use application is deemed complete at least 20 days before a decision is issued.

4. Peak hour vehicle trip allocations are committed upon City approval of the proposed land use action and will expire consistent with Section 4.1.1310B of this Code.

5. Land use applications in any phase that propose development that will generate peak hour trips that (i) exceed the peak hour trip thresholds identified in Table 2.7.2030.B Mitigation Improvements prior to the construction of local street improvements, or (ii) prior to the execution of a Cooperative Improvement Agreement for the construction of improvements on state highway facilities, or (iii) exceed the cumulative total vested peak hour vehicle trips for the phase in which the application is submitted, may be approved only if they meet the requirements of OAR 660-012-0060.

6. The City shall not grant site plan approval for any development proposal that exceeds a cumulative site total of 2,050 peak hour trips until all Phase 4 mitigation improvements identified in the above Table 2.7.2030.B Mitigation Improvements are constructed or agreed to be constructed in Cooperative Improvement Agreement(s) or Development Agreement(s).

