

BOOK 113 PAGE 627

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AUG - 3 2015  
TASSI O'NEIL  
COUNTY CLERK

ORDINANCE #77

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR TILLAMOOK COUNTY, OREGON

In the Matter of Authorizing the Creation )  
of the Salmonberry Trail Intergovernmental ) ORDINANCE #77  
Agency Intergovernmental Agreement )

WHEREAS, the Tillamook County Board of Commissioners ("BOARD") desires to enter into an Intergovernmental Agreement ("IGA") pursuant to ORS 190.010 with the Oregon Department of Forestry ("ODF"), the Oregon Parks and Recreation Department ("OPRD"), and the Port of Tillamook Bay ("POTB"); and

WHEREAS, the IGA creates the Salmonberry Trail Intergovernmental Agency ("STIA"); and

WHEREAS, Tillamook County ("COUNTY") desires to ratify its participation in the IGA and the creation of the STIA.

NOW THEREFORE, the BOARD ordains as follows:

Section 1. It is the intent of the County to create the STIA pursuant to ORS 190.003 through 190.085 by an IGA with the ODF, OPRD, and POTB.

Section 2. The effective date of the IGA is as indicated in the STIA IGA.

Section 3. The public purposes for which the STIA is created are to connect urban and rural Oregon by constructing a multi-use trail within the Salmonberry corridor, connecting to a wide network of existing recreation trails and parks, and providing educational opportunities and heritage sites which will create strong economic opportunities for Northwest Oregon and help revitalize communities along the trail corridor.

Section 4. The powers, duties and functions of the STIA are described in the IGA attached as Exhibit "A".

Section 5. The creation of the STIA pursuant to an IGA, substantially in the form of Exhibit "A", is hereby ratified and approved.

Section 6. Immediate action being necessary to carry out the STIA IGA purposes on an expedited and efficient basis, an emergency is declared to exist and this Ordinance shall take effect immediately upon its execution by the Board.

This Ordinance was duly and regularly passed and adopted by the Tillamook County Board of Commissioners on this 29<sup>th</sup> day of July, 2015 and shall be effective immediately.

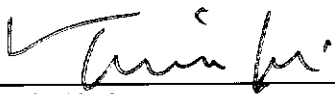
Date of First Reading: July 8, 2015

Date of Second Reading: July 29, 2015.

DATED this 29<sup>th</sup> day of July, 2015.

**BOARD OF COUNTY COMMISSIONERS  
FOR TILLAMOOK COUNTY, OREGON**

**Aye    Nay    Abstain/Absent**

  
Tim Josi, Chair

✓              

  
Mark Labhart, Vice Chair

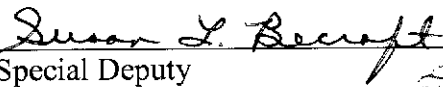
✓              

     
Bill Baertlein, Commissioner

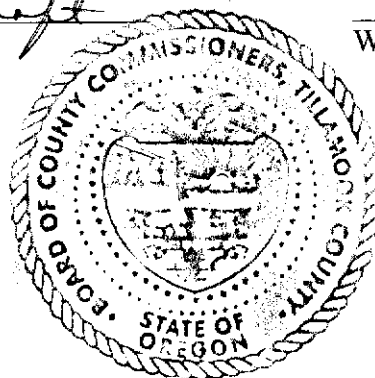
                 

ATTEST: Tassi O'Neil, County Clerk

APPROVED AS TO FORM:

By   
Special Deputy

  
William K. Sargent, County Counsel



## EXHIBIT A

# AGREEMENT ESTABLISHING THE SALMONBERRY TRAIL INTERGOVERNMENTAL AGENCY

**THIS INTERGOVERNMENTAL AGREEMENT** (hereinafter "Agreement") is made by and between the State of Oregon by and through the Oregon Department of Forestry (ODF), the Oregon Parks and Recreation Department (OPRD), Tillamook County, and the Port of Tillamook Bay (POTB), hereinafter referred to collectively as "Parties" and individually as "Party".

## RECITALS

**WHEREAS**, ORS 190.010 and ORS 190.110 provide that units of local and state government may enter into agreements for the performance of any and all functions and activities that a party to the agreement, its officers or agents, have authority to perform; and,

**WHEREAS**, under ORS 190.010, an intergovernmental entity designated to perform specified functions or activities is vested with all powers, rights and duties relating to those functions and activities that are vested by law in each separate party to the agreement, its officers and agencies; and,

**WHEREAS**, Tillamook County has the authority under ORS 203.010(3) to enter into contracts; and,

**WHEREAS**, the Port of Tillamook Bay (POTB) railroad once connected the Willamette Valley to the Oregon Coast on an 86-mile rail corridor formerly owned by Southern Pacific, running from Banks to the Port of Tillamook Bay Industrial Park through the canyon of the Salmonberry River and the Tillamook State Forest; and,

**WHEREAS**, this unique passage, which is referred to as the Salmonberry Corridor (Corridor), has a rich history, an outstanding scenic context and has the potential to connect urban and rural Oregon by constructing a multi-use trail within the corridor, connecting to a wide network of existing recreation trails and parks, educational opportunities, and heritage sites; and,

**WHEREAS**, a new multi-use trail will create strong economic opportunities for Northwest Oregon and will help revitalize communities along the rail corridor, including Banks, Timber and the small towns and cities along the coast from Wheeler to Tillamook; and,

**WHEREAS**, SB 1516 was passed by the 2014 Legislature and required OPRD and ODF, in cooperation with other interested state agencies, local governments, nonprofit organizations and other stakeholders, to develop a plan to construct a trail along or adjacent to the portion of the former railroad line between Banks and Tillamook; and,

**WHEREAS**, the public agency members joined with other stakeholders, and, after extensive public involvement and engagement, completed the Salmonberry Corridor Concept Plan (Concept Plan) which is intended to be the foundation for future development of this important landmark and a guide for developing more specific plans and designs for individual segments of the Corridor; and,

**WHEREAS**, the Concept Plan listed four major goals within the document:

- 1. Support Local Economies.** Encourage new economic opportunities for Corridor communities.
- 2. Preserve the Investment.** Stabilize existing right of way and limit future damage. Ensure a financially-viable and sustainable future for the project.
- 3. Provide Access for Multiple Users.** Improve and increase access to public lands for a wide range of uses (and ages) including walking, biking, hunting, fishing and equestrian.
- 4. Maintain and Improve the Environment.** Maintain and improve sensitive river and coastal environments; and,

**WHEREAS**, in March 2015, Governor Kate Brown designated the effort to establish a governance structure for the Salmonberry Trail as an Oregon Solutions Project and named the Directors of the Oregon Department of Forestry and Oregon Parks and Recreation Department as Co-conveners; and,

**WHEREAS**, the Oregon Solutions project resulted in a collaborative agreement and a "Declaration of Cooperation" between the parties to enter into this intergovernmental agreement; and,

**WHEREAS**, the Parties agree that a governing body is needed to promote and facilitate coordinated direction and guidance to plan the development and maintenance of a multi-use trail within the Salmonberry Corridor that can fully achieve the four goals outlined within the plan; and,

**WHEREAS**, the construction and management of a multi-use trail envisioned by the Concept Plan is a complex undertaking that no single jurisdiction or entity can accomplish on its own; rather, a collaboration of many government agencies, nonprofit organizations, and the private sector is necessary to advance this project;

**NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

## **AGREEMENTS**

**1. Establishment of the Salmonberry Trail Intergovernmental Agency and Board of Directors.** There is hereby established an ORS 190.010(5) intergovernmental entity to be known as the "Salmonberry Trail Intergovernmental Agency", hereinafter referred to as "Agency", a multi-jurisdictional, collaboration of the public agencies which are Parties to this Agreement. The Agency shall be governed by a board of directors named the Salmonberry Trail Board of Directors, hereinafter referred to as the "Board" or "STB".

**2. Membership on the STB.** The Parties to this Agreement shall each designate one official to be a member of the STB (Director) and to accomplish the purposes set forth in paragraph 8. The officials to be designated shall be elected officials or Chief Administrative Officers of the respective agencies. Directors shall also designate an alternate Director who can attend meetings and act on behalf of the primary Director.

**3. Ex-officio Members of the Board of Directors.** Ex-officio membership on the STB is intended to be limited to those individuals and organizations that have or potentially have significant in-kind or other resources to contribute to the implementation of the concept plan. Ex-officio members are also called Directors, but are non-voting Directors; however, they can fully participate in discussions and deliberations of the STB. By and through this Agreement, the following groups shall have Ex-officio membership on the STB: Washington County; Cycle Oregon; the Tillamook Forest Heritage Trust (TFHT); the Washington County Visitors Association; the Oregon State Senator from District 16; the Oregon State Representative from District 32; and the Governor's Regional Solutions Team North Coast Coordinator. Cycle Oregon, the TFHT, and the Washington County Visitors Association shall each designate one person to be an Ex-officio member of the Board of Directors and to help the Board of Directors accomplish the purposes set forth in paragraph 8. Ex-officio Directors shall also designate an alternate who can attend meetings and speak on behalf of the primary Board member.

**4. Adding Directors or Ex-Officio Members.** The STB may add additional Ex-Officio Directors or member agencies through an amendment to this Agreement. Ex-officio members may be added at any time by consensus of the Board as specified in paragraph 11, or as otherwise provided in the by-laws.

**5. Conveners.** The STB shall establish Conveners or Co-conveners whose role will be determined within the STB by-laws. For calendar years 2015 and 2016, the Co-Conveners shall be the Director of the ODF and the Director of OPRD. In January 2017, a new Convener or Co-Conveners shall be appointed or reappointed by the STB in accordance with the adopted bylaws.

**6. Advisory Committees and Board Subcommittees.** The STB may establish Advisory Committees and Board Subcommittees as they believe appropriate. Example subjects for which an Advisory Committee may be needed include: Technical Assistance, Natural Resources; Recreation; Tourism and Economic Development; Scenic Railroad Coordination, Adjacent Private Landowners; and Local Government Coordination.

**7. Salmonberry Coalition.** The STB shall identify Salmonberry Corridor and trail stakeholders and invite each entity to designate an individual to be a member of the Salmonberry Coalition—a group similar to the stakeholders who provided input in the drafting of the Salmonberry Corridor Concept Plan. The Coalition shall be invited to meet at least once a year for the annual meeting of the STB. The purpose of the Coalition is to keep stakeholders informed, allow the STB to touch base with stakeholders, to present issues to stakeholders, provide status reports and generally to keep communication open with the large and varied group of stakeholders interested in the trail and the corridor.

**8. Purpose of Intergovernmental Agency.** The purpose of the Intergovernmental Agency is to plan the development and maintenance of a multi-use trail within the Salmonberry Corridor, consistent with the goals established within the Salmonberry Corridor Concept Plan and included in the Recitals above. The Salmonberry Corridor Concept Plan shall be the foundation for future development of the corridor and trail and a guide for developing more specific plans and designs for individual segments of the Trail.

**9. Duties and Responsibilities of Agency and the STB.** The duties and responsibilities of the Agency and the STB include, but are not limited to, those listed on Attachment A to this Agreement, enumerated as Ownership/Leadership Tasks. In addition, the intergovernmental entity shall have all the powers given to it under ORS chapter 190.

**10. Limitation of Powers.** The STB shall not have the power to bind or encumber the participating governmental units in any manner except as the member agencies agree through both the policy and administrative authority that they grant to their appointed Directors of the STB.

**11. Decision-Making.** The STB shall strive for consensus on all decisions. However, if consensus is not achievable within a reasonable period of time as determined by a majority of all Directors, decisions shall be made by majority vote of all voting Directors. No decisions, whether by consensus or by majority vote, can be made without a quorum. A quorum shall be defined as attendance by a majority of all Directors. This decision-making process may be further documented in the adopted by-laws.

**12. Fundraising Partner of the Intergovernmental Agency.** The TFHT is hereby designated as the initial fundraising partner of the Intergovernmental Agency and, on behalf of the Agency, shall develop and implement a fundraising plan for the initial phases of development of the Salmonberry Trail. The TFHT may eventually choose to create a "spin-off" non-profit organization for this purpose or relinquish its fundraising role to another qualified non-profit organization designated by the STB. In the event that a new nonprofit assumes the role of fundraising partner before initial donations are sufficient to "reimburse" TFHT for its initial fundraising and capital campaign planning costs (~\$100,000), then the new nonprofit partner will be required to reimburse TFHT for the balance of those costs as future donations are received.<sup>1</sup>

**13. Evolution of Governance Structure.** The Parties recognize that the governance structure and the roles of non-profit partners are expected to evolve over time as the needs of the organization change from the present concept stage to the future more detailed planning, implementation, and operational stages. As the governance and non-profit structures evolve, the Parties will need to determine how to reach additional collaborative agreements on overall project priorities and management functions.

**14. Administrative Entity.** The Directors agree to share administrative duties of the Agency by rotating those duties among Directors as agreed by the STB. Examples of administrative duties include: providing space and supervision of any employee(s) assigned to work with the Agency, giving notice of Agency meetings, arranging meeting location, taking minutes at meetings, sending meeting minutes, completing follow-up tasks as needed, and so forth. The initial administrative entity shall be OPRD. At its first official meeting, the Agency Board of Directors shall reach consensus on defining the administrative duties of the Administrative Entity and the consensus reached shall be recorded in the meeting minutes.

**15. Budget.** Initially, it is anticipated that the Agency will operate through in-kind contributions of the Directors. If at such time that the STB determines that a budget for the Agency is necessary and appropriate, such budget shall be prepared in accordance with the applicable public budgeting laws of the State of Oregon.

**16. By-Laws.** The STB shall adopt by-laws consistent with this Agreement necessary to conduct its affairs.

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<sup>1</sup> OPRD must follow OAR 736-002-0015 to implement its authority under ORS 390.141 to designate a fundraising partner. The new Intergovernmental Agency is expressly not utilizing OPRD's authority under ORS 390.141 to designate TFHT or any subsequent fundraising partner.

**17. Action.** Certain actions of the STB may need to be formally ratified by each Member's parent Board or Commission. Directors shall be responsible for determining whether an action contemplated by the STB requires ratification of the Member's Board or Commission.

**18. Meetings.** The STB shall meet as frequently as the Convener or Co-Conveners may determine, or as otherwise provided in the bylaws. All meetings shall comply with the Oregon Public Meetings statutes which begin at ORS 192.610.

**19. Duration and Termination.** This Agreement shall remain in force for a period of ten (10) years from the date last signed by a Director, unless specifically extended or otherwise modified by action of the Directors. At the end of the 10-year period, the Directors shall conduct a thorough review of their activities and make a decision on any needed changes to this Agreement, including its duration. A participating member agency may withdraw from the Intergovernmental Agency upon 30-days written notice to the other Directors.

**20. Amendments.** This agreement may be amended only with approval of the Member agencies.

**21. Agency relationship.** Nothing contained in this IGA or any transaction is intended to or should be construed as creating the relationship of partners, joint-venturers, an association, or agency relationship between State and units of local governments. Neither shall the employees, agents, or representatives of either Party be considered to be employees, agents, or representatives of the other Party for the purposes of the Oregon Tort Claims Act, ORS 30.260 to 30.300, or for any other purpose.

**22. Third party beneficiaries.** The State and the units of local government are the only Parties to the IGA and all transactions, and are the only parties entitled to enforce the terms of the IGA. Nothing in the IGA gives, is intended to give, or shall be construed to give or provide, any benefit or right, whether directly, indirectly, or otherwise, to third persons.

**23. Indemnification.** To the extent permitted by and subject to the limitations of the Oregon Constitution and the Oregon Tort Claims Act, and subject to ORS Chapter 180, each Party (First Party) shall defend, save, hold harmless and indemnify the other Parties and its subdivisions, officers, directors, employees and agents, from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever, including attorneys' fees, resulting from, arising out of or relating to the acts or omissions of the First Party or its officers, directors, employees, subcontractors or agents under this Agreement.

**24. Non appropriation clause.** Each Parties' obligation to pay any amounts, perform any activities or provide any items under this IGA is conditioned upon that Parties' receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow it, in the exercise of its reasonable administrative discretion, to meet its obligations under this IGA. Nothing in this Agreement is to be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon.

## SIGNATURES

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Lisa Sumption  
Director, Oregon Parks and Recreation Department

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Doug Decker, Oregon State Forester  
Oregon Department of Forestry

### BOARD OF COMMISSIONERS FOR TILLAMOOK COUNTY, OREGON

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Tim Josi, Chairperson

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Mark Labhart, Vice Chairperson

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Bill Baertlein, Commissioner

### BOARD OF COMMISSIONERS Port of Tillamook Bay

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Jack Mulder, Commissioner  
Port of Tillamook Bay



**ATTACHMENT A  
TRAIL RESPONSIBILITIES AND TASKS**

By paragraph 9 above – Duties and Responsibilities—the Board will conduct some or all of the tasks listed below as Ownership/Leadership Tasks. At some point in the future, the Board will assign responsibilities for Management/Operational Tasks, Trail Support Tasks, or other tasks that may be identified by the Board.

**1. Ownership/Leadership Tasks.** The following Ownership/Leadership Tasks are the responsibility of the STB:

- A. Accept/adopt/approve plans that set the overall direction for developing the trail corridor.
- B. Ensure that the former railroad Right of Way is protected and reserved for the perpetual use of the public, including the use of “Railbanking” as a means to accomplish this goal when this technique is appropriate.
- C. Adopt a budget which sets priorities for spending on the project.
- D. Establish policies and procedures for trail users over the entire corridor that emphasize safety and enjoyment for users.
- E. As each Party may determine, provide general funds for trail planning and trail development either by ownership or for the entire corridor.
- F. Adopt a Named-Gift Policy that guides the Tillamook Forest Heritage Trust (THFT) as the Agency’s fundraising partner.
- G. As each Party may determine, provide financing for a project manager for an initial period of time.
- H. Provide, or cause to be provided, liability insurance for owners and support groups and their volunteers.
- I. Actively pursue grant funding sources that are unique to owners and key stakeholders to further trail development and management.
- J. Prioritize development projects and major maintenance activities within the trail corridor.
- K. Ensure that the trail is developed and managed consistent with acknowledged land use plans of local governments adjacent to the corridor. Seek land use changes in instances when development is not contemplated by the land use plans.

L. Actively pursue and promote public/private partnerships and facilitate cooperation between governmental agencies in developing, constructing, and maintaining the trail system.

M. Study and adopt uniform standards for the design and construction of the trail system, including signage standards.

N. Develop, or cause to be developed, a set of comprehensive action plans, to include:

i. a fundraising plan that will identify and secure funding for staff, operations, programs, and projects, to include appropriate endowment funds;

ii. a public engagement plan to involve stakeholders and adjoining property owners in the development and operation of the trail corridor;

iii. a public relations/marketing information program to increase use of the trail corridor and maximize its economic development and recreational use.

O. Create advisory committees as needed and consider all recommendations made by advisory committees.

P. Hold an annual meeting—a State of the Trail gathering—to keep all trail stakeholders informed about progress in fulfilling the vision for the trail.

Q. Consider options and then assign a responsible party for Management/Operational Tasks and for Trail Support Tasks, as indicated within this Attachment.

**2. Management/Operational Tasks.** These are tasks associated with the day-to-day operations of the trail and include everything from budget management to managing the staff delivering trail-related services, planning and implementing capital projects, doing trail maintenance, and addressing issues such as vegetation control, litter pick-up, trail patrols, etc. Examples of Management/Operational Tasks include:

A. Effectively manage an annual budget for the trail that includes operations and capital projects.

B. Hire or contract for staff support to effectively manage the trail.

C. Plan and undertake trail development capital projects and major maintenance projects to implement the Concept Plan.

D. Manage conflicts between trail uses within the trail right-of-way

E. Undertake technical studies as necessary to support project development and implementation.

F. Establish policies and procedures that address problem solving, communication, and coordination with governmental agencies and private property owners adjoining the trail corridor.

G. Provide technical staff as appropriate to assist in the development and maintenance of the trail.

H. Collaborate with governmental agencies, nonprofits, and private parties to implement the Concept Plan and manage the trail system.

I. Review governmental agencies' ordinances, rules, standards, and regulations and recommend additions or changes in conformance with the adopted Concept Plans and any subsequent planning documents.

J. Make recommendations to governing bodies and agencies relative to desirable federal, state, and local policies and funding concerning the trail corridor.

K. Focus on the local community, identify trail interests and needs, and make suggestions for action to the STB.

L. Monitor progress to fully implement the Concept Plan, discuss issues related to that progress, and advise the STB as appropriate.

M. Facilitate the connection of the Salmonberry Trail to other area trails within the region.

N. Prepare and submit an annual report which includes a review of the prior year's activities and a statement of goals and objectives for the coming year.

**3. Trail Support Tasks.** These tasks are ones that are often accomplished by a dedicated support group of volunteers—a Friends Group—such as fundraising, planning and conducting special events, working with and coordinating volunteers, performing light trail maintenance, promoting the trail as a benefit to local businesses, and so forth. The role of a support group can be relatively minor or it can be extensive.

A. Coordinate volunteers who provide trail operations services such as light trail maintenance, fee collection services, litter pick-up, safety patrols, and help with special events.

B. Assist in the implementation of the corridor's public relations and marketing plan and the trail's public engagement plan.

- C. Assist the trail's fundraising support group with their fundraising activities.
- D. Plan and conduct special events on the trail system.
- E. Look for opportunities to increase the economic development potential of the trail corridor to include support for businesses that benefit from the trail
- F. Act as a community advocate for the trail.
- G. Facilitate communications among all stakeholders and users through newsletters, social media, website development, meetings, and other techniques.
- H. Provide advice on logistical issues including development of projects within the trail right-of-way, signage, trail-head development, parking, public safety issues, and the sharing of responsibilities associated with operations and maintenance.