

**Intergovernmental Agreement to Transfer Tax Increment Revenues
of the St. Helens Urban Renewal Area
to the City of St. Helens to pay a Special Public Works Fund Loan**

This Intergovernmental Agreement (the “Intergovernmental Agreement”) is dated as of **April 6, 2022**, and is entered into by and between the **Urban Renewal Agency** of the City of St. Helens (the “URA”) and the **City of St. Helens, Oregon** (the “City”). The parties hereby agree as follows:

Section 1. Definitions and Recitals.

(1) Definitions.

Unless the context clearly requires otherwise, capitalized terms used in this Intergovernmental Agreement that are defined in this Section 1(1) shall have the following meanings:

“Area” means the St. Helens Urban Renewal Area described in the URA’s Urban Renewal Plan.

“IFA Contract” means the contract (numbered B21006) with the Oregon Infrastructure Finance Authority under which the City obtains a loan in the amount of not more than \$14,667,678 from the Special Public Works Fund to finance the Project.

“Plan” means the St. Helens Urban Renewal Plan & Report approved by Ordinance No. 3217, adopted on August 16, 2017, as that plan has been, and may in the future be, amended.

“Project” means construction of municipally owned infrastructure as described in Exhibit C of the IFA Contract (**Exhibit A**).

“Tax Increment Revenues” means all revenues that the URA collects for the Area under the provisions of Article IX, Section 1c of the Oregon Constitution and Oregon Revised Statutes Chapter 457.

(2) Findings.

- (A) The City has entered into the IFA Contract to finance costs of the Project.
- (B) The URA is authorized to spend Tax Increment Revenues to pay for the costs of the Project.
- (C) The IFA Contract with security from the URA’s Tax Increment Revenues enables significant cost savings, through reduced interest rates and fees, for the URA by having the City as applicant for the IFA Contract (**Exhibit A**).
- (D) The Project will assist the URA in carrying out its Plan.
- (E) The URA will only spend the proceeds of the IFA Contract on the Project if the Project is described in the Plan, located in the Area, and owned by the City or the URA.
- (F) The URA will appropriate funding needed for payments in each year’s budget.

- (G) The URA has an unused maximum indebtedness of \$62 million of available prior to executing this Intergovernmental Agreement.

Section 2. Payments and Warranties

- (1) The URA hereby pledges and agrees to transfer to the City the Tax Increment Revenues as such ad valorem property tax revenues are received and City agrees to place the revenues into a segregated Fund as provided in the IFA Contract until the amount is adequate to make the annual debt service on the IFA Contract as shown in the attached **Exhibit B**.
- (2) This Intergovernmental Agreement shall constitute indebtedness of the URA. The URA is obligated to make the payments due under this Intergovernmental Agreement solely from the Tax Increment Revenues. Pursuant to Oregon Revised Statutes Section 287A.310, the URA pledges the Tax Increment Revenues to pay the amounts described in Section 2 of this Intergovernmental Agreement. This pledge shall be subordinate to the tax increment indebtedness of the URA that are outstanding on the date this Intergovernmental Agreement is executed, but shall be superior to all other obligations of the URA except to the extent that the City subsequently agrees in writing to subordinate this pledge.
- (3) The URA agrees it will not remove any property from the Area if such removal will cause the anticipated Incremental Property Tax Revenues to be inadequate to pay the annual debt service on the Loan and any parity obligations.
- (4) The URA represents and warrants that the IFA Contract loan amount is within the maximum amount of indebtedness that may be incurred under the URA's Plan.

Section 3. Estoppel.

The URA hereby certifies, recites and declares that all things, conditions and acts required by the Constitution and Statutes of the State of Oregon and by this Intergovernmental Agreement to exist, to have happened and to have been performed precedent to and in the execution and the delivery of this Intergovernmental Agreement, do exist, have happened and have been performed in due time, form and manner, as required by law, and that this Intergovernmental Agreement is a valid and binding obligation of the URA that is enforceable against the URA in accordance with its terms, except to the extent that enforceability may be limited by applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium or other laws or judicial decisions or principles of equity relating to or affecting the enforcement of creditors' rights or contractual obligations generally.

Section 4. Miscellaneous.

- (1) Binding Effect.

This Intergovernmental Agreement shall inure to the benefit of and shall be binding upon the URA and the City and their respective successors and assigns.

- (2) Severability.

In the event any provisions of this Intergovernmental Agreement shall be held invalid or

unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions hereof.

(3) Amendments.

This Intergovernmental Agreement may be amended only by a writing signed by both parties.

(4) Execution in Counterparts.

This Intergovernmental Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute the same instrument.

(5) Applicable Law.

This Intergovernmental Agreement shall be governed by and construed in accordance with the laws of the State of Oregon. Any action regarding this Intergovernmental Agreement or the transactions contemplated hereby shall be brought in an appropriate court of the State of Oregon in Columbia County, Oregon.

(6) Rules of Construction.

References to section numbers in documents that do not specify the document in which the section is located shall be construed as references to section numbers in this Intergovernmental Agreement.

(7) Headings.

The headings, titles and table of contents in this Intergovernmental Agreement are provided for convenience and shall not affect the meaning, construction or effect of this Intergovernmental Agreement.

IN WITNESS WHEREOF, the URA and the City have executed this Intergovernmental Agreement as of the date indicated above.

For the Urban Renewal Agency of the City of St. Helens

Doug Morten, URA Chair

For the City of St. Helens, Oregon

Rick Scholl, Mayor

[**Exhibit A** IFA Contract]
[**Exhibit B** Debt Service Schedule]

EXHIBIT A

SPECIAL PUBLIC WORKS FUND DEVELOPMENT PROJECT INTERIM FINANCING CONTRACT

Project Name: Riverfront Redevelopment Project

Project Number: B21006

This interim financing contract ("Contract"), dated as of the date the Contract is fully executed, is made by the State of Oregon, acting by and through its Oregon Infrastructure Finance Authority of the Business Development Department ("OBDD"), and the City of Saint Helens ("Recipient") for financing of the project referred to above and described in Exhibit C ("Project"). This Contract becomes effective only when fully signed and approved as required by applicable law. Capitalized terms not defined in section 1 and elsewhere in the body of the Contract have the meanings assigned to them by Exhibit A.

This Contract includes the following exhibits, listed in descending order of precedence for purposes of resolving any conflict between two or more of the parts:

Exhibit A	General Definitions
Exhibit B	Security
Exhibit C	Project Description
Exhibit D	Project Budget

SECTION 1 - KEY TERMS

The following capitalized terms have the meanings assigned below.

"Estimated Project Cost" means \$15,516,178.

"Interest Rate" means 0.6% per annum.

"Loan Amount" means \$14,667,678.

"Maturity Date" means the earlier of 3 years plus 90 days after the date of this Contract, or the receipt of Refunding Proceeds by either party.

"Project Closeout Deadline" means 90 days after the earlier of the Project Completion Date or the Project Completion Deadline.

"Project Completion Deadline" means 36 months after the date of this Contract.

SECTION 2 - FINANCIAL ASSISTANCE

The OBDD shall provide Recipient, and Recipient shall accept from OBDD, financing for the Project as a non-revolving loan (the "Loan") in an aggregate principal amount not to exceed the Loan Amount.

Notwithstanding the above, the aggregate total of Financing Proceeds disbursed under this Contract cannot exceed the Costs of the Project.

SECTION 3 - DISBURSEMENTS

- A. Reimbursement Basis. The Financing Proceeds will be disbursed to Recipient on an expense reimbursement or costs-incurred basis. The Recipient must submit each disbursement request for the Financing Proceeds on an OBDD-provided or OBDD-approved disbursement request form ("Disbursement Request").

- B. Financing Availability. The OBDD's obligation to make, and Recipient's right to request, disbursements under this Contract terminates on the Project Closeout Deadline.
- C. Payment to Contractors. The OBDD, in its sole discretion, may make direct payment to suppliers, contractors and subcontractors and others for sums due them in connection with construction of the Project, instead of reimbursing Recipient for those sums.

SECTION 4 - LOAN PAYMENT; PREPAYMENT

- A. Promise to Pay. The Recipient shall repay the Loan and all amounts due under this Contract in accordance with its terms. Payments required under this Contract are, without limitation, payable from the sources of repayment described in the Act and this Contract, including but not limited to Exhibit B, and the obligation of Recipient to make all payments is absolute and unconditional. Payments will not be abated, rebated, set-off, reduced, abrogated, terminated, waived, postponed or otherwise modified in any manner whatsoever. Payments cannot remain unpaid, regardless of any contingency, act of God, event or cause whatsoever, including (without limitation) any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, the taking by eminent domain or destruction of or damage to the Project, commercial frustration of purpose, any change in the laws, rules or regulations of the United States of America or of the State of Oregon or any political subdivision or governmental authority, nor any failure of OBDD to perform any agreement, whether express or implied, or any duty, liability, or obligation arising out of or connected with the Project or this Contract, or any rights of set off, recoupment, abatement or counterclaim that Recipient might otherwise have against OBDD or any other party or parties; provided further, that payments hereunder will not constitute a waiver of any such rights.
- B. Interest. Interest accrues at the Interest Rate on each disbursement from the date of disbursement until the Loan is fully paid. Interest is computed by counting the actual days occurring in a 360-day year.
- The Recipient authorizes OBDD to calculate interest accrued under the Loan, including as necessary to determine the loan amortization schedule, a loan prepayment, or a loan payoff amount. Absent manifest error, such calculations will be conclusive.
- C. Loan Payment. The entire outstanding balance of the Loan, including all accrued unpaid interest, is due and payable in full on the Maturity Date.
- D. Loan Prepayments.
- (1) Mandatory Prepayment. The Refunding Proceeds shall be applied to repay the outstanding balance of the Contract. Further, Recipient shall prepay all or part of the outstanding balance of the Loan as may be required by this Contract.
 - (2) Optional Prepayment. The Recipient may prepay all or part of the outstanding balance of the Loan on any day except a Saturday, Sunday, legal holiday or day that banking institutions in Salem, Oregon are closed.
- E. Application of Payments. Regardless of any designation by Recipient, payments and prepayments by Recipient under this Contract or any of the Financing Documents will be applied first to any expenses of OBDD, including but not limited to attorneys' fees, then to unpaid accrued interest (in the case of prepayment, on the amount prepaid), then to the principal of the Loan. In the case of a Loan prepayment that does not prepay all the principal of the Loan, OBDD will determine, in its sole discretion, the method for how the Loan prepayment will be applied to the outstanding principal

payments. A scheduled payment received before the scheduled repayment date will be applied to interest and principal on the scheduled repayment date, rather than on the day such payment is received.

SECTION 5 - CONDITIONS PRECEDENT

- A. Conditions Precedent to OBDD's Obligations. The OBDD's obligations are subject to the receipt of the following items, in form and substance satisfactory to OBDD and its Counsel:
- (1) This Contract duly signed by an authorized officer of Recipient.
 - (2) A copy of the ordinance, order or resolution of the governing body of Recipient authorizing the borrowing and the contemplated transactions and the execution and delivery of this Contract and the other Financing Documents.
 - (3) An opinion of Recipient's Counsel.
 - (4) A copy of an intergovernmental agreement ("IGA") between Recipient and the Urban Renewal Agency for the City of Saint Helens that pledges incremental property tax revenues for payment of the Loan.
 - (5) A collateral assignment to OBDD of the IGA described in subsection (4), to secure payment of the Loan ("Collateral Assignment"). The Collateral Assignment is incorporated herein by this reference.
 - (6) Such other certificates, documents, opinions and information as OBDD may reasonably require.
- B. Conditions to Disbursements. As to any disbursement, OBDD has no obligation to disburse funds unless all following conditions are met:
- (1) There is no Default or Event of Default.
 - (2) The representations and warranties made in this Contract are true and correct on the date of disbursement as if made on such date.
 - (3) The OBDD, in the reasonable exercise of its administrative discretion, has sufficient moneys in the Special Public Works Fund for use in the Project and has sufficient funding, appropriations, limitations, allotments and other expenditure authority to make the disbursement.
 - (4) The Recipient has delivered to OBDD (in form and substance satisfactory to OBDD) an estimated schedule of Disbursement Requests for Project design, including anticipated number, submission dates, and amounts and, prior to the beginning of Project construction, an estimated schedule of Disbursement Requests for construction, including anticipated number, submission dates, and amounts.
 - (5) The OBDD (a) has received a completed Disbursement Request, (b) has received any written evidence of materials and labor furnished to or work performed upon the Project, itemized receipts or invoices for payment, and releases, satisfactions or other signed statements or forms as OBDD may require, (c) is satisfied that all items listed in the Disbursement Request are reasonable and that the costs for labor and materials were incurred and are properly included in the Costs of the Project, and (d) has determined that the disbursement is only for costs defined as eligible costs under the Act and any implementing administrative rules and policies.
 - (5) The Recipient has delivered documentation satisfactory to OBDD that, in addition to the Financing Proceeds, Recipient has available or has obtained binding commitments for all funds necessary to complete the Project.

- (6) Any conditions to disbursement elsewhere in this Contract or in the other Financing Documents are met.

SECTION 6 - USE OF FINANCIAL ASSISTANCE

- A. Use of Proceeds. The Recipient shall use the Financing Proceeds only for the activities described in Exhibit C and according to the budget in Exhibit D. The Recipient may not transfer Financing Proceeds among line items in the budget without the prior written consent of OBDD.
- B. Costs of the Project. The Recipient shall apply the Financing Proceeds to the Costs of the Project in accordance with the Act and Oregon law, as applicable. Financing Proceeds cannot be used for costs in excess of one hundred percent (100%) of the total Costs of the Project and cannot be used for pre-Award Costs of the Project, unless permitted by Exhibit C.
- C. Costs Paid for by Others. The Recipient may not use any of the Financing Proceeds to cover costs to be paid for by other financing for the Project, whether from OBDD or from another State of Oregon agency or any third party.

SECTION 7 - REPRESENTATIONS AND WARRANTIES OF RECIPIENT

The Recipient represents and warrants to OBDD:

- A. Estimated Project Cost, Funds for Repayment. A reasonable estimate of the Costs of the Project is shown in section 1, and the Project is fully funded. The Recipient will have adequate funds available to repay the Loan, and the Maturity Date does not exceed the usable life of the Project.
- B. Organization and Authority.
- (1) The Recipient is a Municipality under the Act, and validly organized and existing under the laws of the State of Oregon.
 - (2) The Recipient has all necessary right, power and authority under its organizational documents and under Oregon law to (a) execute and deliver this Contract and the other Financing Documents, (b) incur and perform its obligations under this Contract and the other Financing Documents, and (c) borrow and receive financing for the Project.
 - (3) This Contract and the other Financing Documents executed and delivered by Recipient have been authorized by an ordinance, order or resolution of Recipient's governing body, and voter approval, if necessary, that was adopted in accordance with applicable law and requirements for filing public notices and holding public meetings.
 - (4) This Contract and the other Financing Documents have been duly executed by Recipient, and when executed by OBDD, are legal, valid and binding, and enforceable in accordance with their terms.
- C. Full Disclosure. The Recipient has disclosed in writing to OBDD all facts that materially adversely affect the Project, or the ability of Recipient to make all payments and perform all obligations required by this Contract and the other Financing Documents. The Recipient has made no false statements of fact, nor has it omitted information necessary to prevent any statements from being misleading. The information contained in this Contract and the other Financing Documents is true and accurate in all respects.

- D. Pending Litigation. The Recipient has disclosed in writing to OBDD all proceedings pending (or to the knowledge of Recipient, threatened) against or affecting Recipient, in any court or before any governmental authority or arbitration board or tribunal, that, if adversely determined, would materially adversely affect the Project or the ability of Recipient to make all payments and perform all obligations required by this Contract and the other Financing Documents.
- E. No Defaults.
- (1) No Defaults or Events of Default exist or occur upon authorization, execution or delivery of this Contract or any of the Financing Documents.
 - (2) The Recipient has not violated, and has not received notice of any claimed violation of, any agreement or instrument to which it is a party or by which the Project or its property may be bound, that would materially adversely affect the Project or the ability of Recipient to make all payments and perform all obligations required by this Contract and the other Financing Documents.
- F. Compliance with Existing Agreements and Applicable Law. The authorization and execution of, and the performance of all obligations required by, this Contract and the other Financing Documents will not: (i) cause a breach of any agreement, indenture, mortgage, deed of trust, or other instrument, to which Recipient is a party or by which the Project or any of its property or assets may be bound; (ii) cause the creation or imposition of any third party lien, charge or encumbrance upon any property or asset of Recipient; (iii) violate any provision of the charter or other document pursuant to which Recipient was organized or established; or (iv) violate any laws, regulations, ordinances, resolutions, or court orders related to Recipient, the Project or its properties or operations.
- G. Governmental Consent. The Recipient has obtained or will obtain all permits and approvals, and has made or will make all notifications, declarations, filings or registrations, required for the making and performance of its obligations under this Contract and the other Financing Documents, for the financing or refinancing and undertaking and completion of the Project.

SECTION 8 - COVENANTS OF RECIPIENT

The Recipient covenants as follows:

- A. Notice of Adverse Change. The Recipient shall promptly notify OBDD of any adverse change in the activities, prospects or condition (financial or otherwise) of Recipient or the Project related to the ability of Recipient to make all payments and perform all obligations required by this Contract or the other Financing Documents.
- B. Compliance with Laws. The Recipient shall comply with all applicable laws, rules, regulations and orders of any court or governmental authority that relate to this Contract or the other Financing Documents, and the Project. In particular, but without limitation, Recipient shall comply with the following, as applicable:
- (1) State procurement regulations found in the Oregon Public Contracting Code, ORS chapters 279A, 279B and 279C.
 - (2) State labor standards and wage rates found in ORS chapter 279C.
 - (3) OAR 123-042-0165 requirements for signs and notifications.

These laws, rules, regulations and orders are incorporated by reference in this Contract to the extent required by law.

- C. Project Completion Obligations. The Recipient shall:

- (1) Provide OBDD with copies of all plans and specifications relating to the Project, and a timeline for the bidding/award process, at least ten (10) days before advertising for bids.
 - (2) Provide a copy of the bid tabulation, notice of award, and contract to OBDD within ten (10) days after selecting a construction contractor.
 - (3) Permit OBDD to conduct inspection of the Project at any time.
 - (4) Complete the Project using its own fiscal resources or money from other sources to pay for any Costs of the Project in excess of the total amount of financial assistance provided pursuant to this Contract.
 - (5) Complete the Project no later than the Project Completion Deadline, unless otherwise permitted by OBDD in writing.
 - (6) Obtain and maintain as-built drawings for all facilities constructed as part of the Project.
- D. Ownership of Project. During the term of the Loan, the Project is and will continue to be owned by Recipient. The Project will be operated by Recipient or by a person under a management contract or operating agreement with Recipient.
- E. Operation and Maintenance of the Project. The Recipient shall operate and maintain the Project in good repair and operating condition so as to preserve the long term public benefits of the Project, including making all necessary and proper repairs, replacements, additions, and improvements during term of the Loan. On or before the Project Closeout Deadline, Recipient shall adopt a plan acceptable to OBDD for the on-going operation and maintenance of the Project without reliance on OBDD financing and furnish OBDD, at its request, with evidence of such adoption. The plan must include measures for generating revenues sufficient to assure the operation and maintenance of the Project during the usable life of the Project.
- F. Insurance, Damage. The Recipient shall maintain, or cause to be maintained, insurance policies with responsible insurers or self-insurance programs, insuring against liability and risk of direct physical loss, damage or destruction of the Project, at least to the extent that similar insurance is customarily carried by governmental units constructing, operating and maintaining similar facilities. Nothing in this provision precludes Recipient from asserting a defense against any party other than OBDD, including a defense of immunity. If the Project or any portion is destroyed, any insurance proceeds will be paid to OBDD and applied to prepay the outstanding balance on the Loan in accordance with section 4.D.(1), unless OBDD agrees in writing that the insurance proceeds may be used to rebuild the Project.
- G. Sales, Leases and Encumbrances. Except as specifically described in Exhibit D, Recipient shall not sell, lease, exchange, abandon, transfer or otherwise dispose of any substantial portion of or interest in the Project or any system that provides revenues for payment or is security for the Loan, unless worn out, obsolete, or, in the reasonable business judgment of Recipient, no longer useful in the operation of the Project. Nevertheless, OBDD may consent to such disposition if it has received 90 days' prior written notice from Recipient. Such consent may require assumption by transferee of all of Recipient's obligations under the Financing Documents and payment of OBDD's costs related to such assumption. In the case of sale, exchange, transfer or other similar disposition, Recipient shall, within 30 days of receipt of any proceeds from such disposition, prepay the entire outstanding balance on the Loan in accordance with section 4.D.(1), unless OBDD agrees otherwise in writing. If Recipient abandons the Project, Recipient shall prepay the entire outstanding balance of the Loan immediately upon demand by OBDD.

- H. Condemnation Proceeds. If the Project or any portion is condemned, any condemnation proceeds will be paid to OBDD and applied to prepay the outstanding balance of the Loan in accordance with section 4.D..
- I. Financial Records. The Recipient shall keep accurate books and records for the revenues and funds that are the source of repayment of the Loan, separate and distinct from its other books and records, and maintain them according to generally accepted accounting principles established by the Government Accounting Standards Board in effect at the time. The Recipient shall have these records audited annually by an independent certified public accountant, which may be part of the annual audit of all records of Recipient.
- J. Inspections; Information. The Recipient shall permit OBDD and any party designated by OBDD: (i) to inspect, at any reasonable time, the property, if any, constituting the Project; and (ii) at any reasonable time, to inspect and make copies of any accounts, books and records, including, without limitation, its records regarding receipts, disbursements, contracts, investments and any other related matters, and financial statements or other documents related to its financial standing. The Recipient shall supply any related reports and information as OBDD may reasonably require. In addition, Recipient shall, upon request, provide OBDD with copies of loan documents or other financing documents and any official statements or other forms of offering prospectus relating to any other bonds, notes or other indebtedness of Recipient that are issued after the date of this Contract.
- K. Records Maintenance. The Recipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Contract, the Project or the Financing Proceeds for a minimum of six years, or such longer period as may be required by other provisions of this Contract or applicable law, following the Project Closeout Deadline. If there are unresolved issues at the end of such period, Recipient shall retain the books, documents, papers and records until the issues are resolved.
- L. Economic Benefit Data. The OBDD may require Recipient to submit specific data on the economic development benefits of the Project and other information to evaluate the success and economic impact of the Project, from the date of this Contract until six years after the Project Completion Date. The Recipient shall, at its own expense, prepare and submit the data within the time specified by OBDD.
- M. Disadvantaged Business Enterprises. ORS 200.090 requires all public agencies to “aggressively pursue a policy of providing opportunities for disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, businesses that service-disabled veterans own and emerging small businesses...” The OBDD encourages Recipient in any contracting activity to follow good faith efforts as described in ORS 200.045, available at https://www.oregonlegislature.gov/bills_laws/ors/ors200.html. Additional resources are provided by the Governor’s Policy Advisor for Economic and Business Equity. Also, the Certification Office for Business Inclusion and Diversity at the Oregon Business Development Department maintains a list of certified firms and can answer questions. Search for certified MWESB firms on the web at: <https://oregon4biz.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp>.
- N. Professional Responsibility. A professional engineer or architect, as applicable, registered and in good standing in Oregon, will be responsible for the design and construction of the Project. All service providers retained for their professional expertise must be certified, licensed, or registered, as appropriate, in the State of Oregon for their specialty. The Recipient shall follow standard construction practices, such as bonding requirements for construction contractors, requiring errors and omissions insurance, and performing testing and inspections during construction.

- O. Notice of Default. The Recipient shall give OBDD prompt written notice of any Default as soon as Recipient becomes aware of its existence or reasonably believes a Default is likely.
- P. Indemnity. To the extent authorized by law, Recipient shall defend (subject to ORS chapter 180), indemnify, save and hold harmless OBDD and its officers, employees and agents from and against any and all claims, suits, actions, proceedings, losses, damages, liability and court awards including costs, expenses, and attorneys' fees incurred related to any actual or alleged act or omission by Recipient, or its employees, agents or contractors; however, the provisions of this section are not to be construed as a waiver of any defense or limitation on damages provided for under Chapter 30 of the Oregon Revised Statutes or under the laws of the United States or other laws of the State of Oregon.
- Q. Further Assurances. The Recipient shall, at the request of OBDD, authorize, sign, acknowledge and deliver any further resolutions, conveyances, transfers, assurances, financing statements and other instruments and documents as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights, security interests and agreements granted or intended to be granted by this Contract and the other Financing Documents.

SECTION 9 - DEFAULTS

Any of the following constitutes an "Event of Default":

- A. The Recipient fails to make any Loan payment when due.
- B. The Recipient fails to make, or cause to be made, any required payments of principal, redemption premium, or interest on any bonds, notes or other material obligations, for any other loan made by the State of Oregon.
- C. Any false or misleading representation is made by or on behalf of Recipient in this Contract, in any other Financing Document or in any document provided by Recipient related to this Loan or the Project.
- D. (1) A petition, proceeding or case is filed by or against Recipient under any federal or state bankruptcy or insolvency law, and in the case of a petition filed against Recipient, Recipient acquiesces to such petition or such petition is not dismissed within 20 calendar days after such filing, or such dismissal is not final or is subject to appeal;
- (2) The Recipient files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, liquidation, dissolution, winding-up or composition or adjustment of debts;
- (3) The Recipient becomes insolvent or bankrupt or admits its inability to pay its debts as they become due, or makes an assignment for the benefit of its creditors;
- (4) The Recipient applies for or consents to the appointment of, or taking of possession by, a custodian (including, without limitation, a receiver, liquidator or trustee) of Recipient or any substantial portion of its property; or
- (5) The Recipient takes any action for the purpose of effecting any of the above.
- E. The Recipient defaults under any other Financing Document and fails to cure such default within the applicable grace period.

- F. The Recipient fails to perform any obligation required under this Contract, other than those referred to in subsections A through E of this section 9, and that failure continues for a period of 30 calendar days after written notice specifying such failure is given to Recipient by OBDD. The OBDD may agree in writing to an extension of time if it determines Recipient instituted and has diligently pursued corrective action.

SECTION 10 - REMEDIES

- A. Remedies. Upon any Event of Default, OBDD may pursue any or all remedies in this Contract or any other Financing Document, and any other remedies available at law or in equity to collect amounts due or to become due or to enforce the performance of any obligation of Recipient. Remedies may include, but are not limited to:
- (1) Terminating OBDD's commitment and obligation to make any further disbursements of Financing Proceeds under the Contract.
 - (2) Declaring all payments under the Contract and all other amounts due under any of the Financing Documents immediately due and payable, and upon notice to Recipient the same become due and payable without further notice or demand.
 - (3) Barring Recipient from applying for future awards.
 - (4) Withholding amounts otherwise due to Recipient for application to the payment of amounts due under this Contract, including as provided in ORS 285B.449; however, this provision is not to be construed in a way that Recipient's obligations would constitute debt that violates Section 10, Article XI of the Oregon Constitution.
 - (5) Foreclosing liens or security interests pursuant to this Contract or any other Financing Document.
- B. Application of Moneys. Any moneys collected by OBDD pursuant to section 10.A will be applied first, to pay any attorneys' fees and other fees and expenses incurred by OBDD then, to pay interest due on the Loan; then, to pay principal due on the Loan; and last, to pay any other amounts due and payable under this Contract or any of the Financing Documents.
- C. No Remedy Exclusive; Waiver; Notice. No remedy available to OBDD is intended to be exclusive, and every remedy will be in addition to every other remedy. No delay or omission to exercise any right or remedy will impair or is to be construed as a waiver of such right or remedy. No single or partial exercise of any right power or privilege under this Contract or any of the Financing Documents will preclude any other or further exercise thereof or the exercise of any other such right, power or privilege. The OBDD is not required to provide any notice in order to exercise any right or remedy, other than notice required in section 9 of this Contract.
- D. Default by OBDD. In the event OBDD defaults on any obligation in this Contract, Recipient's remedy will be limited to injunction, special action, action for specific performance, or other available equitable remedy for performance of OBDD's obligations.

SECTION 11 - MISCELLANEOUS

- A. Time is of the Essence. The Recipient agrees that time is of the essence under this Contract and the other Financing Documents.
- B. Relationship of Parties; Successors and Assigns; No Third Party Beneficiaries.
- (1) The parties agree that their relationship is that of independent contracting parties and that Recipient is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265.
 - (2) Nothing in this Contract gives, or is to be construed to give, directly or indirectly, to any third persons any rights and benefits greater than those enjoyed by the general public.
 - (3) This Contract will be binding upon and inure to the benefit of OBDD, Recipient, and their respective successors and permitted assigns.
 - (4) The Recipient may not assign or transfer any of its rights or obligations or any interest in this Contract or any other Financing Document without the prior written consent of OBDD. The OBDD may grant, withhold or impose conditions on such consent in its sole discretion. In the event of an assignment, Recipient shall pay, or cause to be paid to OBDD, any fees or costs incurred because of such assignment, including but not limited to attorneys' fees of OBDD's Counsel and Bond Counsel. Any approved assignment is not to be construed as creating any obligation of OBDD beyond those in this Contract or other Financing Documents, nor does assignment relieve Recipient of any of its duties or obligations under this Contract or any other Financing Documents.
 - (5) The Recipient hereby approves and consents to any assignment, sale or transfer of this Contract and the Financing Documents that OBDD deems to be necessary.
- C. Disclaimer of Warranties; Limitation of Liability. The Recipient agrees that:
- (1) The OBDD makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for particular purpose or fitness for any use of the Project or any portion of the Project, or any other warranty or representation.
 - (2) The liability of the OBDD under this Contract is contingent upon the availability of moneys in the Special Public Works Fund for use in the project, and in no event are OBDD or its agents liable or responsible for any direct, indirect, incidental, special, consequential or punitive damages in connection with or arising out of this Contract or the existence, furnishing, functioning or use of the Project.
- D. Notices and Communication. Except as otherwise expressly provided in this Contract, any communication between the parties or notices required or permitted must be given in writing by personal delivery, email, or by mailing the same, postage prepaid, to Recipient or OBDD at the addresses set forth below, or to such other persons or addresses that either party may subsequently indicate pursuant to this Section.
- Any communication or notice by personal delivery will be deemed effective when actually delivered to the addressee. Any communication or notice so addressed and mailed will be deemed to be received and effective five (5) days after mailing. Any communication or notice given by email becomes effective 1) upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system or 2) the recipient's confirmation of receipt, whichever is earlier. Notwithstanding this provision, the following notices may not be given by email: notice of default or notice of termination.

If to OBDD: Assistant Director
Economic Development
Oregon Business Development Department
775 Summer Street NE Suite 200
Salem OR 97301-1280

If to Recipient: City Administrator
City of Saint Helens
265 Strand St
St. Helens, OR 97051

- E. No Construction against Drafter. This Contract is to be construed as if the parties drafted it jointly.
- F. Severability. If any term or condition of this Contract is declared by a court of competent jurisdiction as illegal, invalid or unenforceable, that holding will not invalidate or otherwise affect any other provision.
- G. Amendments, Waivers. This Contract may not be amended without the prior written consent of OBDD (and when required, the Department of Justice) and Recipient. This Contract may not be amended in a manner that is not in compliance with the Act. No waiver or consent is effective unless in writing and executed by the party against whom such waiver or consent is sought to be enforced. Such waiver or consent will be effective only in the specific instance and for the specific purpose given.
- H. Attorneys' Fees and Other Expenses. To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, the prevailing party in any dispute arising from this Contract is entitled to recover its reasonable attorneys' fees and costs at trial and on appeal. Reasonable attorneys' fees cannot exceed the rate charged to OBDD by its attorneys. The Recipient shall, on demand, pay to OBDD reasonable expenses incurred by OBDD in the collection of Loan payments.
- I. Choice of Law; Designation of Forum; Federal Forum. The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Contract, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

Any party bringing a legal action or proceeding against any other party arising out of or relating to this Contract shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County (unless Oregon law requires that it be brought and conducted in another county). Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

Notwithstanding the prior paragraph, if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This paragraph applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This paragraph is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

- J. Integration. This Contract (including all exhibits, schedules or attachments) and the other Financing Documents constitute the entire agreement between the parties on the subject matter. There are no unspecified understandings, agreements or representations, oral or written, regarding this Contract.

K. Execution in Counterparts. This Contract may be signed in several counterparts, each of which is an original and all of which constitute one and the same instrument.

The Recipient, by its signature below, acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions.



STATE OF OREGON
acting by and through its
Oregon Infrastructure Finance Authority
of the Business Development Department



CITY OF SAINT HELENS

By: _____
Chris Cummings, Assistant Director
Economic Development

By: _____
The Honorable Rick Scholl,
Mayor of Saint Helens

Date: _____

Date: _____

APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:

/s/ Wendy Johnson per email dated 9 September 2021
Wendy Johnson, Senior Assistant Attorney General

EXHIBIT A - GENERAL DEFINITIONS

As used in this Contract, the following terms have the meanings below.

“Act” means ORS 285B.410 through 285B.482, as amended.

“Award” means the award of financial assistance to Recipient by OBDD dated 04 June 2021.

“Costs of the Project” means Recipient’s actual costs (including any financing costs properly allocable to the Project) that are (a) reasonable, necessary and directly related to the Project, (b) permitted by generally accepted accounting principles to be Costs of the Project, and (c) are eligible or permitted uses of the Financing Proceeds under applicable state or federal statute and rule.

“Counsel” means an attorney at law or firm of attorneys at law duly admitted to practice law before the highest court of any state, who may be of counsel to, or an employee of, OBDD or Recipient.

“Default” means an event which, with notice or lapse of time or both, would become an Event of Default.

“Financing Documents” means this Contract and all agreements, instruments, documents and certificates executed pursuant to or in connection with OBDD’s financing of the Project.

“Financing Proceeds” means the proceeds of the Loan.

“Municipality” means any entity described in ORS 285B.410(9).

“ORS” means the Oregon Revised Statutes.

“Project Completion Date” means the date on which Recipient completes the Project.

“Refunding Proceeds” means the proceeds of any subsequent short- or long-term financing, whether resulting from the sale of tax-exempt bonds or otherwise, issued to refund the Loan or to finance the Project.

EXHIBIT B - SECURITY

- A. General Fund Pledge. The Recipient pledges its full faith and credit and taxing power within the limitations of Article XI, sections 11 and 11 b, of the Oregon Constitution to pay the amounts due under this Contract. All amounts due under this Contract are payable from all legally available funds of Recipient.
- B. Refunding Proceeds. The outstanding principal of and accrued, but unpaid, interest on the Loan shall be payable from any Refunding Proceeds. The Recipient hereby grants to OBDD a security interest in and irrevocably pledges the Refunding Proceeds to pay all of the obligations owed by Recipient to OBDD under this Contract. The Refunding Proceeds pledged and hereafter received by Recipient will be immediately subject to the lien of this pledge without physical delivery or further act, and the lien of this pledge will be superior to all other claims and liens to the fullest extent permitted by ORS 287A.310. The Recipient represents and warrants that this pledge of Refunding Proceeds complies with, and is valid and binding from the effective date of this Contract as described in, ORS 287A.310.
- C. Incremental Property Tax Revenues of Urban Renewal Agency.
- (a) The Loan shall be repaid from the ad valorem property tax revenues from property within the City of Saint Helens Urban Renewal Area (the “Area”) which are attributable to the increase in assessed value of property within the Area as described in Section 1c, Article IX of the Oregon Constitution and ORS Chapter 457, and includes all earnings thereon (the “Incremental Property Tax Revenues”). The Incremental Property Tax Revenues have been pledged to Recipient by the Urban Renewal Agency of the City of Saint Helens (the “URA”) as described in an intergovernmental agreement (“IGA”) between the Recipient and the URA. Recipient shall hold the Incremental Property Tax Revenues for the Area transferred by the URA to the Recipient in a segregated fund (“Fund”). The Recipient hereby grants to OBDD a security interest in and irrevocably pledges the Incremental Property Tax Revenues held in the Fund to pay all of the obligations owed by Recipient to OBDD under the Contract. The Incremental Property Tax Revenues pledged and hereafter received by Recipient and held in the Fund will be immediately subject to the lien of this pledge without physical delivery or further act, and the lien of this pledge will be superior to all other claims and liens to the fullest extent permitted by ORS 287A.310. The Recipient represents and warrants that this pledge of Incremental Property Tax Revenues complies with, and is valid and binding from the effective date of this Contract as described in, ORS 287A.310.
- (c) Notwithstanding the requirement of subsection (b) of this Section C, loans previously made and loans made in the future by OBDD to Recipient that are secured by the Incremental Property Tax Revenues may have a lien on such Incremental Property Tax Revenues on a parity with the Loan; provided that nothing in this subsection will adversely affect the priority of any of OBDD’s liens on such Incremental Property Tax Revenues in relation to the lien(s) of any third party(ies).
- (d) The Recipient hereby represents and warrants that, pursuant to the IGA:
- (i) The URA has pledged the Incremental Property Tax Revenues to the Recipient for payment of the Loan Payments and other obligations of this Financing Contract and the IGA is a valid and binding obligation of the URA and the Recipient, enforceable in accordance with its terms.
- (ii) the URA has covenanted that: (1) the URA will not incur any obligations payable from or secured by a lien on or pledge of the Incremental Property Tax Revenues that is superior to or on a parity with the lien of the pledge made under the IGA without the written consent of the Recipient; (2) the URA will not remove any property from the Area if such removal will cause the anticipated Incremental Property Tax Revenues to be inadequate to pay the annual debt service on the Loan and any parity

obligations; and (3) the URA has represented and warranted that the Loan is within the maximum amount of indebtedness that may be incurred under the URA's Urban Renewal Plan.

- (e) The Recipient agrees that it shall not provide consent to the URA, as required by the IGA, to incur any obligations payable from or secured by a lien on and pledge of the Incremental Property Tax Revenues that is superior to or on a parity with the Loan without OBDD's written consent.
- (f) Recipient agrees that it shall not amend the IGA without the prior written consent of OBDD, which consent shall not be unreasonably withheld or delayed.

EXHIBIT C - PROJECT DESCRIPTION

The Recipient will, with the assistance of a professional engineer licensed in Oregon, design and construct the following:

- S. 1st Street roadway and utility extension beginning at the termination of S. 1st Street at the north end of the Riverfront Property and includes approximately 1,720 feet of new roadway, connecting to existing Plymouth Street improvements to the south. The cross section is 60 foot wide and will include on-street parking, a shared travel lane for vehicles and bikes, landscape strips with street trees, and extra-wide 8 foot sidewalks on each side.
- Strand Street roadway and utility extension beginning at the termination of Strand Street, approximately 180 feet south of Cowlitz Street. It will extend approximately 620 feet and terminate at a new intersection with the South 1st Street extension.
- Existing city utilities (water, sewer, and storm water) to extend the full length of the new street extensions. Sanitary sewer improvements will also include a sanitary sewer lift station relocation to a more centralized location on the Riverfront Redevelopment site.
- Intersection improvements including reducing crossing distances with curb extensions at Cowlitz Street and Strand Street, Cowlitz Street and South 1st Street, and St. Helens Street and South 1st Street, in the existing downtown and the undergrounding of utilities.
- St. Helens Riverwalk Phase I expanding public access to the river in Columbia View Park and onto the Riverfront property with 400 feet of boardwalk.
- St. Helens Riverwalk Phase II (30%) will provide conceptual design for the remainder of the access along the river to the southern connection with Plymouth Street. Phase II is approximately 2,780 feet from Phase I. Phase II will include additional overlooks, areas for cantilevered boardwalk, and/or pedestrian access down to the river. It will also be designed to connect with the S. 1st Street extension at mid-block crossings to allow the public to easily access the riverfront.
- Design of a new Columbia View Park stage.

Pre-award design and engineering costs of the Project are authorized with a maximum amount of \$300,000.

EXHIBIT D - PROJECT BUDGET

Line Item Activity	OBDD Funds	Other / Matching Funds
Design / Engineering	\$1,512,461	
Construction	\$9,113,318	\$838,500
Construction Contingency	\$2,371,676	
Construction Management	\$1,259,401	
Pre-Award Costs (Design/Engineering)	\$300,000	
Bond Bank Fee	\$120,822	
Total	\$14,667,678	\$838,500

EXHIBIT B

PROJECT B21006 SPECIAL PUBLIC WORKS LOAN DEBT SERVICE SCHEDULE

Loan amount	\$ 15,640,000.00	*Loan amount includes \$140,000 in interest from 3 year waiting period accruing interest. Original loan amount \$15.5M.
Annual interest rate	3.14%	
Loan period in years	20	
Start date of loan	1/1/2027	

Annual payment	\$ 803,663.24
Number of payments	20
Total interest	\$ 433,264.80
Total cost of loan	\$ 16,073,264.80

No.	Payment Date	Beginning Balance	Payment	Principal	Interest	Ending Balance
1	1/1/2027	\$ 15,640,000.00	\$ 803,663.24	\$ 762,738.57	\$ 40,924.67	\$ 14,877,261.43
2	1/1/2028	\$ 14,877,261.43	\$ 803,663.24	\$ 764,734.41	\$ 38,928.83	\$ 14,112,527.02
3	1/1/2029	\$ 14,112,527.02	\$ 803,663.24	\$ 766,735.46	\$ 36,927.78	\$ 13,345,791.56
4	1/1/2030	\$ 13,345,791.56	\$ 803,663.24	\$ 768,741.75	\$ 34,921.49	\$ 12,577,049.81
5	1/1/2031	\$ 12,577,049.81	\$ 803,663.24	\$ 770,753.29	\$ 32,909.95	\$ 11,806,296.51
6	1/1/2032	\$ 11,806,296.51	\$ 803,663.24	\$ 772,770.10	\$ 30,893.14	\$ 11,033,526.42
7	1/1/2033	\$ 11,033,526.42	\$ 803,663.24	\$ 774,792.18	\$ 28,871.06	\$ 10,258,734.24
8	1/1/2034	\$ 10,258,734.24	\$ 803,663.24	\$ 776,819.55	\$ 26,843.69	\$ 9,481,914.68
9	1/1/2035	\$ 9,481,914.68	\$ 803,663.24	\$ 778,852.23	\$ 24,811.01	\$ 8,703,062.45
10	1/1/2036	\$ 8,703,062.45	\$ 803,663.24	\$ 780,890.23	\$ 22,773.01	\$ 7,922,172.23
11	1/1/2037	\$ 7,922,172.23	\$ 803,663.24	\$ 782,933.56	\$ 20,729.68	\$ 7,139,238.67
12	1/1/2038	\$ 7,139,238.67	\$ 803,663.24	\$ 784,982.23	\$ 18,681.01	\$ 6,354,256.44
13	1/1/2039	\$ 6,354,256.44	\$ 803,663.24	\$ 787,036.27	\$ 16,626.97	\$ 5,567,220.17
14	1/1/2040	\$ 5,567,220.17	\$ 803,663.24	\$ 789,095.68	\$ 14,567.56	\$ 4,778,124.49
15	1/1/2041	\$ 4,778,124.49	\$ 803,663.24	\$ 791,160.48	\$ 12,502.76	\$ 3,986,964.01
16	1/1/2042	\$ 3,986,964.01	\$ 803,663.24	\$ 793,230.68	\$ 10,432.56	\$ 3,193,733.32
17	1/1/2043	\$ 3,193,733.32	\$ 803,663.24	\$ 795,306.30	\$ 8,356.94	\$ 2,398,427.02
18	1/1/2044	\$ 2,398,427.02	\$ 803,663.24	\$ 797,387.36	\$ 6,275.88	\$ 1,601,039.66
19	1/1/2045	\$ 1,601,039.66	\$ 803,663.24	\$ 799,473.85	\$ 4,189.39	\$ 801,565.81
20	1/1/2046	\$ 801,565.81	\$ 803,663.24	\$ 801,565.81	\$ 2,097.43	\$ (0.00)