



BRIDGE REPLACEMENT PROJECT

Bi-State Working Group Meeting Summary

Monday, September 19, 2022 | 2:00pm – 4pm
Port of Hood River – Commission Board Room & Via Zoom
1000 E Port Marina Drive, Hood River OR 97031

In Attendance:

Members: Chair, Mike Fox (Commissioner), Port of Hood River; Vice Chair, Jake Anderson (Commissioner), Klickitat County; Catherine Kiewit (Mayor), City of Bingen; Marla Keethler (Mayor), City of White Salmon; Kate McBride (Mayor), City of Hood River; Bob Benton (Commissioner), Hood River County.

Alternates: Kristi Chapman (Commissioner), Port of Hood River; Arthur Babitz (Commissioner), Hood River County; Joe Sullivan, City of Bingen (Councilor); Jason Hartmann (Councilor), City of White Salmon; David Sauter (Commissioner), Klickitat County; Jessica Metta (Councilor), City of Hood River.

Staff/Consultants: Kevin Greenwood (Project Director), Port of Hood River; Genevieve Scholl, Port of Hood River; Michael Shannon (Project Manager), HNTB; Kary Whitt, HNTB; Paul Huston, HNTB; Catherine Hovell, HNTB, Steve Siegel, Siegel Consulting.

Guests: Keith Lynch; Tom Loynes; Jessica Bull, JLA; Mike Williams, WSDOT; Carol Snead, ODOT; Nathan Villeneuve; Steve Howe; Rian W; Rob Wattman; Denis Reich, ODOT.

Welcome

Commissioner Mike Fox called the meeting to order at 2:00 p.m.

Meeting Minutes

The minutes from August 2, 2022, regular meeting was approved by consensus.

Informational Items

Commissioner Fox commented that they received an update on the bridge inspection report. The sufficiency rating was stated at 6.0. The engineer team is in the process of reviewing the report and will provide an overview to the Bi-State Working Group (BSWG) in the next month. Commissioner Fox expressed his concern over the inspection report results and feels they may have to accelerate the replacement bridge.

- a. **BiOp Update** – Denis Reich of Oregon Department of Transportation (ODOT), turned to Tom Loynes of ODOT's environmental team, for a brief update on the Biological Opinion (BiOp). Loynes commented that the Columbia interior branch chief rejected the draft BiOp in July due to formatting protocols. The BiOp was written following a “condensed version” and after review from Quality Control (QC) it was determined that a full BiOp would be more appropriate for the Bridge Replacement Project. The ODOT environmental team will be rewriting the BiOp. Loynes added that they have hundreds of projects in process at any given time with deadlines. However, two blocks of time have been set up next week to

begin working on the BiOp for the Port of Hood River (POHR) and will continue to setup blocks of time each week until it is complete. Loynes hopes to have a signed BiOp by the first of the year, but it could be sooner. Commissioner Fox expressed the urgency to complete the BiOp as soon as possible. Loynes added that the draft BiOp should be completed within 30 days starting in October.

- b. **Government Affairs 2023 Strategy** – Kevin Greenwood, Project Director, noted that there is a State Legislative Tour scheduled for October 14. The primary guests are from the senate and house transportation committees from Oregon and Washington. The tour will start at 9 a.m. and end at 1 p.m. The BSWG suggested storyboards and a tour on the Cascade Sternwheeler. It was also suggested creating another video that interviews smaller businesses that are reliant on the bridge. The BSWG consensus was to have Commissioner Kristi Chapman, Mayor Marla Keethler, Mayor Kate McBride, and Kevin Greenwood create a revised agenda and coordinate the event.

The proposed date for the Washington DC trip was set for Mid-November and has been rescheduled for the first week of December. Greenwood will reach out to Hal Hiemstra to set a date.

Commissioner Fox commented that the BSWG has been receiving several meeting requests to meet with various legislators over the next 6-8 weeks. Greenwood added that the BSWG is not required to attend every session, but they are encouraged to attend if available. Mayor McBride suggested creating a sign-up sheet for the BSWG to ensure that someone will be attending each meeting. Greenwood will create the sign-up sheet and email it to the BSWG.

- c. **Replacement Bridge Management Consultant, HNTB** – Mike Shannon, HNTB Project Manager, commented that today's presentation is to discuss items that they would like to advance. Shannon turned to Brian Munoz, HNTB Project Controls, for a target schedule overview. The current target schedule assumes Progressive Design-Build procurement. For high-level planning purposes, the timing and flow of the procurement process is like Construction Manager – General Contractor (CM-GC).

Paul Huston, HNTB Project Delivery Method, provided an overview of the five delivery method options: Design-Bid-Build, CMGC, Design-Build, Progressive Design-Build, and Public-Private Partnership. Currently HNTB is working towards engaging with potential contractors to raise awareness of the project. By the end of October HNTB plans to have an initial delivery methods workshop with the BSWG. Options will be evaluated by late November and HNTB will provide a recommendation to the BSWG by Mid-December.

Catherine Hovell, HNTB Project Engineer, summarized engineering advancement and their plan moving the design forward. Some of the proposed design advancements are: Geotech boring study, lock in profile and alignment, and utility relocations. Hovell also discussed Geotech exploration. Some of their goals are to develop a preliminary subsurface profile, determine feasibility of foundation options, and estimate seismic hazards and potential mitigation options. The proposed exploration plan includes 2 borings, 2 CPTs on the Oregon side, 10 in-water borings, 1 boring on the Washington side.

There was consensus from the BSWG to allow HNTB to provide a work scope proposal in the next couple of days for review. Commissioner Fox commented that Kevin Greenwood is now the Executive Director of the Port, and therefore strongly believes that Mike Shannon and Brian Munoz should be made full time due to the workload increase. This recommendation will be included in the HNTB proposal.

Commission Formation Agreements (CFA)

Mike Shannon commented that the second version of the CFA will be submitted this week for review. Shannon requested that any feedback be submitted within two weeks.

Grant Updates

Mike Shannon reported that they were not selected for the INFRA grant, but there is still an opportunity to be selected for the Mega Program or the Rural Program that are also for \$195 million. The Safe Streets for All (SS4A) application has been submitted.

4th Quarter 2022 Meeting Schedule

Commissioner Fox proposed meeting at least two times a week in the next couple of months. This is due to the amount of work that is coming up that requires consensus from the BSWG. Shannon presented a proposed schedule through December. There was consensus from the BSWG to proceed with the proposed schedule.

Action Items

- a. ODOTs environmental team to provide a draft BiOp within 30 days starting in October.
- b. ODOTs environmental team to provide a signed BiOp on or before January 1, 2023.
- c. Kristi Chapman, Marla Keethler, Kate McBride, and Kevin Greenwood will provide an updated agenda and coordinate the State Legislative Tour on October 14.
- d. Kevin Greenwood will reach out to Hal Hiemstra to set a date the first week of December for the Washington DC return trip.
- e. Kevin Greenwood will create a signup sheet for the BSWG for the upcoming legislator meetings.
- f. HNTB will provide a work scope proposal in the next couple of days.

Adjourn

Commissioner Fox adjourned the meeting at 4:07 p.m.

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**COMMISSION FORMATION AGREEMENT
TO FORM AND CHARTER THE MID-COLUMBIA BRIDGE COMMISSION**

This **COMMISSION FORMATION AGREEMENT TO FORM AND CHARTER THE MID-COLUMBIA BRIDGE COMMISSION** (this “Agreement” or “Charter”) is hereby made and entered into, by and between, the City of Bingen, City of White Salmon, and Klickitat County, Washington, and the City of Hood River, Hood River County, and Port of Hood River, Oregon, each acting by and through its elected governing body, and hereinafter referred to individually as a “Party” and collectively as the “Parties.”

RECITALS

- A. The Hood River-White Salmon Bridge constructed in 1924, and currently owned and operated by the Port of Hood River, is obsolete and needs to be replaced with a new interstate bridge connecting Hood River, Oregon and White Salmon, Washington (the “Replacement Bridge”).
- B. In October 2020, the Parties entered a memorandum of understanding creating the Bi-State Working Group, an interim group of representatives of each of the Parties charged with cooperatively guiding the development of the Replacement Bridge until a long-term governance structure for the Replacement Bridge was formed.
- C. In October 2021, the Bi-State Working Group concluded that the preferred governance structure for developing, constructing, operating, tolling, and financing the Replacement Bridge is an independent bi-state bridge commission, and in 2022 proposed legislation in Oregon and Washington to allow the formation of such a bi-state commission.
- D. In June 2022, Chapter 7, Oregon 2022 Laws (the “Oregon Act”) and Chapter 89, Washington Laws of 2022 (the “Washington Act”) become effective, allowing the Parties to enter a Commission Formation Agreement to form and charter a bi-state bridge commission for the Replacement Bridge (the Washington Act and Oregon Act collectively are referred to as the “2022 Acts.”)
- E. Pursuant to the 2022 Acts, the Parties now desire to enter this Agreement to form a bi-state bridge commission to develop, construct, operate, maintain, renew, toll, finance, and govern the Replacement Bridge, and to establish the provisions of this Agreement as the charter for the bi-state bridge commission.

AGREEMENT

NOW, THEREFORE, the Parties do hereby enter this Commission Formation Agreement, and do covenant and agree as follows:

1. Organization of Agreement

1.1. This Agreement contains all of provisions the 2022 Acts require for a Commission Formation Agreement, and additional provisions to facilitate the conduct of Commission affairs. The Agreement consists of the:

- a. Charter: Section 1 through Section 18 of this Agreement, including Exhibit A, encompass the charter sanctioned by the Parties to form the Commission (the “Charter”). The Charter, as it may be amended from time to time, provides the overall framework for the on-going governance of the Commission. Although Exhibit B and Exhibit C are part of this Agreement, and are referenced in the Charter, neither is a part of the Charter;
- b. Interim Rules: Exhibit B of this Agreement, the Interim Rules for the Mid-Columbia Bridge Authority, delineates Interim Rules to regulate the operations and administration of the Commission during its startup phase. The Interim Rules are intended to be superseded by rules enacted by the Board.

Notwithstanding Section 18.6 of the Charter, no approval by a Party is required to enact a superseding rule, or to repeal an Interim Rule. When superseded or repealed by Board action an Interim Rule shall be terminated and have no effect. When all Interim Rules have been terminated, the Board, without any approval by the Parties, may authorize a revised Charter that removes all references to the Interim Rules; and

- c. Intergovernmental Transition Plan: Exhibit C of this Agreement, the Intergovernmental Transition Plan, delineates work plans and procedures to coordinate the activities of the Commission and the Parties during the startup of the Commission. Notwithstanding Section 18.6 of the Charter, each section of the Intergovernmental Transition Plan may be periodically amended, or may be terminated, by mutual agreement of the Board and the affected Party or Parties. The Intergovernmental Transition Plan shall terminate when toll collections are initiated for use of the Replacement Bridge, unless terminated earlier by mutual agreement of the Board and each affected Party. Upon termination, the Board, without any approval by the Parties, may authorize a revised Charter that removes all references to the Intergovernmental Transition Plan.

1.2. Nothing in this Agreement shall in any way be construed to diminish or restrict the powers and duties of the Commission, or the Board, set forth in the 2022 Acts, as they may be amended.

2. Establishment of the Bi-State Bridge Commission

- 2.1. Pursuant to the 2022 Acts, and by the approval and execution of this Agreement, the Parties hereby charter and form the Mid-Columbia Bridge Commission (the "Commission") as an independent, bi-state public corporation vested with all the powers and duties set forth in the 2022 Acts and any additional powers or duties as may hereafter be conferred upon it pursuant to law.
- 2.2. Effective July 1, 2023 (the "Effective Date") and thereafter for perpetual duration, unless dissolved, the Commission shall perform the essential governmental function and exercise its powers for the public purposes described in 2022 Acts or as may hereafter be conferred upon it pursuant to law.
- 2.3. The Primary Place of Business of the Commission shall be in [TBD]; provided, however, the Commission may establish offices or other facilities for the conduct of its affairs at one or more other locations in Oregon or Washington. The Board, from time to time, may relocate its principal headquarters to a different site in Oregon or Washington, provided, however, the Primary Place of Business for the purpose of determining the Applicable Laws shall not be affected by any such relocation.

3. Applicable Laws and Rules

- 3.1. Pursuant to Sections 13 of the 2022 Acts, and the Primary Place of Business designated in Section 2.3 of this Charter, the state laws applicable to the Commission (the "Applicable Laws") consist of:
 - a. The 2022 Acts;
 - b. For issues of ownership or use of a site, such as real property transactions, land use, and environmental compliance, the laws of the state in which the site is located.
 - c. Except for issues of ownership or use of a site, the laws applicable to municipal corporations under the [TBD - Oregon Revised Statutes/Revised Code of Washington] ; and
 - d. If a conflict arises between a provision of the 2022 Acts and an otherwise Applicable Law, the provision of the 2022 Acts govern.

9-18-22 DRAFT 2: SECTIONS ADDED OR MARKEDLY CHANGED FROM DRAFT 1 HIGHLIGHTED FOR BSWG REVIEW

- 3.2. To the extent the applicability, meaning, or requirements of a state law is unclear, incomplete, or vague in the context of the bi-state Commission, the Board may enact a rule to clarify or interpret the law as it pertains to the Commission.
- 3.3. The Board is authorized to adopt, amend, suspend, and repeal, rules, bylaws, or regulations governing the activities and procedures of the Commission. Until replaced or repealed by the Board, the Interim Rules, attached as Exhibit B to this Agreement, shall be applicable. If any rule is found to be in conflict with the Applicable Laws or this Charter, only the part or parts so found shall be null and void and the remainder shall continue in full force and effect.
- 3.4. In case of an emergency, the Executive Director may, for the duration of the emergency, temporarily suspend all or part of a rule that may be in conflict with handling the emergency; provided, however, the Executive Director shall report the reason for such suspension at the next meeting of the Board, at which time the suspension shall expire unless continued in effect by the Board.

4. Board of Directors

- 4.1. The Commission shall be governed by an appointed board of directors (the "Board") consisting of six voting members (the "Directors"), three appointed by the Klickitat County Commission and three appointed by the Hood River County Commission. In addition, each appointing county commission shall appoint an alternate ("Alternate") for each Director it appoints. A person may serve as an Alternate for more than one Director.
- 4.2. Except for the Initial Board described in Section 1.6 of the Interim Rules, Directors and Alternates shall serve a four (4) year term. There is no limit on the number of terms a Director or Alternate may serve.
- 4.3. The appointments of Directors and Alternates shall proceed as follows:
 - a. The chair of the Klickitat County Commission, or its designee, shall request nominations for each open position from each Party situated within Klickitat County, and may request nominations from other persons or entities, including the general public.
 - b. The chair of the Hood River Commission, or its designee, shall request nominations for each open position from each Party situated within Hood River County, and may request nominations from other persons or entities, including the general public.
 - c. For each appointment, each nominating or appointing body must:
 - i. Consider qualified candidates representative of the diverse people, cultures, and communities served by the Replacement Bridge;
 - ii. Disqualify any person who: (i) is an employee of the Commission, (ii) was convicted of felonies, or (ii) otherwise deemed unqualified based on criteria established by the appointing body.
 - iii. Prioritize candidates with experience pertaining to the powers and duties of the Board such as project financing, construction, law, organizational management, infrastructure/ environmental policy, or project development.
- 4.4. Not later than thirty (30) days before the term of a Director or Alternate expires, the county commission that appointed the expiring Director or Alternate shall appoint a successor. If at the end of a term, a successor has not been appointed or cannot immediately assume office, the term of the outgoing Director or Alternate shall extend until their successor is appointed and assumes office. No period during which a Director or Alternate holds over shall be deemed to be an extension of its term of office for the purpose of computing the date on which its successor's term expires.

9-18-22 DRAFT 2: SECTIONS ADDED OR MARKEDLY CHANGED FROM DRAFT 1 HIGHLIGHTED FOR BSWG REVIEW

- 4.5. Directors and Alternates shall serve at the pleasure of the appointing body and, with or without cause, may be removed from office by the appointing body. The Board may remove a Director from office if the Director has three or more consecutive absences for Regular Meetings of the Board, unless excused in accordance with Commission rules, and the Board declares the position vacant.
- 4.6. Vacancies occurring in the office of a Director or Alternate during its term shall be filled for the remainder of the unexpired term by the body that appointed the vacated Director or Alternate. Until the appointing body fills the vacancy, the Alternate to the outgoing Director shall serve as the Director. Provided a quorum is present, the failure to appoint one or more Directors when vacancies occur does not preclude the Board from taking actions.
- 4.7. The chair of the appointing County, or its designee, shall provide written notice to the co-chairs of the Board for each newly appointed Director or Alternate and for each newly appointed Ex Officio Member.

5. Ex Officio Board Members of the Board

- 5.1. The Board may, from time to time, appoint one or more non-voting members of the Board (“Ex Officio Members”) for a term established by the Board; except that the Board may not appoint an Ex Officio Member if it in any manner impairs or adversely affects the rights or interests of holders of debt instruments of the Commission.
- 5.2. Ex Officio Members may not satisfy quorum requirements, and may not vote on any Board action. Ex Officio Members may participate in the same manner as a Director in discussions at Board meetings, serve on committees of the Commission, and participate in Executive Sessions of the Board.

6. Powers and Duties of the Board

6.1. Directors shall exercise all powers provided by the Applicable Laws and shall take actions as necessary or convenient, in accordance with the Applicable Laws and this Charter, to achieve the purposes of the Commission under the 2022 Acts. Unless otherwise delegated by the Board, the responsibilities of the Board shall include, but not be limited to:

- a. Ensuring the Commission abides by the Applicable Laws and provisions of this Charter;
- b. Establishing, amending, and interpreting Commission rules, regulations, and policies;
- c. Monitoring whether the financial, management, and operational procedures, decisions and controls of the Commission comply with the rules, regulations, and policies of the Commission;
- d. Monitoring and taking actions to ensure the fiscal integrity of the Commission;
- e. Authorizing bonds and other debt instruments of the Commission, and ensuring compliance with all requirements, covenants, and representations in such bond documents and other debt instruments.
- f. Approving contracts binding on the Commission;
- g. Approving engineering plans and specifications, construction plans, operations and maintenance plans, and finance plans for the Replacement Bridge; and
- h. Establishing tolls and toll policies, approving and periodically adjusting toll rate schedules, and funding prudent reserves for the Replacement Bridge and overall operations of the Commission.

6.2. Directors have no authority to act individually without delegation of authority from the Board. Directors shall not be collectively bound in any way by any statements or action on the part of any individual Director or Commission employee, except when such statement or action is predicated on previous action taken or policy adopted by the Board and recorded in the official minutes.

7. Board Officers

- 7.1. The Board shall appoint two co-chairs for a two year term as follows: one co-chair from among the Directors residing in Washington and one co-chair from among the Directors residing in Oregon, provided however, the initial appointment of co-chairs shall be as set forth in Section 3.1 of the Interim Rules
- 7.2. The co-chairs shall serve alternating one (1) year terms as First Co-chair and Second Co-chair. The First Co-chair shall be responsible for setting the agenda for and presiding at the commission meetings, and for such other duties as the Board may assign by rule. The Second Co-chair shall perform these duties in the absence of the First Co-chair, and such other duties as the Board may assign, or as the First Co-Chair may assign. Co-chairs may participate in discussions, make or second motions, and vote in the same manner as other Directors on all issues before the Board.
- 7.3. The Board may appoint a Director as secretary, treasurer, or other official of the Board, and prescribe its duties and powers

8. Board Actions

- 8.1. The Board may hold Regular Meetings, Special Meetings, Emergency Meetings, and meetings in executive session, in accordance with the Applicable Laws. The Commission shall not hold any Board meeting unless proper notice was given pursuant to the Applicable Laws and the rules of the Commission.
- 8.2. The Board may take official action by Ordinance, Resolution, or Motion (each an "Official Board Action"), in accordance with any rules enacted by the Board, at any Regular, Special, or Emergency Meeting of the Board at which a quorum is present. The following shall apply to Official Board Actions:
 - a. To the extent permitted by the Applicable Laws, unless otherwise limited by the Board, Directors may participate telephonically, by teleconference, or otherwise remotely in Official Board Actions, and in doing so are members of the quorum.
 - b. Four Directors (including any Alternates acting in the place of absent Directors) constitute a quorum. Any member of a quorum who for any reason abstains from an Official Board Action shall nonetheless be counted as a member of the quorum for the action. Ex Officio members shall not be included for the purpose of establishing a quorum. A quorum is not required for a vote to adjourn a meeting.
 - c. Alternates may be members of a quorum and act only in the absence of the Director for whom the Alternate is appointed. If both the Director and its Alternate attend a meeting of the Board, only the Director shall be included for purposes of establishing a quorum and voting on matters before the Board. Notwithstanding the preceding, an Alternate for a Director that is present at a meeting may establish a quorum and vote in lieu of the Director on a matter for which the Director has declared a conflict of interest or conflict of duties and responsibilities with another public office held by the Director. If an Alternate was appointed as an alternate for two or more Directors who are absent for a vote, the Alternate may only be a member of the quorum and act in lieu of only one of the absent Directors.
 - d. Except for an Emergency Ordinance, approval of an Official Board Action requires a quorum to be present for the action and at least four affirmative votes. Approval of an Emergency Ordinance requires a quorum to be present for the action, an affirmative vote by all Directors voting on the issue, and at least four affirmative votes.

9. Intergovernmental Coordination

- 9.1. The Commission shall establish and implement procedures to share information and coordinate with the Parties, ODOT, WSDOT, and FHWA.

10. Grant Administration

- 10.1. Following the Effective Date, the Port of Hood River shall continue as the grantee, be entitled to receive, and be responsible for the \$5 million BUILD grant awarded in 2020, the \$5 million Oregon grant awarded in 2017, and the \$5 million grants award by each of the State of Washington and Oregon in 2021, until each of these grants are closed by the Port. To the extent permitted by grantor agencies and agreed to by the Port, the Commission may assume any Replacement Bridge contract of the Port.
- 10.2. Unless otherwise agreed by the Commission and a prospective grantee, the Commission shall be the grantee for any grants for the Replacement Bridge awarded or obligated on or after the Effective Date.
- 10.3. The Commission shall seek to be certified as an eligible federal grant recipient. The Commission may contract with any state or local agency or private entity for grant administration support.

11. Personnel and Staffing

- 11.1. The Commission may employ personnel or retain consulting or other services on a regular or part-time basis as the Commission deems appropriate to carry out its purposes.

11.2. The Board shall employ or retain:

- a. An Executive Director who shall be the chief administrative officer of the Commission and perform the duties and exercise the powers conferred upon the Executive Director by this Charter, and such additional duties and powers as may be authorized by the Board. The Executive Director shall implement polices set by the Board, oversee the activities and operations of the Commission, hire and supervise Commission staff, and prepare or review of all Commission documents. The Executive Director is authorized to sign all contracts, deeds, leases, grant agreements, debt instruments, and other documents authorized by the Board on behalf of the Commission, unless the Board has granted explicit signature authority to another Commission official, employee, or agent. In the absence of the Executive Director, the First Co-Chair has the authority to execute such documents authorized by the Board. The Executive Director may delegate signing authority on routine administrative matters to an employee or agent of the Commission. Until the Board employs or retains an Executive Director, the executive director of the Port shall serve as the interim Executive Director pursuant to Section 4.2 of the Intergovernmental Transition Plan.
- b. Legal Counsel to provide advice on legal requirements for the conduct of Commission business, generally perform all legal services for the Commission, and to perform such other duties as the Board may confer, except for such legal services as the Commission may elect to engage additional or specialized legal counsel. The Commission, and not any individual Director, Alternate, Ex Officio Member, or employee shall be the holder of any attorney-client privilege with Legal Counsel and any attorney work product protection. No individual Director, Alternate, Ex Officio Member, or employee shall make any disclosure or release any attorney-client information or work product protection absent Board approval on the record in a public meeting.

12. Finance and Budgeting

- 12.1. The Board shall maintain responsibility over the Commission’s finances including, but not limited to, monitoring and approving the Commission’s budget, bonds and other debt instruments, financial reports, and annual audits. The Commission shall enact rules, controls, and procedures to ensure the integrity of the Commission’s financial affairs. To the extent permitted by the Applicable Laws, the Board may delegate responsibility over the Commission’s finances to the Executive Director, or its designee.

9-18-22 DRAFT 2: SECTIONS ADDED OR MARKEDLY CHANGED FROM DRAFT 1 HIGHLIGHTED FOR BSWG REVIEW

12.2. For each year when revenues or expenditures of the Replacement Bridge are incorporated in the Port budget, the Commission and the Port shall coordinate their respective budgets as described in Intergovernmental Transition Plan, unless the Port and Commission decide otherwise.

13. Procurement and Contracting

13.1. The Commission may use any procurement procedure permitted by the Applicable Laws, and, if applicable, federal law, to procure goods, services, and construction.

13.2. Without any review or approval by any other unit of government, the Commission, as it may elect, may enter any:

- a. Intergovernmental/interlocal, or other agreement with any local government, state agency, federal agency, or other unit of government for any purpose of the Commission;
- b. Combination of contracts, agreements or other arrangements with one or more public or private entities for the acquisition, design, construction, installation, operation or maintenance of the Replacement Bridge, including but not limited to (i) alternative or supplemental public works contracts, such as design-build, progressive design-build, and construction manager-general contractor contracts, (ii) public-private partnership agreements, (iii) franchise agreements, and (iv) financing agreements; or
- c. Lease or other contract for personal property, services, goods, equipment, materials, or supplies.

14. Real Property

14.1. The Commission may finance, refinance, and acquire by purchase, lease, eminent domain, or other means any real property, structure, easement, or other property interest located in the State of Washington or in the State of Oregon that may be necessary or convenient to achieve the purposes of the Commission, except that real property owned or held by a governmental entity may not be taken without the prior written consent of such governmental entity.

14.2. In advance of undertaking any acquisition of real property, the Board shall enact rules governing the acquisition of real property by the Commission, which shall comply with the laws of the state in which the real property is located, and, to the extent applicable, the Uniform Relocation Assistance and Real Property Acquisition Policies of Act of 1970 (42 USC 4601 *et seq.*), 49 CFR Part 24, and 23 CFR Part 710).

15. Environmental Compliance

15.1. As of the Effective Date and thereafter, the Commission shall be the Project Sponsor for all federal, state, and local environmental and regulatory approvals, unless otherwise agreed to by the Board.

15.2. With respect to any Regulatory Compliance Document or regulatory approval issued to the Port, or applied for by the Port, prior to Effective Date, the Commission, in lieu of the Port, shall:

- a. Comply with, and satisfy any responsibility, commitment, covenant, or obligation in the Regulatory Compliance Document or regulatory approval, except as may otherwise be agreed to by the Commission and the issuing agency;
- b. Satisfy all disclosure, monitoring, reporting, or certification requirements in the Regulatory Compliance Document or regulatory approval; and
- c. Undertake all activities required to satisfy federal, state, and local environmental requirements that are not addressed by a Regulatory Compliance Document or regulatory approval issued to the

Port, including any identified in the Record of Decision that must be carried out after the Record of Decision is issued.

16. Rights and Interests of Tribes

16.1. After the Effective Date, the Commission shall be responsible for:

- a. Coordination with each affected tribe to address issues arising from any impact of the Replacement Bridge on the rights and interests of the tribe, and
- b. Preparing, approving, and complying with any Memoranda of Agreement or other document delineating commitments to avoid, minimize, or resolve impacts of the Replacement Bridge on rights and interests of the tribes.

17. Bridge Tolling and Operation

17.1. The Board shall have the exclusive power to impose, fix, collect, and periodically adjust the rate of tolls and other charges for use of the Replacement Bridge as the Board deems advisable. No prior or subsequent authorization or approval by any other entity is required. Such tolls and other charges shall be fixed and periodically adjusted so as to provide, at a minimum, an amount sufficient in combination with other revenues available to the Commission, if any, to pay when due all construction, operations, finance, administration, and governance costs of the Replacement Bridge, and to satisfy all other obligations of the Commission, including, but not limited to, fulfilling all covenants and representations made by the Commission to the holders of bonds and other debt instruments, and capitalizing sinking funds and reserves for the construction, operations, financing, and administration of the Replacement Bridge.

17.2. The Board must take all actions to fix and periodically adjust the rate of tolls and other charges for use of the Replacement Bridge that are required by any covenant or commitment in, or associated with, any bonds, debt instrument, or financing agreement of the Commission, and may not take any action that impairs or adversely affects the rights of holders of any bonds, debt instrument, or financing agreement of the Commission.

17.3. Prior to imposing and fixing the initial toll rate schedule for the Replacement Bridge, the Board shall enact, and may from time to time amend:

- a. Policies or criteria to guide the Board's deliberations on such issues as exemptions or discounts, vehicle classifications, toll collection and enforcement, or other issues as the Board may determine;
- b. The process and procedures the Commission will use to establish and periodically adjust toll rates and other charges for use of the Replacement Bridge; and
- c. An operations and maintenance plan for the Replacement Bridge.

17.4. The Replacement Bridge may be operated by the Commission, by one or more private or public entities under an agreement with the Commission, or any combination thereof as the Board may elect. The Commission shall:

- a. Enact and enforce rules and regulations for the operation of the Replacement Bridge, in accordance with federal laws and regulations and the Applicable Laws.
- b. Collect tolls by any method, including, but not limited to, electronic tolling, photo tolling, manual cash collection, or any combination thereof, and may assess administrative fees as appropriate for toll collection processes.

9-18-22 DRAFT 2: SECTIONS ADDED OR MARKEDLY CHANGED FROM DRAFT 1 HIGHLIGHTED FOR BSWG REVIEW

- c. Only use electronic toll collection system technology for toll collection purposes. Enact rules and procedures to maintain the public confidentiality of records and information used to collect and enforce tolls to the extent permitted by the Applicable Laws. The rules shall describe the persons or entities permitted to inspect or copy such records and information, such as employees or authorized agents of the Commission, law enforcement agencies, collection agencies, and the registered vehicle owner.
- d. Enact and implement a toll enforcement system, which may include, but is not limited to:
 - I. Imposing civil penalties for failure to pay a toll, establishing procedures by which the registered vehicle owner is provided reasonable notice of its failure to pay a toll or other charge prior to issuing a notice of civil penalty, and the procedures by which the registered vehicle owner may contest a pending civil penalty;
 - II. Entering agreements with applicable state agencies in Oregon and Washington requiring the state agencies to refuse to renew the motor vehicle registration of a motor vehicle for which the Commission has issued a notice of unpaid tolls or other charges, and to withhold the registration renewal until the state agency receives notification from the Commission that the toll or other charge has been paid; and
 - III. Employing any other remedies for collection of unpaid tolls and other charges available to the Commission under the Applicable Laws.

18. General Provisions

- 18.1. Effective Date: This Agreement is effective as of the last date on which a Party executes this Agreement. The powers granted the Commission by the 2022 Acts shall be effective as of July 1, 2023 (the “Effective Date”). Following execution of this Agreement by all Parties, the Port shall deliver certified copies of the Agreement to the Secretaries of State of Oregon and Washington and to each of the Parties.
- 18.2. Definitions: Capitalized words, which are not the first word of a sentence, are defined terms. Defined terms are defined in Exhibit A to this Charter. Defined terms that are not defined in Exhibit 1 are defined in Section 2 of the 2022 Acts.
- 18.3. Relationship of Parties: Nothing contained in this Agreement nor any acts of the Parties shall be deemed or construed to create the relationship of principal and agent, or partnership, or of joint venture, or of any association between any of the Parties, nor shall the Commission be deemed or construed to be a subdivision, agency, joint board, or any type of affiliate, or joint or intergovernmental agency or board of any Party or combination of Parties.
- 18.4. Laws and Regulations: The Parties agree to abide by all laws and regulations that apply to the Party (which may differ from the Applicable Laws of the Commission) in carrying out this Agreement. The Commission shall abide by the Applicable Laws. All references herein to the powers, duties, and obligations of the Commission shall be read to be subject to all Applicable Laws.
- 18.5. Exhibits: All exhibits to this Agreement, as they may be amended from time to time, are hereby incorporated and made part of the Agreement.
- 18.6. Amendments: Except as otherwise permitted under the Agreement, this Agreement may be amended in writing and signed by the authorized representatives of the Parties; provided that any such amendment must not in any way whatsoever impair or otherwise adversely impact the rights of holders of any outstanding bonds or other debt instruments, nor impair or adversely impact the powers of the Board under the 2022 Acts, as they may be amended from time to time.

9-18-22 DRAFT 2: SECTIONS ADDED OR MARKEDLY CHANGED FROM DRAFT 1 HIGHLIGHTED FOR BSWG REVIEW

- 18.7. Waiver or Modification: Except as otherwise permitted under this Agreement, no waiver of any portion of this Agreement, and no amendment, modification, or alteration of this Agreement, shall be effective unless in writing and signed by the authorized representatives of the Parties. Acceptance or acquiescence in the course of performance of this Agreement will not be relevant to determining the meaning of this Agreement, and no waiver by a Party of any right under this Agreement will prejudice the waiving party's exercise of the right in the future.
- 18.8. Interpretation of Agreement: This Agreement shall not be construed for or against any party by reason of the authorship or alleged authorship of any provision. The section headings contained in this Agreement are for ease of reference only and shall not be used in interpreting this Agreement.
- 18.9. Assignment. No Party shall transfer or assign all or a portion of its responsibilities or rights under this Charter.
- 18.10. Severability: If any term or provision of this Agreement is declared by a court of competent jurisdiction to be invalid, unenforceable, illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.
- 18.11. Dispute Resolution: The Parties and the Commission shall negotiate in good faith to resolve any dispute arising out of this Agreement. The Parties and the Commission shall continue in the performance of their respective obligations notwithstanding the dispute. If the Parties and the Commission are unable to resolve the dispute within thirty (30) days after a dispute has arisen and notice given to all Parties and the Commission, any Party or the Commission may require that the dispute be submitted to mediation. The Parties and the Commission shall mutually agree upon a mediator and participate in the mediation in good faith. If the dispute is not resolved in mediation, any Party or the Commission may require that the matter be submitted to binding arbitration. Arbitration shall be initiated by notice mailed to each Party and the Commission by Certified Mail. Disputes shall be arbitrated by a panel of three arbitrators. One arbitrator shall be selected by Hood River County, one arbitrator selected by Klickitat County, and one arbitrator selected by the Commission. The decision of the arbitrator shall be final, binding, and conclusive on the Parties and the Commission and subject to review only as otherwise provided in the Applicable Laws. The Parties and the Commission shall each pay their own costs of any arbitration or mediation, but shall share equally in fees and costs of the mediation or arbitration services. If for any reason a decision is not made for the selection of a mediator or arbitrator within thirty (30) days of the notice initiating mediation or arbitration, then any Party or the Commission may apply to the Court having jurisdiction over this Charter for the appointment of such mediator or arbitrator. This dispute resolution process may be modified by mutual agreement of the Parties and the Commission.
- 18.12. Withdrawal: No Party may withdraw its authorization of this Agreement; provided, however, a Party other than Klickitat County, Port of Hood River, and Hood River County may by providing written notice to all other Parties withdraw its right to approve any amendment to this Agreement.
- 18.13. Dissolution: The Commission may be dissolved as provided in the 2022 Acts. The Board may enact rules establishing additional notice or other requirements that must be met prior to dissolution.
- 18.14. Counterparts: This Agreement may be executed in several counterparts (including by electronic signature, DocuSign, facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives are authorized to execute this Charter, understand it, and agree to be bound by its terms and conditions.

FOR THE CITY OF BINGEN

FOR THE CITY OF HOOD RIVER

Mayor Catherine Kiewit, City of Bingen

Mayor, Kate McBride, City of Hood River

Date: _____

Date: _____

Approved as to form:

Approved as to form:

City Attorney

City Attorney

FOR THE CITY OF WHITE SALMON

FOR HOOD RIVER COUNTY

Mayor Marla Keethler, City of White Salmon

Chair Mike Oates, Hood River County

Date: _____

Date: _____

Approved as to form:

Approved as to form:

City Attorney

County Counsel

FOR KLICKITAT COUNTY

FOR THE PORT OF HOOD RIVER

Chair Jacob Anderson, Klickitat County

President Ben Sheppard, Port of Hood River
Commission

Date: _____

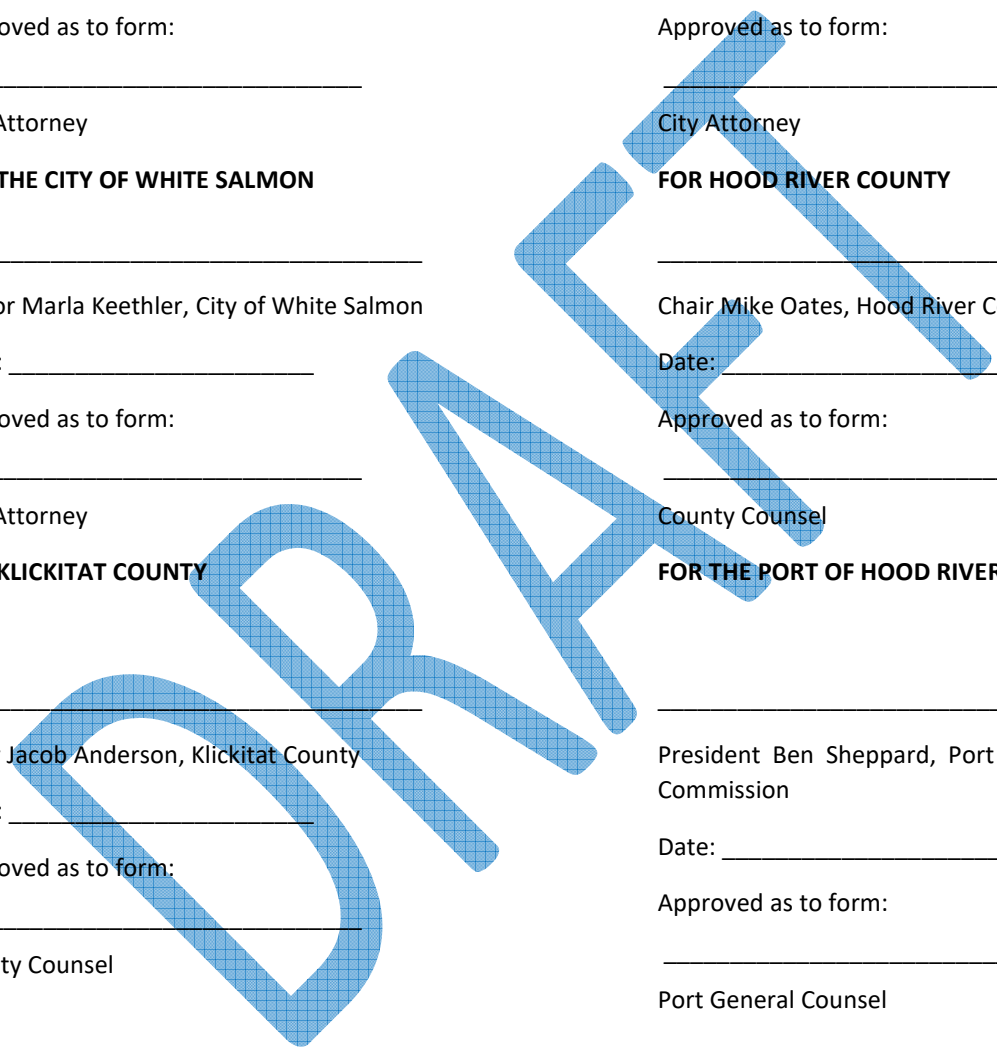
Date: _____

Approved as to form:

Approved as to form:

County Counsel

Port General Counsel



**EXHIBIT A
DEFINITIONS**

- a. **2018 Toll Proceeds** means the amount of Port toll revenues collected from users of the existing Hood River-White Salmon Bridge resulting from the increase in toll rates that went into effect in 2018.
- b. **2022 Acts** has the meaning set forth in Recital D.
- c. **Agreement** means this Commission Formation Agreement, as may be amended from time to time.
- d. **Alternate** means person appointed by a county commission, who may act as a Director in a Director's absence.
- e. **Applicable Laws** has the meaning set forth in Section 3.1 of the Charter.
- f. **Bi-State Working Group** has the meaning set forth in Recital B.
- g. **Board** means the board of directors of the Commission.
- h. **Charter** means the provisions of Section 1 through and Section 18, and Exhibit A, of this Agreement,
- i. **Commission** means the Mid-Columbia Bridge Commission, a bi-state bridge commission formed and chartered under the 2022 Acts.
- j. **Commission Formation Agreement** shall have the meaning set forth in Sections 3 of the 2022 Acts.
- k. **"Construction" or "construct"** means activities, materials and services necessary or convenient to the design and construction of the Replacement Bridge, including but not limited to engineering, permitting, property acquisition, procurement, installation of equipment, site work, utility relocation, inspection, start-up, landscaping, hard construction, environmental mitigation, demolition and removal of the existing (1924) bridge, including the associated accounting, legal, administrative, project management and governance activities.
- l. **Director** means a voting member of the Board, appointed in accordance with the procedures set forth in this Charter.
- m. **Effective Date** has the meaning described in Section 1.2 of the Charter.
- n. **Emergency Meeting** means a Special Meeting of the Board called to deal with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, as defined by the Applicable Laws.
- o. **Emergency Ordinance** means an ordinance necessary in the discretion of the Board to meet an emergency.
- p. **Ex Officio Member** means a non-voting member of the Board.
- q. **Executive Director** means the executive director of the Commission described in Section 11.2(a) of the Charter.
- r. **Executive Session** means an executive session of the Board, as defined under the Applicable Laws.
- s. **First Co-Chair (and Second Co-Chair)** shall have the meaning set forth in Sections 4(4) of the 2022 Acts.
- t. **Intergovernmental Transition Plan** means the work plans and procedures to coordinate the activities of the Commission and the Parties during the startup of the Commission, as shown in Exhibit C of this Agreement, as it may from time to time be amended.
- u. **Interim Rule** means a rule described the Interim Rules for the Mid-Columbia Bridge Commission, authorized by the Parties as Exhibit B of the resolution authorizing this Charter.

- v. **Initial Board** means the Board which takes office on or about July 1, 2023, as described in Section 1.6 of the Interim Rules.
- w. **Legal Counsel** means the attorney or attorneys hired or retained by the Commission pursuant to Section 11.2(b) of the Charter.
- x. **Motion** means an action of the Board to address a matter that is not undertaken by a Resolution or Ordinance that generally will address minor or routine matters of lesser importance or of a temporary nature not addressed by a Resolution or Ordinance.
- y. **Multi-Office Holder** has the meaning set forth in Section 7.2 of the Interim Rules.
- z. **Official Board Action** has the meaning set forth in Section 8.2 of the Charter;
- aa. **Operate or Operations** means the activities necessary or convenient to the operation, tolling, maintenance, repair, rehabilitation, renewal, or replacement of a bridge, including any associated financial, legal, administration, management, or governance activities or expenses.
- bb. **Ordinance** means a legislative or executive action approved by the Board that is not an Emergency Ordinance.
- cc. **Oregon Act** has the meaning set forth in Recital D.
- dd. **Party** means the City of Bingen, City of White Salmon, and Klickitat County, Washington, and the City of Hood River, Hood River County, and Port of Hood River, Oregon (collectively "Parties").
- ee. **Primary Place of Business** has the meaning set forth in the 2022 Acts.
- ff. **Project Sponsor** means the governmental entity responsible for the development, financing, and construction of the Replacement Bridge, including compliance with all federal and state requirements. Project Sponsor includes the term 'project sponsor' and designations of similar import such as local lead agency, applicant, or responsible party.
- gg. **Port** means the Port of Hood River, a port district under Oregon law.
- hh. **Regular Meetings** means those recurring meetings of the Board held in accordance with a periodic schedule established by the Board.
- ii. **Regulatory Compliance Document** means a Final Environmental Impact Statement, Record of Decision, Biologic Opinion, Memorandum of Agreement, or other report, agreement, or permit required to comply with federal, state, or local regulatory requirements for construction of the Replacement Bridge.
- jj. **Replacement Bridge** means an interstate bridge that replaces the Hood River-White Salmon Interstate Bridge built in 1924, including any approaches, buildings, structures, facilities, equipment, improvements, systems, and other appurtenances necessary or incidental to the bridge
- kk. **Resolution** means a formal action of the Board that is not an Ordinance. Resolutions generally address matters of a special, limited, lesser importance, or temporary character than Ordinances.
- ll. **Special Meetings** means those meetings of the Board that are not Regular Meetings.
- mm. **Washington Act** has the meaning set forth in Recital D.

Exhibit B
Interim Rules for the Mid-Columbia Bridge Commission

Each Interim Rule hereunder is authorized to regulate the conduct of the Mid-Columbia Bridge Commission from the Effective Date until the effective date of a rule enacted by the Board that supersedes the Interim Rule, or the effective date of a Board action that repeals the Interim Rule. Thereafter, the superseded or repealed Interim Rule shall be null and void, and have no effect. When all Interim Rules have been superseded or repealed, the Board, without approval of the Parties, may approve a revised and restated Charter removing the Interim Rules (including this Exhibit B) and all references thereto.

1. Board of Directors:

- 1.1. Before entering upon the duties of a Director or Alternate, the Director or Alternate shall execute a written affirmation in substance as follows: *I do solemnly affirm that I will support the Constitution of the United States, I will abide by all laws applicable to the Commission, and that I will faithfully discharge my duties as a Director to the best of my ability.* The affirmation shall be filed in the public records of the Commission.
- 1.2. Directors must attend Board meetings, unless excused in accordance with a rule of the Commission. The First Co-Chair is authorized to excuse absences, and the Second Co-Chair is authorized to excuse absences when the First Co-Chair is unavailable. Unauthorized absences shall be reported in the minutes of the meeting and in an annual report of the Commission that is distributed to the Parties.
- 1.3. Every Director when present must vote, unless (i) a Director declares an actual legal conflict of interest under the Applicable Laws, (ii) a Director abstains due to an incompatibility between the duties and obligations it owes to the Commission and those it owes to another public position held by the Director, or (iii) a Director requests to abstain and the request is approved by a majority of the remaining Directors (excluding the Director that made the request and any Directors declaring an actual conflict of interest on the action) that are present. Directors declaring a conflict of interest may vote on an action if permitted by an exception under the Applicable Laws.
- 1.4. Contact by a Director with the media shall be limited to re-stating the Commission's position and not the individual agenda of a Director. Official statements from the Commission shall be directed through the First Co-chair of the Board, or its designee, with coordination with the Executive Director.
- 1.5. Until the Board enacts a rule for the reimbursement of expenses incurred by a Director or employee in performing its duties, no reimbursement shall be paid to a Director or an employee. Directors and employees may retain receipts of any potentially reimbursable expense they may incur prior to the enactment of such a rule, and subsequent to the enactment of the rule may submit a reimbursement request for any expense that is eligible under the rule. There is no commitment whatsoever that any expense incurred by any person prior to enacting applicable rules will be reimbursed by the Commission. Reimbursed expenses declared ineligible in a subsequent audit shall be promptly refunded to the Commission.
- 1.6. The Initial Board (Directors and Alternates) shall be appointed by December 31, 2022, or as soon thereafter as practical, and take office as of July 1, 2023, or soon thereafter as practical. For each appointing county commission, the terms of office of the initial appointments shall be as follows:
 - a. One appointment shall be for a term expiring on December 31, 2026;
 - b. One appointment shall be for a term expiring on December 31, 2027 and
 - c. One appointment shall be for a term expiring on December 31, 2028.

- 1.7. Between the date on which they are appointed and June 30, 2023, the Initial Board (Directors and Alternates) shall obtain comprehensive briefings on the Replacement Bridge Project by project staff and consultants, and participate in meetings of the Bi-State Working Group.
- 1.8. To facilitate the shift of project responsibility to the Commission, the co-chairs of the Bi-State Working Group shall serve as Ex Officio Members of the Board until June 30, 2025, unless modified by the Board. If a co-chair of the Bi-State Working Group is appointed to be a Director, the appointing body may designate another member of the Bi-State Working Group to serve as the Ex Officio Member.

2. **Board Meetings:**

- 2.1. Prior to June 30, 2023, the chair of the Klickitat County Commission, or its designee, and the chair of the Hood River County Commission, or its designee, shall agree on a schedule for Regular Meetings of the Board through September 30, 2023. The first Regular Meeting shall be during June 2023, if practical. The Regular Meeting schedule may be revised from time to time. Notice of each these Regular Meetings shall be posted at least seventy-two (72) hours prior to the meeting date as follows:
 - a. On the websites of Klickitat County, Hood River County, and the Port of Hood River;
 - b. At the offices of Klickitat County, Hood River County, and the Port of Hood River; and
 - c. In a newspaper of general circulation in each of Klickitat County and Hood River County.
- 2.2. By September 30, 2023, the Board shall approve a schedule for Regular Meetings of the Board for the period beginning October 1, 2023. The Board may revise this schedule from time to time. Notice of these Regular Meetings shall be posted at least seventy-two (72) hours prior to the meeting date as follows:
 - a. On the website of the Port of Hood River, until a Commission website is established, and thereafter on the Commission website; and
 - b. At the offices of the Port of Hood River, until the Commission establishes a specific address for its Primary Place of Business and thereafter at the Primary Place of Business of the Commission.
- 2.3. A Special Meeting of the Board, other than Emergency Meetings, may be called at any time by the First Co-Chair (or Second Co-Chair acting in lieu of an unavailable First Co-Chair) or by a majority of the members of the Board, and by:
 - a. Delivering written notice of the Special Meeting personally, by mail, by fax, or by electronic mail to each Director.
 - b. Posting public notice of the Special Meeting at least 24 hours prior to the start of the meeting at the locations described for Regular Meetings in Section 2.2, above; and
 - c. Delivering written notice of the Special Meeting personally, by mail, fax, or e-mail at least 24 hours before the meeting to each member of the news media who has on file with the Commission a written request for notice of Special Meetings.
- 2.4. An Emergency Meeting of the Board may be held upon such notice as the First Co-Chair (or Second Co-Chair acting in the absence of the First Co-Chair), in its discretion, deems appropriate under the circumstances. Such notice may be shorter than 24 hours, but the minutes for the Emergency Meeting shall describe the emergency justifying any notice that was less than 24 hours.
- 2.5. Except for meetings in Executive Session, the notices described in this Section 2 shall provide the date, time, and location (which may be an online address) of the meeting, and an agenda of matters anticipated

to be considered at the meeting. A notice for a meeting held in Executive Session shall provide the date, time, and location (which may be an online address) of the meeting, and the statutory basis authorizing the Executive Session. The Commission may modify the agenda, including any exhibits, following posting notice thereof.

- 2.6. The Board may adjourn any Regular, Special, or Emergency Meeting to a time and place specified in the order of adjournment. A quorum is not required for a vote to adjourn a meeting. Any hearing held by the Board may be continued or re-continued to any subsequent meeting of the Board.

3. Board Officers

- 3.1. The Ex Officio Members described Section 1.8 of these Interim Rules shall serve as interim co-chairs of the Board from July 1, 2023 until replaced pursuant to Section 3.2, below. The co-chairs shall each serve as the First Co-Chair for a three-month period, unless they agree otherwise.
- 3.2. At its first Regular Meeting in January 2024, or at a subsequent meeting at the discretion of the Board, the Board shall: (i) appoint from among the Directors two co-chairs for a two year term, and (ii) designate the First Co-Chair and Second Co-Chair for calendar year 2024. The First Co-Chair shall serve as First Co-Chair until the first Regular Meeting of the Board in January 2025, at which time the Second Co-Chair shall become First Co-Chair and the First Co-Chair shall become Second Co-Chair. Thereafter the offices of the First Co-Chair and Second Co-Chair shall annually alternate at the first Regular Meeting each January.
- 3.3. A co-chair may be removed from office by the approval of four Directors. If a co-chair's term as a Director expires or otherwise terminates, or if a co-chair resigns, is removed, or is unable to perform its duties, the Board shall appoint a co-chair to fill the unexpired term. The successor co-chair must reside in the same state, and shall have the same status (First Co-Chair or Second Co-Chair) as the outgoing co-chair.

4. Actions of the Board:

- 4.1. Except for an Emergency Ordinance, an ordinance may be approved as follows:
 - a. Before an ordinance is adopted it shall be read during meetings of the Board on two different days at least six days apart. If the ordinance is posted online or otherwise publicly available, the ordinance may be read by title only, unless otherwise requested by a Director. An ordinance adopted after being read by title only may have no legal effect if it differs substantially from its terms as filed prior to the reading, unless each section incorporating a substantial difference, as finally amended prior to enactment by the Board, is read fully, or otherwise made publicly available.
 - b. Upon the final vote on an ordinance, the ayes, nays, and abstentions shall be taken and included in the record of proceedings of the meeting. Within seven days after adoption of an ordinance: (i) the First Co-Chair for the session at which the ordinance was adopted (or in its absence, the Second Co-Chair) shall sign it with the date of its adoption, (ii) until a Commission website is established, the ordinance or a summary of the ordinance shall be published on the Port website, and thereafter on the Commission website, and (iii) the signed ordinance shall be filed in the records of the Commission.
 - c. An ordinance shall take effect on the 30th day after the date of its adoption, unless the ordinance specifies a later effective date.
- 4.2. An Emergency Ordinance may be introduced, read once, and considered for final passage at a Regular Meeting, Emergency Meeting, or Special Meeting of the Board, without being described in a published agenda, if the reasons requiring immediate action are described in the ordinance. The unanimous approval of all members of the board at the meeting, a quorum being present, is required to adopt an Emergency Ordinance. An Emergency Ordinance may take effect upon adoption or such later date specified in the

Emergency Ordinance. Emergency Ordinances shall be certified, published, and filed in the manner described for (non-emergency) Ordinances under Section 4.1.b, above.

- 4.3. A Resolution may be introduced, read once in full or by title only, and considered for final passage at a Regular Meeting, Emergency Meeting, or Special Meeting of the Board, without being described in a published agenda. Four affirmative votes are required to approve a Resolution. A Resolution may take effect upon adoption or such later date specified in the Resolution. Resolutions shall be certified, published, and filed in the manner described for Ordinances under Section 4.1.b, above.
- 4.4. A Motion may be made, seconded, and passed by the Board, which shall be described in the Board meeting minutes.
- 4.5. Except as otherwise provided in these Interim Rules, all Board actions and deliberations shall adhere to the parliamentary procedures in the latest edition of Robert's Rules of Order, or such other rules which the Board may adopt.

5. Procurement and Contracting

- 5.1. The Board shall be the Commission's contract review board, until otherwise delegated by the Board.
- 5.2. The Board shall prepare and enact, or adopt by reference, procurement, and contracting rules for the Commission. Procurement and contracting rules of the Commission may include authorizations and procedures to procure and engage in alternate or supplemental public works contracts such as design-build, progressive design-build, and construction manager-general contractor contracts, and to engage in public-private partnerships.
- 5.3. Until the Board enacts superseding rules, the Commission shall abide by the procurement and contracting rules of the county in which the Primary Place of Business is situated, except that any applicability of, or reference in, the county rules to the county shall be read as referring to the Commission, to the county commission shall be read as referring to the Board, and to the county administrator shall be read as referring to the Executive Director, or its designee. The Board may reasonably interpret other provisions of the applicable county rules as may be needed to apply the county rules to a bi-state bridge commission.

6. Budgeting

- 6.1. The budget committee for the Commission shall be the co-chairs of the Commission, or their designee, and the chief financial officer of the Port if the Port agrees or shall be a qualified accountant with public budget experience appointed by the Board. The First Co-Chair, or its designee, shall be the chair of the budget committee.
- 6.2. Public notice of each meeting of the Commission budget committee shall be provided as prescribed for Board meeting in Section 2.2 of these Interim Rules.
- 6.3. The Commission shall hold at least one public hearing prior to enacting a budget. Public notice of the hearing shall be provided as prescribed for Board meeting in Section 2.2 of these Interim Rules.

7. Conduct of Officials

- 7.1. Directors, Alternates, Ex Officio Members, and members of committees of the Commission shall promptly notify in writing the Executive Director and Legal Counsel of any potential or actual conflict of interest it may have under the Applicable Laws. The notification shall provide reasonable detail on the nature of the conflict and describe the course of action proposed by the official to address the conflict (such as to abstain from participating on the matter). Following its review of the notification, Legal Counsel may recommend revisions to the proposed course of action. The official shall abide by any such recommendation of Legal

Counsel, unless overturned on appeal to the Board. The Board shall rule on any such appeal before considering the subject issue.

7.2. Directors, Alternates, Ex Officio Members, and members of committees of the Commission may hold other public offices (a "Multi-Office Holder"), unless the Applicable Laws expressly prohibit the simultaneous holding of the specific positions held by the Multi-Office Holder. If a Multi-Office Holder encounters an act of the Commission that may cause conflicting public duties and responsibilities by virtue of holding multiple public positions, the Multi-Office Holder shall promptly notify in writing the Commission's Executive Director and Legal Counsel of the nature of its conflicting duties and responsibilities, and describe the course of action proposed by the official to address the matter. Following its review of the notification, Legal Counsel may recommend revisions to the proposed course of action. The Multi-Office Holder shall abide by any such recommendation of Legal Counsel, unless overturned on appeal to the Board. The Board shall rule on any such appeal before considering the subject issue.

8. Finance

- 8.1. Any revenues derived from the Commission's ownership or operation of the bridge, as may be provided for in a resolution authorizing the issuance of bonds or a debt instrument, or in any trust agreement or indenture securing the same, may be pledged to the payment of principal and interest on, and the redemption price or purchase price of, such bonds or debt instrument. All such pledges shall be valid and binding from the time when the pledge is made, and the revenues or other moneys so pledged and thereafter received by the Commission shall immediately be subject to the lien of the pledge.
- 8.2. Bonds and any other debt instruments of the Commission shall be payable solely from the gross or net revenues, grants, contracts, or accounts of the Commission that are pledged for their repayment, and not constitute a debt or obligation of any state or any local government. The bonds or debt instrument shall include a recital establishing that the bond or debt instrument is an obligation of the Commission and is not an obligation of any state or other local government.
- 8.3. To the extent permitted by the Applicable Laws bonds and other debt instruments may be issued by the Board in such amounts, maturities, denominations, form or forms, interest rates, including provisions for the varying of interest rates, discounts or premiums, with such bond insurance or other guarantees, and with such other terms and provisions as the Board may determine, or as the Executive Director or other designated official may determine within parameters established by the Board by resolution or ordinance. The Board may provide for redemption of bonds or other debt instruments prior to maturity on such notice, and at such times, and with such redemption provisions determined by the Board or within parameters established by the Board. Bonds and other debt instruments may be sold by negotiation or by public or private sale, in any manner and for any price and subject to any terms and conditions as the Board deems in the interest of the Commission, subject to the Applicable Laws.
- 8.4. In the discretion of the Board, any bonds or other debt instruments issued by the Commission may be secured by a trust agreement or indenture by and between the Commission and a corporate trustee, which may be any trust company or bank having the powers of a trust company, to be selected by the Board in such manner as it may elect. Such trust may pledge or assign all or any revenues, grants, contracts, funds, or accounts of the Commission.
- 8.5. The Commission may enter into any contract or covenant as the Board may elect with holders of any of its bonds or other debt instruments as to the security and payment of the debt instrument, whether held in trust or otherwise. The provisions in any resolution or indenture providing for the issuance and security of any bonds or other debt instruments of the Commission shall constitute an enforceable contract with the holders of any such bonds or other debt instruments.

9. Executive Director

9.1. The Executive Director is authorized to:

- a. Employ, discharge, and supervise employees and consultants in the administration, operation, planning, and construction activities of the Commission;
- b. Report at meetings of the Board on the activities of the Commission;
- c. Sign, or designate others to sign, all duly authorized demands, salaries, and recurring charges;
- d. Have charge, or designate others to have charge, of all procurements, leases, agreements for the Commission, subject to any rules established by the Board;
- e. Recommend to the Board the toll rates and toll policies necessary to pay the costs and expenses of the Commission, and to fulfill other obligations of the Commission, taking into account the results of any traffic and revenue studies prepared by qualified consultants, and
- f. Accept, execute, or consent to any grant, bond or other financing obligation, or any deed, lease, or other document conveying an interest in real property that has been duly authorized by the Board, or as may otherwise be authorized pursuant to a rule of the Commission.

**Exhibit C:
Intergovernmental Transition Plan**

Each section of this *Intergovernmental Transition Plan* represents an agreed upon work plan or procedure to coordinate certain activities of the Commission and the Parties to facilitate the startup of the Commission. Each section shall be effective as of the Effective Date and shall terminate upon the start of toll operations for the Replacement Bridge, unless terminated earlier by agreement of the Commission and the Party or Parties to which the section applies. Upon its termination, a section shall be null and void, and have no effect. Upon termination of the Intergovernmental Transition Plan, the Board, without approval of the Parties, may approve a revised and restated Charter removing the Intergovernmental Transition Plan (including this Exhibit C) and all references thereto.

1. Coordination of Port and Commission Budgets

ORIGINAL LANGUAGE REMOVED. PORT STAFF WORKING ON REPLACEMENT LANGUAGE

2. Capitalization of Commission

- 2.1. The Parties acknowledge the successful implementation of the Replacement Bridge requires that funding be obtained to pay Commission costs and expenses until such time as tolls are collected for use of the Replacement Bridge, and to capitalize reserves for the construction, operation, governance, and financing of the Replacement Bridge. The Parties agree to work cooperatively with the Commission to establish and implement a plan to satisfy these funding needs.
- 2.2. The Port shall make good faith efforts to maximize, to the extent prudent, the amount of toll revenues from the existing bridge budgeted to pay costs and expenses of the Replacement Bridge and Commission. As part of its good faith efforts, the Port shall:
 - a. Deposit all 2018 Toll Proceeds in the Port's Bridge Replacement Fund, and use the monies in said fund, except for the monies required to pay capital maintenance costs of the existing bridge, to pay costs and expenses of the Replacement Bridge and Commission; and
 - b. Implement an accounting and reporting system that provides regular, periodic updates to the Commission on the 2018 Toll Proceeds that at a minimum shows: (i) the gross monthly toll revenues resulting from the 2018 toll rate increase and the net toll revenues (after deducting any applicable collection costs) deposited into the Bridge Replacement Fund and (ii) the expenditures or transfers of 2018 Toll Proceeds held in the Bridge Replacement Fund.
- 2.3. The Parties and the Commission shall make good faith efforts to agree by January 1, 2024 on a plan to make additional resources (beyond 2018 Toll Proceeds) available for Commission costs and reserves. The Parties and Commission may consider such options as: (i) increasing toll rates on the existing bridge and pledging the proceeds of the increased toll rates to the Replacement Bridge and Commission, (ii) having one or more of the Parties provide in-kind services or other resources to the Commission, and (iii) securing third-party funding commitments and/or back-up pledges for the Commission. Following agreement on a plan, the Parties and the Commission shall negotiate in good faith any agreements necessary to implement the plan.

3. Regulatory Compliance Documents

3.1. For any Regulatory Compliance Document prepared, approved, executed, or issued prior to the Effective Date, during the Port's tenure as Project Sponsor:

- a. The Port shall provide the Bi-State Working Group an opportunity to review and comment on the Regulatory Compliance Document prior to its approval, issuance, or execution.

b. Subject to any federal or state agency approvals, the Port shall incorporate in each Regulatory Compliance Document a statement to the effect that the Commission, as of the Effective Date, will be the Project Sponsor and primary point of contact for the Replacement Bridge, and responsible for compliance with the requirements of the Regulatory Compliance Document.

3.2. Following the Effective Date, unless the Commission otherwise agrees, the Commission shall have the exclusive power and duty to prepare, approve, execute, and issue Regulatory Compliance Documents.

4. Administration

4.1. Notwithstanding the Primary Place of Business designated in Section 2.3 of the Charter, the offices and mailing address of the Commission shall be those of the Port of Hood River until the Commission establishes an office or its own.

4.2. As of the Effective Date, until the Port and Commission agree otherwise, the Port shall provide administrative support and staffing for the Commission, as follows:

a. The executive director of the Port, or its designee, shall be the interim Executive Director of the Commission;

b. The chief financial officer for the Port shall be the interim chief financial officer for the Commission;

c. Section 4.2(a) or Section 4.2(b) shall not be applicable if the Port's executive director position or Port's chief financial officer position, respectively, is or becomes vacant, and the Board, in its discretion, may elect to hire or retain personnel to temporarily or permanently fill the vacant position; and

d. Subject to approval of the proposed work scope and budget by the Port, the Port shall

- i. Perform the administrative functions of the Commission, such as providing public notice of Board meetings, budget preparation, maintenance of financial accounts, and staffing Board meetings;
- ii. Retain Legal Counsel for which the Commission is the client, holder of any attorney-client privilege, and owner of any attorney work product;
- iii. Purchase liability insurance coverage for the Commission;
- iv. Maintain the Commission's Public Records and process requests for review or reproduction of the Commission's Public Records in accordance with the Applicable Laws as follows:

- 1) The Commission's Public Records shall be stored and made available for public inspection at the main office of the Port;
- 2) Requests to review or reproduce Public Records of the Commission shall be directed to the Executive Director of the Commission, or its designee. Upon receipt of a Public Records Request, the Executive Director shall transmit the request to Port for processing;
- 3) The Port may impose reasonable charges for compiling and providing copies of the Commission's Public Records, consistent with the charges it imposes for Port Public Records, and not to exceed any maximum amounts under the Applicable Laws of the Commission; and
- 4) Legal Counsel shall determine if a Public Records Request is exempt in whole or part from public disclosure. The ruling by Legal Counsel shall be final, unless within five

business days following the ruling an affected person delivers to the Executive Director a written petition for Board review of the ruling and, upon its review, the Board overturns or revises the ruling.

- 4.3. Unless otherwise agreed by the Port, the Port shall be paid or reimbursed for the costs and expenses incurred for the activities described in this Section 4. Payment or reimbursement to the Port shall be from monies made available to the Commission or to the Replacement Bridge by federal or state grants, toll revenue budgeted by the Port, or any other eligible funding source.

October 14th DRAFT Agenda updated 9/28

9:00 - 9:30 - Meet at POHR

Introductions and welcome

9:30 - 10:30 - Walk via footpath to the Best Western under the bridge

Discussion of bridge deterioration and need for a new bridge

10:15 - Panelists arrive

10:30 - 11:30 - Panel discussion from Emergency Response Services and various local business owners.

11:00 - Lunch served

11:30 - 12:00 - Video, Financial discussion, and dismissal back to the POHR

Potential Panelists:

1. *Hood River Fire Chief, OR (McBride) - Yes Fire Chief Leonard Damian*
2. White Salmon Fire Chief, WA (Keethler)
3. *Hood River Sheriff, OR (McBride) - Yes Sheriff Matt English*
4. Skyline Medical Provider, WA (Keethler)
5. *NK Studios, WA (Chapman) - Yes Nika Kermani*
6. *Best Western, OR (Chapman) - contacted Yes Chuck Hinman*
7. The Fruit Company, OR (Chapman) - contacted
8. *Mt. Adams Fruit, WA (Fox) - Yes Doug Gibson or representative*
9. Juanitas Foods, OR (McBride)
10. Blossoms Bilingual Preschool, OR (Chapman) - contacted
11. *Yakima Nation, WA (Greenwood) - Yes Bill Sharp or representative*
12. Insitu, WA (Babitz)
13. Cardinal Glass, OR (Fox)
14. *Tidewater Barge, WA (Greenwood) - Yes Jennifer Riddle*

Next steps

Story boards for display at the Best Western (JLA)

Securing the Best Western (Chapman) - working with Alyssa Johnson

Brunch/Lunch menu (Chapman) - working with Alyssa Johnson

Audio/Visual setup (Best Western) - working with Alyssa Johnson

Story Gorge Video (Keethler)

Possible drone footage of barge (JLA/Greenwood)

Financial information handout (Greenwood/JLA)

Panelist bio/photo handout (JLA)

Attending - Oregon

1. [Rep. Susan McLain](#) (D-Hillsboro) – Joint Transportation Committee Chair
2. [Sen. Boquist](#) (I-Polk & Yamhill Counties) – Joint Transportation Committee Co-Vice Chair
3. [Rep. Pham](#) (D-NE/SE Portland) – Joint Transportation Committee Member
4. [Rep. Lori Kuschler](#) (D-Hood River)
5. Mr. Patrick Brennan – Joint Transportation Committee, LPRO Analysis
6. [Jeff Helfrich](#) (R-HD 52 Candidate)

Attending - Washington

1. [Rep. Corry](#) (R-Yakima, Klickitat & Skamania Counties)

2. [Rep. Fey](#) – House Transportation Chair
3. [Rep. Harris](#) - (R-17th Legislative District)
4. [Rep. Mosbrucker](#) (R-Klickitat County)
5. [Rep. Stonier](#) (D-Clark County)
6. [Sen. King](#) - (R-South Central Washington)
7. [Sen. Lias](#) (D-Edmonds, Everett, Lynnwood & Mukilteo Counties)
8. Daniel Saunders who is [Sen. Nobles](#)' Legislative Assistant (D-28th Legislative District)

Unconfirmed - Oregon

1. Sen. Findley
2. Sen. Hansell
3. Rep. Lewis
4. Ms. Lindsay Baker, ODOT
5. Rep. Bonham
6. Rep. Fahey
7. Rep. Rayfield
8. Sen. Beyer
9. Sen. Frederick
10. Rep. Nathanson
11. Rep. Evans
12. Rep. Boshart Davis
13. Ms. Darcy Long, D-Candidate for HD 52
14. Ms. Raz Mason, D-Candidate for SD 26 *

Unconfirmed - Washington

1. Rep. Berry
2. Rep. Donaghey
3. Rep. Entemenn
4. Rep. Eslick
5. Rep. Goehner
6. Rep. Griffey
7. Rep. Klicker
8. Rep. Orcutt
9. Rep. Riccelli
10. Rep. Robertson
11. Rep. Slatter
12. Rep. Valdez
13. Rep. Wylie
14. Sen. Billig
15. Sen. Braun
16. Sen. Cleveland
17. Sen. Hawkins
18. Sen. Holy
19. Sen. Lovelett
20. Sen. Lovick
21. Sen. Mullet
22. Sen. Padden
23. Sen. Randall
24. Sen. Rivers
25. Sen. Saldana
26. Sen. C. Wilson
27. Sen. L. Wilson
28. Debbie Driver – Senior Policy Advisor for Transportation in the Governor's Office

Regrets - Oregon

1. Rep. Breese Iverson
2. Mr. Matt Garrett
3. Sen. Knopp
4. Sen. Thomsen
5. Sen. Gorsek
6. Sen. Wagner

Regrets - Washington

1. Rep. Barkis
2. Rep. Braun
3. Rep. Bronoske
4. Rep. Chapman
5. Rep. Dent
6. Rep. Duerr
7. Rep. Hackney
8. Rep. Paul
9. Rep. Ramel
10. Rep. Ramos
11. Rep. Taylor
12. Sen. Nguyen
13. Sen. J. Wilson