

**COMMISSION FORMATION AGREEMENT
TO FORM AND CHARTER THE HOOD RIVER WHITE SALMON BRIDGE AUTHORITY**

This **COMMISSION FORMATION AGREEMENT TO FORM AND CHARTER THE HOOD RIVER WHITE SALMON BRIDGE AUTHORITY** (this “Agreement”) 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Salmon Bridge constructed in 1924, and currently owned and operated by the Port of Hood River (the “Existing Bridge”), is obsolete and needs to be replaced with a new interstate bridge connecting Hood River, Oregon and White Salmon, Washington (the “Replacement Bridge”).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”) became 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 charter and form a bi-state bridge commission to develop, construct, operate, maintain, renew, toll, finance, and govern the Replacement Bridge, and to facilitate the startup of the 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 addresses three interrelated matters:

- a. Charter: Section 1 through Section 18 and Exhibit A of this Agreement (the “Charter”) charters and forms the Authority under the 2022 Acts. The Charter, as it may be amended from time to time, provides the overall framework for the on-going governance of the Authority. 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, establishes Interim Rules for the Hood River-White Salmon Bridge Authority to regulate the operations and administration of the Authority during its startup phase following the Authority Formation Date. The Interim Rules are intended to be superseded by rules adopted by the Board. When superseded or repealed by Board action, an Interim Rule shall be terminated and have no effect; and

c. Intergovernmental Transition Plan: Exhibit C of this Agreement, the Intergovernmental Transition Plan, describes activities to be undertaken by the Parties and, following the Authority Formation Date, the Authority to facilitate the startup of the Authority.

1.2. This Agreement shall be binding and deemed effective on the date on which this Agreement first becomes fully executed by all Parties hereto (the "Agreement Effective Date"); provided, however, the Charter and the Interim Rules shall first take effect on the Authority Formation Date described in Section 2.2, below.

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

2. Establishment of the Hood River White Salmon Bridge Authority

2.1. Pursuant to the 2022 Acts, and by the approval and execution of this Agreement, the Parties hereby charter and form the Hood River-White Salmon Bridge Authority (the "Authority") 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. The Charter shall become effective, and the Authority shall be formed, on July 1, 2023 (the "Authority Formation Date"). As of the Authority Formation Date, and thereafter for perpetual duration, unless dissolved, the Authority 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 Authority shall be in Hood River, Oregon; provided, however, the Authority may establish offices or other facilities for the conduct of its affairs at one or more other locations in Oregon and/or Washington. The Board, from time to time, may relocate its principal headquarters office to a different site in Oregon or Washington, provided, however, the Applicable Laws set forth in Section 3.1 shall not be affected by any relocation of the principal headquarters office.

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 Authority (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 as described in Sections 3.1.a and 3.1.b, the laws applicable to municipal corporations under Oregon law; and

d. If a conflict arises between a provision of the 2022 Acts and an otherwise applicable state law, the provision of the 2022 Acts govern.

3.2. To the extent the applicability, meaning, or requirements of a state law is unclear, incomplete, or vague in the context of the Authority, the Board may enact a rule to clarify or interpret the law as it pertains to the Authority.

3.3. The Board is authorized to adopt, amend, suspend, and repeal rules, bylaws, or regulations governing the activities and procedures of the Authority on or after the Authority Formation Date. 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 Authority 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. 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. Prior to appointing a Director or Alternate, the Klickitat County Commission and Hood River County Commission shall each adopt, and may from time to time amend, a resolution setting the procedures and criteria the county will use to appoint Directors and Alternates. The procedure and criteria established by each county may differ, provided that, at a minimum, they must:
 - a. Be consistent with the requirements of this Charter;
 - b. Be consistent with the guidance provided in Exhibit D;
 - c. Delineate how the Parties situated within the county will be given the opportunity to nominate or disqualify candidates for Director and Alternate positions;
 - d. Require Directors and Alternates to be appointed by a resolution adopted by the county commission; and
 - e. Require the county to:
 - i. Consider qualified candidates representative of the diverse people, cultures, and communities served by the Replacement Bridge;
 - ii. Disqualify any person who is: (i) an employee of the Authority, (ii) not permitted to be a public official by law, or (iii) 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; and
 - iv. Consider such other criteria as the county deems appropriate.
- 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.
- 4.5. Directors and Alternates shall serve at the pleasure of the appointing county commission and, with or without cause, may be removed from office by a majority vote of the appointing county commission.

Promptly following such an action, the chairperson of the county commission, or its designee, shall notify in writing the Authority of the county action.

- 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 county commission that appointed the vacated Director or Alternate. Until the vacancy is filled, 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.
- 4.8. Before entering upon the duties of a Director or Alternate, a Director or Alternate must first execute a written affirmation to faithfully discharge its duties, as set forth in a rule of the Authority.

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 Authority.
- 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 Authority, and participate in Executive Sessions of the Board.

6. Powers and Duties of the Board

- 6.1. The powers of the Authority are vested in and exercised by the Board. The Board shall exercise its powers in accordance with the Applicable Laws in such a way as to best meet the purposes and needs of the Authority.
- 6.2. Unless otherwise delegated by the Board, the responsibilities of the Board include, but not be limited to:
 - a. Ensuring the Authority abides by the Applicable Laws and this Charter;
 - b. Establishing, amending, and interpreting Authority rules, regulations, and policies;
 - c. Monitoring whether the financial, management, and operational procedures, decisions, and controls of the Authority comply with the rules, regulations, and policies of the Authority;
 - d. Monitoring and taking actions to ensure the fiscal integrity of the Authority;
 - e. Authorizing bonds and other debt instruments of the Authority, and ensuring compliance with all requirements, covenants, and representations in such bond documents and other debt instruments.
 - f. Approving contracts binding on the Authority;
 - g. Approving engineering plans and specifications, construction plans, operations and maintenance plans, and finance plans for the Replacement Bridge; and
 - h. Establishing Replacement Bridge tolls and toll policies, approving and periodically adjusting toll rate schedules, and funding prudent reserves for the Replacement Bridge and overall operations of the Authority.

- 6.3. The Authority at all times must maintain directors' and officers' liability insurance, or its equivalent, and other insurance coverages that are comparable with coverages of similarly situated entities, and any additional insurance coverage as the Board may elect. The Authority may maintain insurance coverage by purchasing public or commercial insurance policies, funding an internal risk-pool and self-insuring, entering into other types of risk-pool, risk-sharing, or insurance agreements, or combinations thereof, as the Authority may elect.
- 6.4. 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 statement or action on the part of any individual Director or Authority employee or agent, except when such statement or action is predicated on previous action taken, delegation of authority, 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, commission meetings, and for such other duties as set forth in this Charter or 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.
- 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. At a minimum, the Board shall hold an annual meeting in the last month of each fiscal year. As a public body, the Authority shall be comply with the Applicable Laws governing public meetings and public records.
- 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, provided, however, a quorum is not required for a vote to adjourn a meeting. 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 Alternate acting in the place of an absent Director) 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.
 - 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 be included in a quorum and vote in lieu of the Director on a matter for which the Director has

declared a conflict of interest. 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.

- 8.3. 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 and an affirmative vote by all Directors voting on the issue.

9. Intergovernmental Coordination

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

10. Grant Administration

10.1. Following the Authority Formation Date:

- a. The Port of Hood River shall continue as the Grantee for the Existing Grants, until each of these grants are closed-out by the Port, unless the Port and the Authority agree otherwise; and
- b. The Authority shall be the Grantee for any grant for the Replacement Bridge, other than Existing Grants, unless the grant is for an activity or project for which a Party is responsible, or the Authority and an alternative Grantee agree otherwise.

10.2. The Authority shall seek to be certified as an eligible federal grant recipient. The Authority may contract with any state or local agency or private entity for grant administration support.

11. Personnel and Staffing

11.1. The Authority may employ personnel or retain consulting or other services on a regular or part-time basis as the Authority 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 Authority 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 policies set by the Board, oversee the activities and operations of the Authority, hire and supervise Authority staff, and prepare or review of all Authority 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 Authority, unless the Board has granted explicit signature authority to another Authority official, employee, or agent. In the absence of the Executive Director or another Authority official, employee, or agent who is explicitly authorized by the Board to do so, the First Co-Chair (or, in the absence of the First Co-Chair, the Second Co-Chair) has the authority to execute such documents authorized by the Board and to take actions the Executive Director is authorized to take. The Executive Director may delegate signing authority on routine administrative matters to an employee or agent of the Authority.
- b. Legal Counsel to provide advice on legal requirements for the conduct of Authority business, generally perform all legal services for the Authority, and to perform such other duties as the Board may confer, except for such legal services as the Authority may elect to engage additional or specialized legal counsel. The Authority, 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 Authority's finances including, but not limited to, monitoring and approving the Authority's budget, bonds and other debt instruments, financial reports, and annual audits. The Board shall enact rules, controls, and procedures to ensure the integrity of the Authority's financial affairs.

12.2. To the extent permitted by the Applicable Laws, the Board may delegate responsibility over the Authority's finances to the Executive Director, or its designee.

12.3. The fiscal year of the Authority shall commence on July 1st and end on June 30th of each year.

13. Procurement and Contracting

13.1. Following the Authority Formation Date, the Authority shall have the exclusive power to procure and contract for goods and services with respect to the Replacement Bridge, except when (i) the contract is for an activity or project that is the responsibility of another party, or (ii) the Authority and an alternative contracting party agree otherwise.

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

13.3. Without any review or approval by any other unit of government, the Authority, 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 Authority;
- 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 contract for personal property, services, goods, equipment, materials, or supplies.

14. Real Property

14.1. The Authority may, in accordance with the Applicable Laws, 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 Authority, 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 Authority, 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. With respect to any Regulatory Compliance Document, unless delegated by agreement of the Authority and the affected Party or Parties, the Authority shall:

- a. Comply with, and satisfy any responsibility, commitment, covenant, or obligation in the Regulatory Compliance Document, except as may otherwise be agreed to by the Authority and the issuing agency;
- b. Satisfy all disclosure, monitoring, reporting, or certification requirements in the Regulatory Compliance Document; and
- c. Undertake all activities required to satisfy federal, state, and local environmental requirements that are not addressed by a Regulatory Compliance Document issued to the Port, including any actions 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. As of the Authority Formation Date, and thereafter, the Authority 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 the 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 Authority, 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 Authority, including, but not limited to, fulfilling all covenants and representations made by the Authority to the holders of bonds and other debt instruments, and capitalizing sinking funds and reserves for the construction, operations, renewal, 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 Authority, 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 Authority.

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

- a. A comprehensive toll policy that addresses such factors as exemptions, discounts, vehicle classifications, toll collection and enforcement, or other factors, as the Board may determine;
- b. The procedures the Authority will use to establish and periodically adjust toll rates and other charges for use of the Replacement Bridge; and

- c. A rule describing how toll rate adjustments or temporary toll rate adjustments that are required to be enacted within a limited timeframe to comply with the terms of a debt obligation, or to address an emergency circumstance, will be made if the Board is unable to meet or reach agreement on the toll rate adjustment within the limited timeframe.
- 17.4. The Replacement Bridge may be operated by the Authority, by one or more private or public entities under an agreement with the Authority, or any combination thereof as the Board may elect. The Authority 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.
 - c. 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 Authority, 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 notice of its failure to pay a toll or other charge prior to issuing a notice of civil penalty, and establishing 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 Authority has issued a notice of unpaid tolls or other charges, and to withhold the registration renewal until the state agency receives notification from the Authority 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 Authority under the Applicable Laws.

18. General Provisions

- 18.1. Effective Date: This Agreement is effective as of the Agreement Effective Date described in Section 1.2 of the Charter. The Charter and Interim Rules shall be effective as of the Authority Formation Date described in Section 2.2 of the Charter.
- 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 A 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 between any of the Parties, nor shall the Authority be deemed or construed to be a subdivision, agency, joint board, or joint or intergovernmental agency or board of any Party or combination of Parties.
- 18.4. No Competing River Crossings: Neither the Authority nor a Party may approve or otherwise authorize a bi-state bridge, tunnel, ferry service, or other motor vehicle river crossing that competes economically with

the Replacement Bridge, except for a replacement for the Bridge of the Gods, while bonds or other debt obligations for the Replacement Bridge are outstanding, unless implementation of such a bi-state bridge, tunnel, ferry, or river crossing does not impair or otherwise adversely impact the rights of holders of the outstanding bonds or other debt instruments for the Replacement Bridge. This provision does not apply to the Existing Bridge.

- 18.5. 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 Authority) in carrying out this Agreement. The Authority shall abide by the Applicable Laws. All references herein to the powers, duties, and obligations of the Authority shall be read to be subject to all Applicable Laws.
- 18.6. Exhibits: All exhibits to this Agreement, as they may be amended from time to time, are hereby incorporated and made part of the Agreement.
- 18.7. Amendments: Except for the name of the Authority, Authority Formation, Date and Primary Place of Business set forth in Section 2 of the Charter, this Agreement may be amended in writing and signed by the authorized representatives of the Parties, or may be amended by the approval of the Board; 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 may it impair or adversely impact the powers of the Board under the 2022 Acts, as they may be amended from time to time.
- 18.8. Waiver or Modification: Except as otherwise expressly 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.
- 18.9. 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.
- 18.10. Assignment: No Party is permitted to transfer or assign all or a portion of its responsibilities or rights under this Agreement, except as expressly permitted under the Agreement.
- 18.11. 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 and the Authority shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.
- 18.12. Dispute Resolution: The Parties and the Authority, or any combination thereof in a dispute arising out of this Agreement, shall negotiate in good faith to resolve the dispute. All Parties and the Authority shall continue in the performance of their respective obligations notwithstanding the dispute. If those Parties or the Authority involved in the dispute are unable to resolve the dispute within thirty (30) days after any Party or the Authority has given written notice to all Parties and the Authority describing the nature of the dispute, any Party or the Authority may require that the dispute be submitted to mediation. The Parties and the Authority shall mutually agree upon a mediator and shall participate in the mediation in good faith. If the dispute is not resolved in mediation, any such Party or the Authority may require that the matter be submitted to binding arbitration. Arbitration shall be initiated by notice mailed to each Party and the Authority by Certified Mail. Disputes shall be arbitrated by a panel of three independent persons qualified as and who routinely act as arbitrators. If the dispute is between only two Parties, then one arbitrator shall be selected by each Party, and one arbitrator shall be selected by the Authority. If the dispute is between a Party

and the Authority, then one arbitrator shall be selected by the Party, one arbitrator shall be selected by the Authority, and the third arbitrator shall be selected by the two previously selected arbitrators. If the dispute involves Parties all from the same State and the Authority, then the Parties from the one state shall confer and select one arbitrator, the Authority shall select one arbitrator, and the third arbitrator shall be selected by the two previously selected arbitrators. If the dispute involves Parties from each State, or Parties from each State and the Authority, then then the Parties to the dispute from each State shall confer and select one arbitrator each, and one arbitrator shall be selected by the Authority, whether or not the Authority is involved in the arbitration. The decision of the majority of the three arbitrators shall be final, binding, and conclusive on the Parties and the Authority, and subject to review only as otherwise provided in the Applicable Laws. Those Parties or the Authority, if involved in the arbitration, 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 Authority may apply to the Court having jurisdiction over the Parties or this Agreement for the appointment of such mediator or arbitrator.

18.13. Dissolution: The Authority 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.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed on their behalf by their authorized representatives.

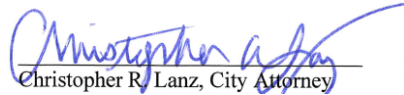
FOR THE CITY OF BINGEN



Mayor Catherine Kiewit, City of Bingen

Date: April 18, 2023

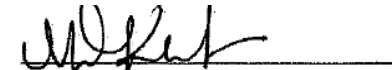
Approved as to form:



Christopher R. Lanz, City Attorney

City Attorney


FOR THE CITY OF WHITE SALMON



Mayor Marla Keethler, City of White Salmon

Date: April 19, 2023

Approved as to form:



City Attorney

City Attorney


FOR KLICKITAT COUNTY

FOR KLICKITAT COUNTY


Chair Dan Christopher, Klickitat County

Date: April 25, 2023

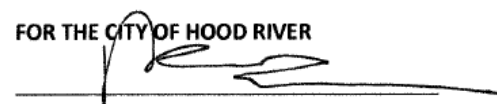
Approved as to form:

Approved as to form:


County Counsel

County Counsel

FOR THE CITY OF HOOD RIVER

FOR THE CITY OF HOOD RIVER


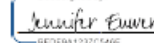
Mayor, Paul Blackburn, City of Hood River

Date: April 26, 2023

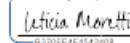
Approved as to form:

City Attorney

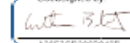
FOR HOOD RIVER COUNTY

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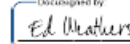
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Chair Jennifer Euwer, Hood River County

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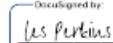
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Comm. Leticia Moretti, Hood River County

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Comm. Arthur Babitz, Hood River County

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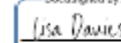
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Comm. Ed Weathers, Hood River County

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Comm. Les Perkins, Hood River County


Date: April 30, 2023

Approved as to form:

DocuSigned by:


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County Counsel

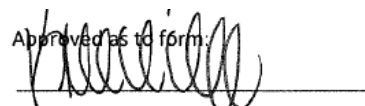
FOR THE PORT OF HOOD RIVER



President Ben Sheppard, Port of Hood River
Commission

Date: February 21, 2023

Approved as to form:

Approved as to form:


Port General Counsel

**EXHIBIT A
DEFINITIONS**

- a. **2022 Acts** has the meaning set forth in Recital D.
- b. **Agreement** means this Commission Formation Agreement for the Hood River-White Salmon Bridge Authority, as it may be amended from time to time.
- c. **Agreement Effective Date** has the meaning set forth in Section 1.2 of the Charter.
- d. **Alternate** means a person appointed in accordance with the procedures set forth in the Charter, who may act as a Director in a Director's absence or conflict of interest.
- e. **Applicable Laws** has the meaning set forth in Section 3.1 of the Charter.
- f. **Authority** means the Hood River-White Salmon Bridge Authority, a bi-state bridge commission formed and chartered under the 2022 Acts and the Agreement.
- g. **Bi-State Working Group** means the interim group of local officials formed by a memorandum of understanding between the Parties to cooperatively guide the development of the Replacement Bridge until a bi-state bridge commission is formed and chartered.
- h. **Board** means the board of directors of the Authority.
- i. **Charter** means the provisions of Section 1 through and Section 18, and Exhibit A, of this Agreement.
- 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. **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.
- n. **Emergency Ordinance** means an ordinance necessary in the discretion of the Board to meet an emergency.
- o. **Existing Bridge** has the meaning set forth in Recital A to the Agreement.
- p. **Existing Grants** means the following grants awarded to the Port for the Replacement Bridge: the \$5 million BUILD grant awarded in 2020, the \$5 million Oregon grant awarded in 2017, and the \$5 million grant award by each of the State of Washington and Oregon in 2021.
- q. **Ex Officio Member** means a non-voting member of the Board.
- r. **Executive Director** means the executive director of the Authority described in Section 11.2(a) of the Charter.
- s. **Executive Session** means an executive session of the Board, as defined under the Applicable Laws.
- t. **First Co-Chair (and Second Co-Chair)** shall have the meaning set forth in Sections 4(4) of the 2022 Acts.

- u. **Grantee** means the entity entitled to receive grant funds, responsible for grant administration and compliance with the terms of the grant award, and authorized to approve the expenditure of grant funds for eligible purposes under an agreement with the grantor.
- v. **Intergovernmental Transition Plan** means the work plans and procedures to coordinate the activities of the Authority and the Parties during the startup of the Authority, as shown in Exhibit C of this Agreement, as it may from time to time be amended.
- w. **Interim Rules** means the Interim Rules for the Hood River-White Salmon Bridge Authority set forth in Exhibit B of the Agreement, which are effective until amended, superseded, or repealed by the Board.
- x. **Initial Board** means the Board which takes office on or about July 1, 2023, as described in Section 1.6 of the Interim Rules.
- y. **Legal Counsel** means the attorney or attorneys hired or retained by the Authority pursuant to Section 11.2(b) of the Charter.
- z. **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.
- aa. **Official Board Action** has the meaning set forth in Section 8.2 of the Charter;
- bb. **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.
- cc. **Ordinance** means a permanent (unless amended or repealed) legislative or executive action related to the powers or duties of the Authority, which is approved by the Board, and which is not a Resolution or an Emergency Ordinance.
- dd. **Oregon Act** has the meaning set forth in Recital D.
- ee. **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”).
- ff. **Primary Place of Business** has the meaning set forth in Sections 2 the 2022 Acts.
- gg. **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, including but not limited to the Record of Decision, and any Memoranda of Agreement on the rights and interests of affected tribes. Project Sponsor includes the term ‘project sponsor’ and designations of similar import such as local lead agency, applicant, or responsible party.
- hh. **Port** means the Port of Hood River, a port district under Oregon law.
- ii. **Regular Meetings** means those recurring meetings of the Board held in accordance with a periodic schedule established by the Board.
- jj. **Regulatory Compliance Document** means a Final Environmental Impact Statement, Record of Decision, Biologic Opinion, Memorandum of Agreement, or other report, agreement, regulatory approval, or permit required to comply with federal, state, or local regulatory requirements for construction or operation of the Replacement Bridge.

- kk. **Replacement Bridge** means an interstate bridge that replaces the Hood River-White Salmon Interstate Bridge built in 1924 and owned in whole or in part by the Authority, including any approaches, buildings, structures, facilities, equipment, improvements, systems, and other appurtenances necessary or incidental to the bridge
- ll. **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.
- mm. **Special Meeting** means a meeting of the Board that is not a Regular Meeting.
- nn. **Washington Act** has the meaning set forth in Recital D.

EXHIBIT B
Interim Rules for the Hood River-White Salmon Bridge Authority

Each Interim Rule hereunder is authorized to regulate the conduct of the Hood River-White Salmon Bridge Commission from the Authority Formation Date until the effective date of a rule adopted 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.

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 Authority, 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 Authority.
- 1.2. Directors must attend Board meetings, unless excused in accordance with a rule of the Authority. 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 Authority 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, or (ii) a Director requests to abstain and the request is approved by a majority of the Directors that are present (including an Alternate acting in lieu of an absent Director), excluding the Director that made the request and any Director declaring an actual conflict of interest on the same action. Directors declaring a conflict of interest may vote on an action to the extent permitted by Applicable Laws.
- 1.4. Official statements from the Authority shall be directed through the First Co-chair of the Board, or its designee, with coordination with the Executive Director, or another Authority official, employee, or agent who is explicitly authorized by the Board to do so.
- 1.5. Until the Board adopts a rule for the reimbursement of expenses incurred by a Director, Alternate, or employee in performing its duties, no reimbursement shall be paid to a Director, Alternate, or an employee. Directors, Alternates, and employees may retain receipts of any potentially reimbursable expense they may incur prior to the adoption of such a rule, and, following adoption 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 the adoption of the applicable rules will be reimbursed by the Authority. Reimbursed expenses declared ineligible in a subsequent audit shall be promptly refunded to the Authority.
- 1.6. Unless appointed as a Director or Alternate or otherwise declines the position, the co-chairs from each state of the Bi-State Working Group when disbanded on June 30, 2023 are appointed as Ex Officio Members of the Board until June 30, 2025. If a former co-chair of the Bi-State Working Group is unavailable for any reason, then the applicable county commission may designate as an Ex Officio Member any other former member of the Bi-State Working Group residing in the county. If no such former member of the Bi-State Working Group is available, then the applicable county commission may designate as an Ex Officio Member any qualified person residing in the county.

2. Board Meetings:

- 2.1. The schedule for Regular Meetings between July 1, 2023 and September 30, 2023 shall be set as described in Section 1.3 of the Intergovernmental Transition Plan. 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 Hood River – White Salmon Bridge Replacement website, and the Port of Hood River website until an Authority website is established, and thereafter on the Authority website;
 - b. At the offices of the Port of Hood River until the Authority establishes a specific location for its headquarters office, and thereafter at the headquarters office of the Authority; and
 - c. By email, telephone, fax, or other reasonable method to interested persons and media outlets that have stated in writing or by online sign-up that they wish to be notified of meetings of the Board.
- 2.2. A Special Meeting of the Board, other than an Emergency Meeting, 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:
- 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 2.1, above.
- 2.3. 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.
- 2.4. 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 Authority may modify the agenda, including any exhibits, following posting notice thereof.
- 2.5. 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 former co-chairs of the disbanded Bi-State Working Group, whether on the Board as an Ex Officio Member or as a Director, shall be the interim co-chairs of the Board from July 1, 2023 until replaced pursuant to Section 3.2, below. The interim co-chairs of the Board shall alternate as the First Co-Chair for an approximate three-month period, unless they agree otherwise, and shall notify the Board of the dates when each co-chair will serve as First Co-Chair. If a former co-chair of the Bi-State Working Group is not on the Board in any capacity, then the three Directors from the applicable state shall by majority vote select one such Director to serve as interim co-chair of the Authority until replaced pursuant to Section 3.2, below.
- 3.2. At its first Regular Meeting in January 2024, or at a subsequent meeting at the discretion of the Board, the Board shall appoint from among the Directors two co-chairs for a two-year term, and 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 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 Authority website is established, the ordinance or a summary of the ordinance shall be published on the Port website, and thereafter on the Authority website, and (iii) the signed ordinance shall be filed in the records of the Authority.
- 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. An Emergency Ordinance may take effect upon adoption or such later date specified in the Emergency Ordinance. Emergency Ordinances shall be 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. A Resolution may take effect upon adoption or such later date specified in the Resolution. Resolutions shall be 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 the Charter or rules of the Authority, all Board actions and deliberations shall adhere to the parliamentary procedures in the latest edition of Robert's Rules of Order, although strict adherence is not required, or such other rules which the Board may adopt.

5. Procurement and Contracting

- 5.1. The Board shall be the Authority's contract review board, until otherwise delegated by the Board.

- 5.2. The Board shall prepare and adopt, or adopt by reference, procurement, and contracting rules for the Authority. Procurement and contracting rules of the Authority 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 adopts superseding rules, the Authority 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 Authority, 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 Authority shall be the co-chairs of the Authority, or their designee, and the chief financial officer of the Port, if the Port agrees, or shall be a qualified accountant or person 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 Authority budget committee shall be provided as prescribed for Board meeting in Section 2.2 of these Interim Rules.
- 6.3. The Authority shall hold at least one public hearing prior to adopting 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 Authority shall promptly notify in writing the Executive Director and Legal Counsel, after Authority Legal Counsel is retained, 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.

8. Finance

- 8.1. Any revenues derived from the Authority's ownership or operation of the Replacement 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 Authority shall immediately be subject to the lien of the pledge.
- 8.2. Bonds and any other debt instruments of the Authority shall be payable solely from the gross or net revenues, grants, contracts, or accounts of the Authority that are pledged for their repayment, and not constitute a debt or obligation of any state or any other local government. The bonds or debt instrument shall include a recital establishing that the bond or debt instrument is an obligation of the Authority 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 Authority, subject to the Applicable Laws.
- 8.4. In the discretion of the Board, any bonds or other debt instruments issued by the Authority may be secured by a trust agreement or indenture by and between the Authority 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 Authority.
- 8.5. The Authority 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 Authority 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 Authority;
 - b. Report at meetings of the Board on the activities of the Authority;
 - 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 Authority, subject to any rules established by the Board;
 - e. Recommend to the Board the Replacement Bridge toll rates and toll policies necessary to pay the costs and expenses of the Authority, and to fulfill other obligations of the Authority, considering the results of any traffic and revenue studies prepared by qualified consultants;
 - 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 Authority; and
 - g. Perform such other duties as may be incidental to fulfilling its responsibility as chief administrative officer of the Authority, and any additional duties as may be conferred upon the Executive Director by the Board.

EXHIBIT C
Intergovernmental Transition Plan

The Parties agree to cooperatively undertake the activities outlined in this *Intergovernmental Transition Plan*. Upon completion of the Intergovernmental Transition Plan, the Board, without approval of the Parties, may approve a restated Charter removing all references to the Intergovernmental Transition Plan.

1. Appointment of Initial Board and Setting Initial Board Meeting Date

The Parties agree as follows:

- 1.1. Following execution of this Agreement, the Port shall deliver copies of the Agreement to the Secretaries of State of Oregon and Washington, and to each of the Parties.
- 1.2. Following the Agreement Effective Date, the Bi-State Working Group will remain in effect until the Authority Formation Date, at which time, without any further action by the Parties, the Bi-State Working Group shall be disbanded, and the Authority shall assume lead responsibility for the Replacement Bridge. The Port shall continue as the Grantee for the grants described in Section 10.1 of the Charter until these grants are closed by the Port.
- 1.3. Within thirty (30) days from the Agreement Effective Date, or as soon thereafter as practical, the Klickitat County Commission and the Hood River County Commission shall each adopt a resolution establishing the procedure and criteria it will use for the nomination and appointment of Directors and Alternates. Prior to the county's consideration of the resolution, the chairs of the county commissions, or its designees, shall consult with the Parties situated within the county regarding the role of the Parties in the nominating process.
- 1.4. Within thirty (30) days from the adoption of the resolution described in Section 1.3, above, or as soon thereafter as practical, Klickitat County and Hood River County shall each appoint its members of the Initial Board.
- 1.5. The Initial Board shall take office on July 1, 2023, or as soon thereafter as practical. Between their appointment to the Initial Board and June 30, 2023, prospective Directors and Alternates, other than any that may be a member of the Bi-State Working Group, shall be invited to participate in Bi-State Working Group meetings, an instructional program on the Replacement Bridge Project and the Authority, and a training program for new public officials.

2. Meetings

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 July 2023, or as soon thereafter as practical, provided, however, the first Regular Meeting may not be held prior to the effective date of the insurance coverage described in Section 4.2.d.v, below. 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 in the manner described in Section 2.1 of Exhibit B.

3. Capitalization of Authority

- 3.1. The Parties acknowledge the successful implementation of the Replacement Bridge requires that funding be obtained to pay Authority costs and expenses until such time as tolls are collected on the Replacement Bridge, and to capitalize reserves for the construction, operation, governance, and financing of the Replacement Bridge.

- 3.2. The Parties and the Authority shall make good faith efforts to agree by January 1, 2024 on a plan to make additional local resources available for Authority costs and reserves. The Parties and Authority may consider such options as increased toll rates on the Existing Bridge dedicated to capitalizing the Authority, commitments by one or more of the Parties to provide in-kind services or other resources to the Authority, and securing third-party funding commitments and/or back-up pledges for the Authority.

4. Regulatory Compliance Documents

- 4.1. To facilitate the transition of responsibility from the Port to the Authority for fulfilling the requirements of a Regulatory Compliance Document prepared (as described in Section 15 of the Charter), the Port agrees that at times and in the manner the Port determines it will:
 - a. Provide the Bi-State Working Group an opportunity to review and comment on the Regulatory Compliance Document prior to its approval, issuance, or execution; and
 - b. Subject to any federal or state agency approvals, and Port approval. incorporate in each Regulatory Compliance Document a statement to the effect that the as of the Authority Formation Date, the Authority will be the Project Sponsor, the primary point of contact for the Replacement Bridge, and responsible for compliance with the requirements of the Regulatory Compliance Document.

5. Administration

The Authority and Port will seek to cooperatively prepare and execute an agreement describing the activities, budget, and procedures under which the Port will provide certain technical and administrative services to the Authority during, at a minimum, FY2023-2024. This agreement is anticipated to be approved and executed by the Authority and the Port promptly following the Authority Formation Date. Unless revised by agreement of the Port and the Authority, the agreement will generally follow the concepts outlined below, which will have no force or effect unless and until the agreement is approved and executed by the Authority and Port.

- 5.1. Notwithstanding the Primary Place of Business designated in Section 2.3 of the Charter, the offices and mailing address of the Authority shall be those of the Port of Hood River until the Authority establishes an office or its own.
- 5.2. Until the Port or Authority decide otherwise, the Port shall provide staffing and other support for the Authority, including, but not limited to, as follows:
 - a. The executive director of the Port, or its designee (which may be a consultant), shall be the interim Executive Director of the Authority;
 - b. The chief financial officer for the Port or its designee (which may be a consultant), shall be the interim chief financial officer for the Authority;
 - c. Section 4.2(a) or Section 4.2(b), above, shall not be applicable if the Port's executive director position or Port's chief financial officer position, respectively, is or becomes vacant. In such event, the Board, in its discretion, may elect to hire or retain personnel to fill the vacant position temporarily or permanently; and
 - d. Subject to approval of the proposed work scopes and budgets by the Port, until such time as determined by the Authority, the Port shall:
 - i. Perform the administrative functions of the Authority, such as providing public notice of Board meetings, budget preparation, maintenance of financial accounts, and staffing Board meetings;

- ii. To the extent permitted by the 2022 Acts, incorporate the budget of the Authority in the budget of the Port;
- iii. Procure supplies or equipment needed by the Authority, if any.
- iv. Retain Legal Counsel separate from the Port's legal counsel for which the Authority is the client, holder of any attorney-client privilege, and owner of any attorney work product;
- v. Purchase liability (including but not limited to Directors' and Officers' insurance, or its equivalent) and other appropriate insurance coverage for the Authority that is comparable to the insurance coverage practices of similar entities;
- vi. Maintain the Authority's Public Records and process requests for review or reproduction of the Authority's Public Records in accordance with the Applicable Laws as follows:
 - 1) The Authority'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 Authority shall be directed to the Executive Director of the Authority, the Authority in the absence of the Executive Director, or their designee. Upon receipt of a Public Records Request, the Executive Director, or the Authority, or their designee shall transmit the request to the Port for physical processing based on the directions of the Authority or the Authority's Legal Counsel;
 - 3) The Port may impose reasonable charges for compiling and providing copies of the Authority'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 Authority; 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.

5.3. 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 for the Replacement Bridge or Authority by federal or state grants, toll revenue from the Existing Bridge, or any other eligible funding source.

EXHIBIT D
Hood River and Klickitat County Nomination Guidance

I. Purpose of Guidance

This guidance outlines certain aspects of the nomination and selection process for Board Members to the Hood River White Salmon Bridge Authority (Bridge Authority) which the counties will incorporate into their respective rules and procedures. It also summarizes attributes and responsibilities of members of the Hood River White Salmon Bridge Authority which the counties can share with prospective nominees.

II. Organizational Relationships

Hood River County (within the state of Oregon) has the responsibility to appoint the Oregon members of the Bridge Authority. Hood River County will conduct a public nomination process to solicit prospective members for consideration, including requesting official nominations from the City of Hood River and the Port of Hood River. The Hood River City Council and the Port of Hood River Commission are expected to formally nominate candidates for consideration.

Klickitat County (within the state of Washington) has the responsibility to appoint the Washington members of the Bridge Authority. Klickitat County will conduct a public nomination process to solicit prospective members for consideration, including Bingen City Council and the White Salmon City Council are expected to formally nominate candidates for consideration.

III. Efforts the New Board will Address

The Bridge Authority will be responsible for design and construction of a replacement bridge and removal of the existing White Salmon – Hood River bridge. Once operational the Authority will be responsible for operations of the new bridge.

It is expected that the Bridge Authority will evaluate and award contracts, hire and fire staff as needed. There will be extensive interfaces required with state and federal officials to obtain financing. The Bridge Authority will oversee significant interfaces by contractors and staff with various government agencies as permits are opened and closed, MOAs and MOUs are developed and executed through the life of construction.

A well-rounded Bridge Authority will best position the authority to successfully replace the local bridge in a timely manner as well as safely operate the new bridge in the best interest of the citizens and businesses on both sides of the river.

Scope control of the new bridge design as well as construction will be paramount in the control of the total project cost and schedule. This becomes even more critical in periods of inflation which the project now faces. Timely, well considered decisions will be imperative to success. Thus, board members must have the technical acumen to understand multiple issues that at times are not intuitively linked but can produce both positive and negative consequences.

There are two distinct phases that the board will have to address and manage. They are:

A. New Bridge Construction Configuration / Removal of Existing Bridge

1. Seek and obtain funding for the new bridge from a wide range of sources (State of Oregon, Washington, Federal, Loan and Bonds).
2. Selection of final bridge attributes (configuration, sizing, location, etc.)
3. Award and oversight of major contracts

4. Manage scope of the new bridge to the estimate and schedule baseline. Decide as needed scope adjustments to live within the budget.
 5. Interface management with
 - a. a host of governmental and tribal government agencies
 - b. numerous public bodies
 - c. the general public as well as the Port of Hood River to ensure a safe construction period, ensuring the public and others are protected from heavy construction activities.
 - d. the Port/New Bridge required coordination activities. These will be numerous and will evolve during the entire period. Examples could include:
 - i. Having Port Executive Director act as the Executive Director of the Bi State Bridge Authority until a full-time person can be hired.
 - ii. Having the Port finance staff process invoices for the replacement effort until such time as a staff is assembled under the new organization.
 - iii. Having the Port act as business manager receiving and paying out expenses from Bridge Authority accounts until such time as there is dedicated staff.
 - iv. Traffic coordination in and out of the Port as construction barges and such is moved in support of the construction effort.
 - v. Development of interface protocols as they relate to public use of Port facilities during construction.
 - vi. Coordinating with the Port Commission to set up financial reserves from existing and future Port activities (i.e., toll increases tied to new bridge reserves).
- B. Bridge Operation. The Bridge Authority will be responsible for all aspects of bridge operation.

IV. Nomination and Selection process:

The Hood River County Board of Commissioners will appoint three qualified Board Members and at least two qualified alternates. Whenever a position is open, the Hood River County Board of Commissioners will seek nominees from the City of Hood River, the Port of Hood River, and the general public. Hood River County will establish a formal process for accepting submissions and considering candidates, in keeping with its practices to consider candidates for committees and commissions.

For those being nominated by either the City of Hood River or the Port of Hood River, a cover letter indicating official support will be conveyed to the County Board of Commissioners.

The Hood River County Board of Commissioners will consider each proposed candidate and select the candidates best suited to support the needs of the Bridge Authority. The County has the authority to appoint or not to appoint a particular candidate. Should official nominees from the City of Hood River or the Port of Hood River not be selected, then the chair of the Hood River County Board of Commissioners will communicate to the Mayor or Chair in writing why the official nominee was not selected. This will be done within two weeks of member selection.

Once the new bridge is operational and the old bridge has been removed, the Port of Hood River will no longer have an official role in nomination of members to the Bridge Authority.

The Klickitat County Board of Commissioners will appoint three qualified Board Members and at least two qualified alternates. Whenever a position is open, the Klickitat County Board of Commissioners will seek nominees from the City of Bingen, the City of White Salmon, and the general public. Klickitat County will establish a formal process for accepting submissions and considering candidates, in keeping with its practices to consider candidates for committees and commissions.

For those being nominated by either the City of Bingen or the City of White Salmon, a cover letter indicating official support will be conveyed to the County Board of Commissioners.

The Klickitat County Board of Commissioners will consider each proposed candidate and select the candidates best suited to support the needs of the Bridge Authority. The County has the authority to appoint or not to appoint a particular candidate. Should official nominees from the City of Bingen or the City of White Salmon not be selected, then the chair of the Klickitat County Board of Commissioners will communicate to the Mayor in writing why the official nominee was not selected. This will be done within two weeks of member selection.

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