



Thursday, June 12, 2025, at 5:00 pm
Meeting Location: City of Condon, 128 S. Main St, Condon, OR

Join Zoom Meeting

<https://us02web.zoom.us/j/9537854875>

Meeting ID: 953 785 4875

+16699006833,,85648511236# US (San Jose)

+12532158782,,85648511236# US (Tacoma)

Public Hearing FY 2025-2026 Port Budget

Public Hearing regarding adoption of the Port of Arlington Fiscal Year 2025-2026 Budget, for the purpose of taking public comments on the budget approved by Budget Committee April 10, 2025.

1. Open Public Hearing
2. Ask for Public Comment on the FY 2024-2025 Budget
3. Close Public Hearing

Regular Commission Meeting Agenda
Immediately following Budget Hearing

1. Call Meeting to Order
2. Additions or Corrections to the Agenda
3. Public Comment on Non-Agenda Items
4. Consent Agenda:
 - A. Approve Regular Meeting Minutes for May 8, 2025 and May 19, 2025
 - B. Approve May 2025 Accounts Payable and Financials
5. Director Report
 - 5.1 Budget Action Items
 - A. Resolution 2025-03 – Approving Fiscal Year 2025-2026 Budget, LB-1
 - B. Affirm Salaries – Cost-of-living adjustment as established within Budget
 - C. General Fees – Board input for review or consideration of any changes
 - 5.2 Alkali Ridge
 - A. Groundbreaking Photos, Construction Start
 - B. Housing Infrastructure Support Fund Award
 - 5.3 Aeroval Lease
 - 5.4 Election Results and Process
 - 5.5 Recent News Reports
 - A. Regional Housing
 - B. Data Centers
 - 5.6 Other
 - A. Economic Development Summit at Wildhorse in Pendleton July 24-25.
6. President Report
7. Commissioner Reports
8. Executive Session, ORS 192.660(2)(e): To conduct deliberations with the persons designated by governing body to negotiate real property transactions (*Placeholder*).
9. Decision or deliberations on Real Estate Transactions (*Placeholder*).
10. Adjourn Meeting

This meeting location is accessible to persons with disabilities. Any requests for other special accommodation must be made at least 48 hours before the meeting by phone (541) 705-2004.

**Regular Commission Meeting
May 8, 2025, MINUTES
4:00PM
100 Port Island Road**

1. The Port of Arlington Commission meeting was called to order at 4:00pm by President Leah Shannon.

Present: President Leah Shannon and Vice President Ron Wilson; Commissioners: Gibb Wilkins (Via Zoom), and Kip Krebs; Port Director, Jed Crowther, Kayla Rayburn

Absent: Kathryn Greiner

Audience: Jennifer (via zoom)

2. Public Comment- None

3. Consent Agenda None

3.1. **Approve Regular Meeting Minutes for April 10, 2025**

3.2. **Approve April 2025 Accounts Payable and Financials**

Motion: Wilson Moved, and Krebs seconded to approve the Consent Agenda as presented. Motion passed unanimously.

4. Director Report

4.1. NWGG/MCP Merger

Crowther stated the Port received a letter, and it was included in the packet. This complies with the lease, and at this time there is no board action needed. As it gets closer to the June 1st deadline, Crowther will send a follow up letter to work out lease invoice details.

4.2. Alkali Ridge Subdivision Groundbreaking Monday, May 19 at 5pm

Bolin Construction will start Mobbing equipment to the site that day, and there will be a small ceremony. Construction would then start the following week. President Shannon asked if The Times Journal knew, and Crowther advised they did, and there would also be an ad in the paper next week regarding the ceremony.

4.3. RV Park Operations

At the Budget Committee Meeting we made it known that the Core may want to modify our camping. We did receive an email from a citizen, Lenn Ball, suggested reviewing ownership and operation options pertaining to the Core owned property. It was stated we were under the impression Native American's have the first right to any property given away/sold by the Core on the river. It would be difficult for the Port to obtain it from the Core, but It would be looked into.

4.4. Grants Summary 2022-2025

Crowther said the Port is waiting for Housing infrastructure grant results, and they should be available soon.

4.5. Other

Rayburn stated there is an Economic Summit at Wildhorse Resort and Casino coming up and would like to know who is interested. When the property at the mesa sold, there was a portion of the property that was not correctly documented for access. Part of the agreement when selling it, was the Port would help conversations to get the properly documented access. Crowther has discussed with Judge Patnode and Mayor Buffon.

Upcoming election on May 20th. There was a summary of the grants and awards the Port has received over the last 3 years (included in packet). Over 3mil in grants received, and helped move some projects along. This was both for the Port and the Sentry Core.

5. Presidents Report, Leah Shannon

On April 30th President Shannon had a meeting with Bern Anderes, from Clif Bentz office. He wanted to know how it was going with Amazon, and what the process is looking like. She advised him we sold the property, and we have not spoken much to them since. She asked the ups/downs from his perspective. The only thing he said was a downside; it increased the median income in the county. Found a set of apartment houses in McNary, 3 stories, she spoke with the property management company and was only able to find out the cost for rent, but not who built them or who owns them. It may be helpful to find a developer for here looking at some of the properties being built around us.

6. Commissioner Reports

6.1. **Ron Wilson**-nothing

6.2. **Kip Krebs**- Slowly working from the Oregon Frontier Chamber to help make flyers, and assist. Where needed with the basketball tournament.

6.3. **Gibb Wilkins**- last night, at the Condon City Council meeting, they gave gib and Kathryn permission to move forward with the North Main Water project to help get more water to the industrial ground. Continuing with the Fairground project. He also once again reiterated to the council, they would still be getting the former grade school building back; it would just be a later timeline.

7. Next Meeting

Commission Meeting- Thursday, July 10, 2025, at the Port of Arlington office.

8. Adjourn Meeting

President Shannon adjourned The Regular Commissions meeting at 4:20pm.

President Leah Shannon

Vice President Ron Wilson

Port of Arlington Environmental Sentry Corp Meeting

Thursday, June 12, 2025 after Port Meeting

1. Call Meeting to Order
2. Approval of Minutes
3. Progress Update – Condon Grade School – Environmental Remediation
 - A. Request for Proposals
 - B. Review Process & Timeline
4. Adjourn



DIRECTOR REPORT

June 5, 2025

5.1 Budget Action Items

- A. Resolution 2025-03 Approving Fiscal Year 2025-2026 Budget
- B. Affirm Salaries as per COLA established within Budget
- C. General Fees – Board Input

5.2A Alkali Ridge Photos



Port of Arlington, June 12, 2025 Port Board Meeting, Director Report by Jed Crowther

5.2B Housing Infrastructure Support Fund Award – Contract Approval recommended.

5.3 Aeroval Lease – Approved by Board at April 2025 Meeting, slight refinement June 1 start.

5.4 Election Results and Process

For an outline: Commissioners Leah Shannon, Ron Wilson, and Kathryn Greiner ran unopposed and won reelection to their positions. In Port Position 4 – West Condon, no one filed for election. Kip Krebs won by write-in votes, but he will be notified of ineligibility by residing outside District 4. Then the position will be ruled vacant, with the Port Board responsible for making an appointment.

5.5 Recent News Reports – Informational, good to track positive regional trends.

5.6 Economic Development Summit at Wildhorse in Pendleton July 24-25, 2025.

SENTRY

3A Request for Proposal is posted for participation. Submittals are due by July 7, 2025.

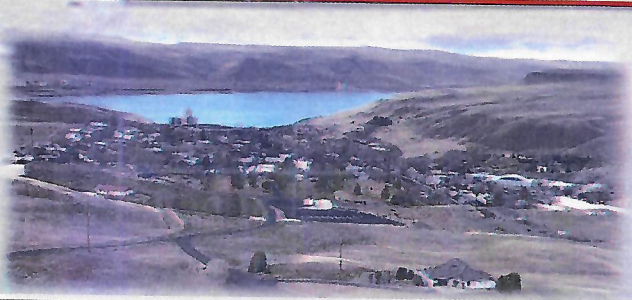
ALKALI RIDGE

Subdivision Development by
Port of Arlington

GROWING
Gilliam County
TOGETHER

Workforce Housing

Economic Development



5.2 B

HOUSING INFRASTRUCTURE SUPPORT FUND
GRANT CONTRACT

Project Name: Alkali Ridge Subdivision

Contract Number: HIP2520

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

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

- This Contract less any exhibits
- Exhibit A General Definitions
- Exhibit B Project Description
- Exhibit C Project Budget

SECTION 1 - KEY TERMS

The following capitalized terms have the meanings assigned below.

"Estimated Project Cost" means \$92,946.

"Grant Amount" means \$92,946.

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

"Project Completion Deadline" means June 30, 2025, unless extended by an amendment of the Parties, and for which OBDD shall not unreasonably withhold approval of such an amendment. Such an amendment extension shall be conditioned upon appropriation and expenditure authority carry-over extension of the Financing Proceeds by the Oregon Legislative Assembly.

SECTION 2 - FINANCIAL ASSISTANCE

OBDD shall provide Recipient, and Recipient shall accept from OBDD, a grant (the "Grant") in an aggregate amount not to exceed the Grant Amount.

SECTION 3 - DISBURSEMENTS

A. Disbursements.

- (1) Upon execution of this Contract and satisfaction of any conditions precedent, OBDD shall disburse an initial disbursement of \$18,589 to Recipient.
- (2) The remaining \$74,357 will be disbursed to Recipient on an expense reimbursement or costs-incurred basis. Recipient must submit each disbursement request for the Grant on an OBDD-provided or OBDD-approved disbursement request form ("Disbursement Request").

(3) Except for the final disbursement, each Disbursement Request must seek reimbursement for a minimum of \$10,000.

(4) Recipient may not submit more than one Disbursement Request per calendar month.

B. Advanced Payment. Notwithstanding, Section 3A, the Financing Proceeds of any remaining Grant Amount may, in OBDD's sole discretion, be disbursed to Recipient as an advanced payment if OBDD determines it has not received timely appropriation and expenditure authority carry-over extension of the Financing Proceeds by the Oregon Legislative Assembly.

C. Financing Availability. OBDD's obligation to make and Recipient's right to request disbursements under this Contract terminates on the Project Closeout Deadline.

SECTION 4 - CONDITIONS PRECEDENT

A. Conditions Precedent to OBDD's Obligations. OBDD's obligations are subject to the receipt of the following items, in form and substance satisfactory to OBDD and its Counsel:

- (1) This Contract duly signed by an authorized officer of Recipient within 60 days of Recipient's receipt of this Contract document.
- (2) Such other certificates, documents, opinions and information as OBDD may reasonably require.

B. Conditions to Disbursements. As to any disbursement, OBDD has no obligation to disburse funds unless all following conditions are met:

- (1) There is no Event of Default.
- (2) The representations and warranties made in this Contract are true and correct on the date of disbursement as if made on such date.
- (3) OBDD, in the reasonable exercise of its administrative discretion, has sufficient funding, appropriations, limitations, allotments and other expenditure authority to make the disbursement. (Recipient acknowledges OBDD's appropriation and expenditure authority for this Grant presently expires on June 30, 2025; OBDD will seek a carry-over extension in the 2025 Oregon Legislative Session.)
- (4) OBDD (a) has received a completed Disbursement Request on or before the Project Completion Deadline, (b) has received any written evidence of materials and labor furnished to or work performed upon the Project, itemized receipts or invoices for payment, and releases, satisfactions or other signed statements or forms as OBDD may require, (c) is satisfied that all items listed in the Disbursement Request are reasonable and that the costs were incurred and are properly included in the Costs of the Project, and (d) has determined that the disbursement is only for costs defined as eligible costs under the Act.
- (5) Recipient has delivered documentation satisfactory to OBDD that, in addition to the Grant, Recipient has available or has obtained binding commitments for all funds necessary to complete the Project.
- (6) Any conditions to disbursement elsewhere in this Contract are met.

SECTION 5 - USE OF FINANCIAL ASSISTANCE

- A. Use of Proceeds. Recipient shall use the Grant (and any interest earned by Recipient on the Grant) only for the activities described in Exhibit B and according to the budget in Exhibit C. Recipient may not transfer Financing Proceeds among line items in the budget without the prior written consent of OBDD.
- B. Costs of the Project. Recipient shall apply the Grant to the Costs of the Project in accordance with the Act, and Oregon law as applicable. The Grant cannot be used for costs in excess of one hundred percent (100%) of the total Costs of the Project and cannot be used for pre-Award Costs of the Project.
- C. Costs Paid for by Others. Recipient may not use any of the Grant to cover costs to be paid for by other financing for the Project from another State of Oregon agency or any third party.
- D. Misexpended or Unexpended Grant Funds. Any Grant funds disbursed to Recipient, or any interest earned by Recipient on the Grant funds, that is not used according to this Contract or that remain unexpended after the earlier of the Project Completion Deadline, the date the Project is completed or the date that this Contract is terminated shall be immediately returned to OBDD, unless otherwise directed by OBDD in writing. Recipient shall use the Grant only for the activities and budget described in Exhibit B.

SECTION 6 - REPRESENTATIONS AND WARRANTIES OF RECIPIENT

Recipient represents and warrants to OBDD:

- A. Estimated Project Cost, Funds for Repayment. A reasonable estimate of the Costs of the Project is shown in section 1, and the Project is fully funded.
- B. Organization and Authority.
 - (1) Recipient is an municipality under the Act and is validly organized and existing under the laws of the State of Oregon.
 - (2) Recipient has all necessary right, power and authority under its organizational documents and under Oregon law to (a) execute and deliver this Contract, (b) incur and perform its obligations under this Contract, and (c) receive financing for the Project.
 - (3) This Contract has been duly executed by Recipient, and when executed by OBDD, is legal, valid and binding, and enforceable in accordance with their terms.
 - (4) This Contract executed and delivered by Recipient has been authorized by an ordinance, order or resolution of Recipient's governing body, and voter approval, if necessary, that was adopted in accordance with applicable law and requirements for filing public notices and holding public meetings.
- C. Full Disclosure. Recipient has disclosed in writing to OBDD all facts that materially adversely affect the Project, or the ability of Recipient to perform all obligations required by this Contract. Recipient has made no false statements of fact, nor has it omitted information necessary to prevent any statements from being misleading. The information contained in this Contract is true and accurate in all respects.
- D. Pending Litigation. Recipient has disclosed in writing to OBDD all proceedings pending (or to the knowledge of Recipient, threatened) against or affecting Recipient, in any court or before any

governmental authority or arbitration board or tribunal, that, if adversely determined, would materially adversely affect the Project or the ability of Recipient to perform all obligations required by this Contract.

E. No Defaults.

- (1) No Defaults or Events of Default exist or occur upon authorization, execution or delivery of this Contract.
- (2) Recipient has not violated, and has not received notice of any claimed violation of, any agreement or instrument to which it is a party or by which the Project or its property may be bound, that would materially adversely affect the Project or the ability of Recipient to perform all obligations required by this Contract.

F. Compliance with Existing Agreements and Applicable Law. The authorization and execution of, and the performance of all obligations required by, this Contract will not: (1) cause a breach of any agreement, indenture, mortgage, deed of trust, or other instrument to which Recipient is a party or by which the Project or any of its property or assets may be bound; (2) cause the creation or imposition of any third party lien, charge or encumbrance upon any property or asset of Recipient; (3) violate any provision of the charter or other document pursuant to which Recipient was organized or established; or (4) violate any laws, regulations, ordinances, resolutions, or court orders related to Recipient, the Project or its properties or operations.

G. Compliance with Tax Laws. Recipient is not in violation of any Oregon tax laws, including but not limited to a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321 and 323 and local taxes administered by the Department of Revenue under ORS 305.620.

SECTION 7 - COVENANTS OF RECIPIENT

Recipient covenants as follows:

- A. Notice of Adverse Change. Recipient shall promptly notify OBDD of any adverse change in the activities, prospects or condition (financial or otherwise) of Recipient or the Project related to the ability of Recipient to perform all obligations required by this Contract.
- B. Compliance with Laws. Recipient shall comply with all applicable laws, rules, regulations and orders of any court or governmental authority that relate to this Contract, the Project, and the operation of the facilities or infrastructure of which the project is a component. These laws, rules, regulations and orders are incorporated by reference in this Contract to the extent required by law. In particular, but without limitation, Recipient shall comply with the following, as applicable:
- (1) Oregon Tax Laws, (as defined in Section 6.G);
 - (2) State procurement regulations found in the Oregon Public Contracting Code, ORS Chapters 279A, 279B and 279C.
- C. Project Obligations. Recipient shall:
- (1) Complete the Project according to the Project Description in Exhibit B and the Project Budget in Exhibit C, unless otherwise allowed in writing in advance by OBDD.
 - (2) Provide a final financial status and performance report to OBDD at completion of the Project, due no later than the Project Closeout Deadline. The final report must include totals of all Project expenditures and provide a description of outcomes achieved by the Project. The

Report must be in a format provided by or approved by OBDD and be completed in a manner determined acceptable by OBDD.

- (3) Complete the Project, including any cost overruns, using its own fiscal resources or money from other sources to pay for any Costs of the Project in excess of the total amount of financial assistance provided pursuant to this Contract.
 - (4) Complete the Project no later than the Project Completion Deadline, unless otherwise permitted by OBDD in writing.
- D. Financial Records. Recipient shall keep accurate books and records for the use of the Grant, and maintain them according to generally accepted accounting principles established by the Government Accounting Standards Board in effect at the time.
- E. Inspections: Information. Recipient shall permit OBDD and any party designated by OBDD at any reasonable time, to inspect and make copies of any accounts, books and records, including, without limitation, its records regarding receipts, disbursements, contracts, investments and any other related matters, and financial statements or other documents related to its financial standing. Recipient shall supply any related reports and information as OBDD may reasonably require.
- K. Records Maintenance. Recipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Contract, the Project or the Financing Proceeds for a minimum of six years, or such longer period as may be required by other provisions of this Contract or applicable law, following the Project Closeout Deadline. If there are unresolved issues at the end of such period, Recipient shall retain the books, documents, papers and records until the issues are resolved.
- L. Economic Benefit Data. For a period of not less than three years following Project Close-Out Deadline, OBDD may require Recipient, at its own expense and within the time specified by OBDD, specific data on the benefits of the Project, including but not limited to information on number of children served as a result of the project, and other information necessary to evaluate the success and economic impact of the project submit the data within the time specified by OBDD.
- M. Disadvantaged Business Enterprises. ORS 200.090 requires all public agencies to “aggressively pursue a policy of providing opportunities for disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, veteran-owned businesses, and emerging small businesses...” OBDD encourages Recipient in any contracting activity to follow good faith efforts as described in ORS 200.045, available at https://www.oregonlegislature.gov/bills_laws/ors/ors200.html. Additional resources are provided by the Governor’s Policy Advisor for Economic and Business Equity. Also, the Certification Office for Business Inclusion and Diversity at the Oregon Business Development Department maintains a list of certified firms and can answer questions. Search for certified MWESB firms on the web at: <https://oregon4biz.diversitysoftware.com/FrontEnd/SearchCertifiedDirectory.asp?XID=2315&TN=oregon4biz>.
- N. Professional Responsibility. All service providers retained for their professional expertise must be certified, licensed, or registered, as appropriate, in the State of Oregon for their specialty.
- O. Notice of Default. Recipient shall give OBDD prompt written notice of any Default as soon as any senior administrative or financial officer of Recipient becomes aware of its existence or reasonably believes a Default is likely.

P. (1) Contributory Liability and Contractor Indemnification—Tort Claims.

- (a) If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third-Party Tort Claim") against a party to this Contract (the "Notified Party") with respect to which the other party may have liability, the Notified Party must promptly notify the other party in writing and deliver a copy of the claim, process, and all legal pleadings related to the Third-Party Tort Claim. Either party is entitled to participate in the defense of a Third-Party Tort Claim, and to defend a Third-Party Tort Claim with counsel of its own choosing. The foregoing provisions are conditions precedent for either party's liability to the other in regards to the Third-Party Tort Claim.

If the parties are jointly liable (or would be if joined in the Third-Party Tort Claim), the parties shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable in such proportion as is appropriate to reflect their respective relative fault. The relative fault of the parties shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Each party's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if that party had sole liability in the proceeding. This Section shall survive termination of this Contract.

- (b) Recipient shall take all reasonable steps to require its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Recipient's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Contractor Tort Claims"). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Contractor Tort Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the contractor from and against any and all Contractor Tort Claims. This Section shall survive termination of this Contract.

(2) Indemnity; Release—Claims Other Than Torts.

- (a) Except for Third-Party Tort Claims and Contractor Tort Claims as provided in Section 7.P.(1) above, to the extent authorized by law, Recipient shall defend, indemnify, save and hold harmless and release the State, OBDD, and their officers, employees and agents from and against any and all claims, demands, suits, actions, proceedings, losses, damages, liability and court awards including but not limited to costs, expenses, and reasonable attorneys' fees incurred (collectively, "Non-Tort Claims"), related to any actual or alleged act or omission by Recipient, or its officers, employees, contractors, or agents in connection with this Contract, or the Project, , including without limitation, any expenses incurred or amounts paid in connection with an inquiry, investigation, audit or similar proceeding by any federal, state, governmental or quasi-governmental body with regulatory jurisdiction arising from the Project or the actions or omissions of Recipient, or its officers, employees, contractors, or agents.
- (b) Notwithstanding the foregoing, neither Recipient nor any attorney engaged by Recipient may defend any Non-Tort Claim in the name of the State of Oregon, nor purport to act as legal representative for the State of Oregon, without first receiving from the Oregon Attorney General

in a form and manner determined appropriate by the Oregon Attorney General, authority to act as legal counsel for the State of Oregon, nor may Recipient settle any Non-Tort Claim on behalf of the State of Oregon without the approval of the Oregon Attorney General. If the State of Oregon assumes its own defense, Recipient will be liable for the attorney fees of the State of Oregon, including but not limited to any fees charged by the Oregon Department of Justice. The provisions of this section are not to be construed as a waiver by the State of Oregon, OBDD, of any immunity, defense or limitation on damages provided for under Chapter 30 of the Oregon Revised Statutes or under the laws of the United States or other laws of the State of Oregon. If attorney fees are awarded to Recipient, such attorney fees shall not exceed the rate charged to OBDD by its attorneys.

- Q. Further Assurances. Recipient shall, at the request of OBDD, authorize, sign, acknowledge and deliver any further resolutions, conveyances, transfers, assurances, financing statements and other instruments and documents as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights, security interests and agreements granted or intended to be granted by this Contract.

SECTION 8 - DEFAULTS

Any of the following constitutes an “Event of Default”:

- A. Any false or misleading representation is made by or on behalf of Recipient in this Contract or in any document provided by Recipient related to this Grant or the Project.
- B. (1) A petition, proceeding or case is filed by or against Recipient under any federal or state bankruptcy or insolvency law, and in the case of a petition filed against Recipient, Recipient acquiesces to such petition or such petition is not dismissed within 20 calendar days after such filing, or such dismissal is not final or is subject to appeal;
- (2) Recipient files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, liquidation, dissolution, winding-up or composition or adjustment of debts;
- (3) Recipient becomes insolvent or bankrupt or admits its inability to pay its debts as they become due, or makes an assignment for the benefit of its creditors;
- (4) Recipient applies for or consents to the appointment of, or taking of possession by, a custodian (including, without limitation, a receiver, liquidator or trustee) of Recipient or any substantial portion of its property; or
- (5) Recipient takes any action for the purpose of effecting any of the above.
- C. Recipient fails to perform any obligation required under this Contract, other than those referred to in subsections A through B of this section 8, and that failure continues for a period of 30 calendar days after written notice specifying such failure is given to Recipient by OBDD. OBDD may agree in writing to an extension of time if it determines Recipient instituted and has diligently pursued corrective action.

SECTION 9 – REMEDIES; TERMINATION

A. Remedies. Upon any Event of Default, OBDD may pursue any or all remedies in this Contract and any other remedies available at law or in equity to enforce the performance of any obligation of Recipient. Remedies may include, but are not limited to:

- (1) Terminating OBDD's commitment and obligation to make the Grant or disbursements under the Contract.
- (2) Barring Recipient from receiving future awards.
- (3) Withholding amounts otherwise due to Recipient for application to the payment of amounts due under this Contract.
- (4) Requiring repayment of the Grant and all interest earned by Recipient on those Grant funds.
- (5) Terminating the Contract.

If, as a result of Recipient's default, OBDD demands return of all or a portion of the Grant moneys or payment of interest earned on the Grant moneys, such amount is due and payable upon demand. OBDD may deduct the amount demanded from any payment due from OBDD or any other agency of the State of Oregon to Recipient, including but not limited to, any payment to Recipient from OBDD under this Contract and any payment to Recipient from OBDD under any other contract or agreement, present or future, between OBDD or any other agency of the State of Oregon and Recipient.

B. Application of Moneys. Any moneys collected by OBDD pursuant to section 9.A will be applied first, to pay any attorneys' fees and other fees and expenses incurred by OBDD; then, to repay any Financing Proceeds owed; and last, to pay any other amounts due and payable under this Contract.

C. No Remedy Exclusive; Waiver; Notice. No remedy available to OBDD is intended to be exclusive, and every remedy will be in addition to every other remedy. No delay or omission to exercise any right or remedy will impair or is to be construed as a waiver of such right or remedy. No single or partial exercise of any right power or privilege under this Contract will preclude any other or further exercise thereof or the exercise of any other such right, power or privilege. OBDD is not required to provide any notice in order to exercise any right or remedy, other than notice required in section 8 of this Contract.

D. Default by OBDD. In the event OBDD defaults on any obligation in this Contract, Recipient's sole remedy will be for disbursement of Financing Proceeds for Costs of the Project, not to exceed the Grant Amount, less any claims OBDD has against Recipient.

E. Mutual Termination. This Contract may be terminated by mutual consent of both parties.

F. Termination by OBDD. In addition to the remedies available in Section 9.A., OBDD may terminate this Contract upon written notice to Recipient under any of the following occurrences:

- (1) OBDD fails to receive sufficient appropriations or other expenditure authorizations to allow OBDD, in the reasonable exercise of its administrative discretion, to continue making payments under this Contract.
- (2) There are not sufficient funds in the Housing Infrastructure Support Fund, as determined by OBDD in the reasonable exercise of its administrative discretion, to permit OBDD to continue making payments under this Contract, or

- (3) There is a change in federal or state laws, rules, regulations, or guidelines so that the Project funded by this Contract is no longer eligible for funding.

SECTION 10 - MISCELLANEOUS

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

If to OBDD: Deputy Director
Oregon Business Development Department
775 Summer Street NE Suite 310
Salem, OR 97301-1280

If to Recipient: Executive Director
Port of Arlington
100 Port Island Road
PO Box 279
Arlington, OR 97812

- E. No Construction against Drafter. This Contract is to be construed as if the parties drafted it jointly.
- F. Severability. If any term or condition of this Contract is declared by a court of competent jurisdiction as illegal, invalid or unenforceable, that holding will not invalidate or otherwise affect any other provision.
- G. Amendments. Waivers.
- (1) This Contract may not be amended without the prior written consent of OBDD (and when required, the Department of Justice) and Recipient. This Contract may not be amended in a manner that is not in compliance with the Act. No waiver or consent is effective unless in writing and executed by the party against whom such waiver or consent is sought to be enforced. Such waiver or consent will be effective only in the specific instance and for the specific purpose given.
 - (2) Notwithstanding Section 10G.(1) above, the Parties agree that OBDD may extend the Project Completion Deadline by sending a written notice of amendment to Recipient ("Letter Amendment"), and Recipient will not be required to provide written consent to effect the amendment. OBDD may execute such a Letter Amendment only after an appropriation and expenditure authority carry-over extension of the Financing Proceeds by the Oregon Legislative Assembly.
- H. Attorneys' Fees and Other Expenses. To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, the prevailing party in any dispute arising from this Contract is entitled to recover its reasonable attorneys' fees and costs at trial and on appeal. Reasonable attorneys' fees cannot exceed the rate charged to OBDD by its attorneys.
- I. Choice of Law; Designation of Forum: Federal Forum. The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Contract, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

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

Notwithstanding the prior paragraph, if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This paragraph applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent

by the State of Oregon to be sued in federal court. This paragraph is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

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

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

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



STATE OF OREGON
acting by and through its
Oregon Business Development Department



PORT OF ARLINGTON

By: _____
Edward Taber, Infrastructure &
Program Services Director

By: _____
Jed Crowther, Executive Director

Date: _____

Date: _____

APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:

Not Required per OAR 137-045-0030

EXHIBIT A - GENERAL DEFINITIONS
--

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

“Act” means Oregon Laws 2024, Chapter 110, Sections 12-14 (aka SB 1537 (2024)), as amended.

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

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

“Financing Proceeds” means the proceeds of the Grant.

“ORS” means the Oregon Revised Statutes.

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

EXHIBIT B - PROJECT DESCRIPTION

Recipient will hire a professional engineer licensed in Oregon to complete construction engineering work related to the Alkali Ridge Subdivision.

All Project activities must:

1. be consistent with the Act;
2. necessary to complete the Project;
3. directly provide capacity and support for the planning and financing of infrastructure for water, sewers and sanitation, stormwater, or transportation to produce housing units at densities not less than:
 - A. Seventeen dwelling units per net residential acre if sited within the Metro urban growth boundary,
 - B. Ten units per net residential acre if sited in a city with a population of 30,000 or greater,
 - C. Six units per net residential acre if sited in a city with a population of 2,500 or greater and less than 30,000, or
 - D. Five units per net residential acre if sited in a city with a population less than 2,500.

Capacity and support include assistance with local financing opportunities; state and federal grant navigation, writing, review and administration; resource sharing; regional collaboration support and technical support, including engineering and design assistance.

Financing Proceeds may not be used for any of the following:

1. Administrative costs;
2. Supplanting already budgeted positions;
3. Pre-award costs;
4. Debt service; or
5. Lobbying activities.

EXHIBIT C - PROJECT BUDGET

Line Item Activity	OBDD Funds	Estimated Other / Matching Funds
Engineering/Project Oversight	\$92,946	\$0
Total	\$92,946	\$0