

MEMORANDUM OF UNDERSTANDING
Consortium for Public Improvement Projects

This Memorandum of Understanding (this “Memorandum”) is dated October 26, 2021, but made effective for all purposes as of the Effective Date (as defined below), and is entered into between City of John Day (“John Day”), an Oregon municipal corporation, whose address is 450 East Main Street, John Day, Oregon 97845, Town of Lakeview (“Lakeview”), an Oregon municipal corporation, whose address is 525 North 1st Street, Lakeview, Oregon 97630, and City of Burns (“Burns”), an Oregon municipal corporation, whose address is 242 South Broadway, Burns, Oregon 97720. For purposes of this Memorandum, the term “party(ies)” means (individually and collectively) John Day, Lakeview, and Burns.

RECITALS:

A. Each party recognizes the need to stimulate economic recovery and revitalization in their respective communities. To address this need, the parties desire to establish an agency (the “Consortium”) in which the parties combine and share resources to achieve greater efficiencies and economies of scale to execute housing and community development projects.

B. To establish the Consortium, the parties desire to negotiate and enter into an intergovernmental agreement. The parties desire to enter into this Memorandum to, among other things, establish the parties’ obligations and outline the conditions under which the parties will enter into the intergovernmental agreement and establish the Consortium.

AGREEMENT:

NOW, THEREFORE, the parties hereby agree and understand as follows:

1. Intergovernmental Agreement.

1.1 Commencing on the Effective Date, the parties will negotiate and develop a binding intergovernmental agreement under ORS 190.010, which agreement will describe the terms and conditions under which the parties will collectively pursue housing and community development projects (the “Agreement”). The parties will endeavor to enter into the Agreement within ninety (90) days after the Effective Date. Notwithstanding anything contained in this Memorandum to the contrary, the Agreement will be subject to each party’s review and approval.

1.2 The Agreement will contain terms and conditions acceptable to the parties, including, without limitation, the following: (a) establishment of a board (with representation from each party); (b) the board’s responsibilities and limited authority; and (c) each party’s obligations concerning the sharing of resources to carryout housing and community development projects. Without otherwise limiting the generality of the immediately preceding sentence, the obligations of the board will consist of, among other things, the following: (v) reviewing and approving Consortium’s budget; (w) establishing policies for evaluation of Consortium’s operations; (x) evaluating Consortium’s performance relative to Consortium’s responsibilities and functions; (y) evaluating and determining changes to Consortium’s responsibilities and functions; and (z) approval of asset acquisitions if not previously approved in budget.

2. Party Obligations. Each party will designate one member to serve on a formation steering committee. Each steering committee member will be appointed to Consortium’s board. All parties will cooperate to draft and prepare the Agreement (and all related agreements, documents, and instruments) and will share equally the costs and expenses to draft and prepare the Agreement (and all related agreements, documents, and instruments).

3. Coordination. In addition to any other party obligation contained in this Memorandum, in the spirit of cooperation and collaboration, and with the mutual understanding that this is a flexible working agreement among the parties, the parties hereby commit to undertake the following actions: (a) support concerted, cooperative, effective, and collaborative work to perform and complete those obligations described in Section 1 of this Memorandum; (b) participate in meetings as necessary or appropriate to discuss the composition of the board and board's obligations; (c) formalize Consortium's procedures for evaluating and approving proposed projects and Consortium's logistical duties to facilitate project completion; (d) identify solutions to reduce unnecessary delays in formalizing the Agreement and executing the objectives of the Agreement; and (e) identify potential barriers to creating and implementing Consortium through meetings, conference calls, and participation in developing timely solutions to disagreements.

4. Compliance with Laws; Expenses. Each party will perform its obligations under this Memorandum in compliance with all applicable federal, state, and local laws, rules, regulations, codes, and ordinances, all as now in force and/or which may hereafter be amended, modified, enacted, or promulgated (individually and collectively, the "Law(s)"). Except as otherwise expressly provided in this Memorandum, each party will bear the party's own expenses incurred in connection with the performance of the party's obligations under this Memorandum.

5. Term; Miscellaneous. The term of this Memorandum commenced on the Effective Date and will remain in full force and effect until terminated as provided in this Memorandum. This Memorandum may be terminated at any time by the mutual written agreement of the parties or by any party upon thirty (30) days' prior written notice to all other parties. Each party acts independently in the performance of its obligations under this Memorandum and no party is an agent of the other. This Memorandum contains the entire agreement and understanding between the parties with respect to the subject matter of this Memorandum and contains all the terms and conditions of the parties' agreement and supersedes any other oral or written negotiations, discussions, representations, and/or agreements. Any notice will be deemed given when personally delivered or delivered by facsimile or email transmission (with electronic confirmation of delivery), or will be deemed given three days following delivery of the notice by U.S. mail, certified, return receipt requested, postage prepaid, by the applicable party to the address of the other parties first shown above (or any other address that a party may designate by notice to the other party), unless that day is a Saturday, Sunday, or legal holiday, in which event it will be deemed delivered on the next following business day. For purposes of this Memorandum, the term "Effective Date" means the date upon which this Memorandum is executed by all parties.

6. Conflict of Interest. The law firm of Bryant, Lovlien & Jarvis, P.C. ("Law Firm") has been retained by John Day to prepare this Memorandum, the Agreement, and all related agreements, documents, and instruments. Law Firm currently represents John Day, Burns, and Lakeview on one or more unrelated matters. Oregon's rules of ethics for lawyers limit or prohibit one lawyer or law firm from representing two or more clients when their interests conflict. Law Firm may not oppose a current client (even on an unrelated matter) without informed consent after an explanation about the material risks of, and reasonable alternatives to, consenting. Law Firm has discussed the conflict of interest with each party. Each party consents to Law Firm's representation of John Day in connection with the preparation of this Memorandum, the Agreement, and all related agreements, documents, and instruments. Notwithstanding the parties' informed consent, should a conflict or dispute arise between the parties, Law Firm will not represent any party in connection with the conflict or dispute (each party will obtain the party's own, independent legal counsel).

[end of agreement – the signature page immediately follows]

IN WITNESS WHEREOF, the undersigned have caused this Memorandum to be effective for all purposes as of the Effective Date.

CITY:

City of John Day,
an Oregon municipal corporation

Lakeview:

Town of Lakeview,
an Oregon municipal corporation

By: _____
Its: _____

By: _____
Its: _____

Dated: _____

Dated: _____

Burns:

City of Burns,
an Oregon municipal corporation

By: _____
Its: _____

Dated: _____