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Document Title(s):

Interlocal Agreement Between the City of Vancouver and the Fort Vancouver Regional Library District for Local Revitalization Financing

Reference Numbers(s) of Related Documents:

Additional Reference #'s on Page _____

Grantor(s):

City of Vancouver

Additional Grantors on Page _____

Trustee(s)

Grantee(s):

Fort Vancouver Regional Library District

Additional Grantees on Page _____

Legal Description: (abbreviated form i.e. lot, block, plat or section township, range, quarter/quarter)

Additional Legal on Page _____

Assessor’s Property Tax Parcel/Account Number:

Additional Parcel #'s on Page _____

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**INTERLOCAL AGREEMENT BETWEEN THE CITY OF VANCOUVER AND THE
FORT VANCOUVER REGIONAL LIBRARY DISTRICT FOR
LOCAL REVITALIZATION FINANCING**

DATED: August 24, 2009

THIS INTERLOCAL AGREEMENT (Agreement) is by and between the City of Vancouver, Washington (City), a Washington first class city established under Article 11, Section 10 of Washington Constitution, and the Fort Vancouver Regional Library (FVRL), a Library District organized under Chapter 27.12 RCW.

WHEREAS, the Washington State Legislature established the Local Revitalization Financing Act, Chapter 270, Laws of 2009, hereinafter referred to as the LRF Act; and

WHEREAS, the LRF Act provides local governments a local infrastructure financing tool to promote community and economic development to stimulate business activity, create jobs, stimulate redevelopment, lower the cost of housing, and to promote efficient land use; and

WHEREAS, in adopting the LRF Act, the Washington Legislature found that the aforementioned economic development activities will generate revenue for the state and that it is in the public interest to invest in these projects through a credit against the state and local sales and use tax based on incremental increases in such taxes and an allocation of property tax increment revenue to local governments; and

WHEREAS, the state has granted \$220,000 per fiscal year for twenty-five years as a demonstration project through the LRF Act to the downtown/waterfront project; and

WHEREAS, the City has identified public infrastructure improvements including extending Esther and Grant streets under the Burlington Northern Santa Fe Railroad (BNSF) berm, constructing a new street to the north of the BNSF rail line that connects Sixth Street to Jefferson Street, reconstructing a street to the south of the BNSF rail line connecting Sixth Street to Seventh Street, related intersection improvements, and construction of a public trail and greenway along the Columbia River (the Project); and

WHEREAS, the City has determined to proceed with the construction and financing of the Project, including without limitation through the authorization, issuance and sale of bonds, notes and/or other obligations for borrowed money to finance or refinance costs with respect to the Project (collectively, Bonds) pursuant to the LRF Act; and

WHEREAS, the City desires to accept the state grant and seek tax increment funding under the state LRF Act funding in 2009 and become a "sponsoring local government" with respect to the Project; and

WHEREAS, pursuant to Chapter 270, Laws of 2009 the FVRL desires to become a "participating local government" and a "participating taxing district" in connection with the Project, as those terms are defined in the at; and

WHEREAS, the FVRL has determined to contribute and dedicate a portion of its "Local Property Tax Allocation Revenue" as defined in the LRF Act and to the extent agreed to herein to and for the Project; and

WHEREAS, the City and the FVRL, as public agencies, have the authority pursuant to the LRF Act and the Interlocal Government Cooperation Act, constituting RCW Chapter 39.34, to enter into interlocal agreements to provide services and facilities through the joint and cooperative exercise of powers, privileges and authority, and FVRL has the authority to dedicate its Local Property Tax Allocation Revenue as identified herein, to and for the Project; and

WHEREAS, the Project is consistent with the adopted Countywide Planning Policies under RCW 36.70A.210. In particular, the Project is consistent with the Community Framework Plan Policy 1.1.1 for the Vancouver Urban Growth Area that calls for a full range of residential, commercial, and industrial uses and minimum density targets; and

WHEREAS, the City has concluded that the proposed Project is consistent with the City's adopted Comprehensive Plan; and

WHEREAS, the City and the FVRL (each, a "Party", and collectively, the "Parties") desire to enter into this Interlocal Agreement for the purpose of setting forth their mutual agreements and undertakings with respect to the Project;

NOW, THEREFORE, in consideration of the mutual undertakings and agreements contained herein, inclusive of the recitals above, and of the benefits to be realized by each Party, the Parties hereby agree as follows:

1. AUTHORITY AND PURPOSE. This Agreement is entered into pursuant to and in accordance with the LRF Act, Chapter 270, Laws 2009 and RCW Chapter 39.34 in order to facilitate the financing and construction of the Project. Terms used but not otherwise defined in this Agreement shall have the meanings set forth in the LRF Act.

2. TERM. This Agreement shall become effective upon approval by the Washington State Department of Revenue (Department) of the City's application pursuant to Section 402 of the LRF Act. This Agreement shall terminate, and all contributions, allocations and commitments agreed to herein shall cease, on the earliest to occur of the following:

- a. If the City determines in its sole and absolute discretion at any time on or prior to the commencement of construction and prior to the issuance of any Bonds that the Project is impracticable, infeasible or otherwise undesirable to pursue; or
- b. When all of the Bonds with respect to the Project are finally defeased and all obligations under the resolutions, trust agreements or other documents governing such Bonds have been satisfied.

- c. If the City proceeds with the Project without a fully executed development agreement in place between the City and Columbia Waterfront, LLC, or between the City and an alternate developer.

3. ADMINISTRATION; PROPERTY. This Agreement does not establish or create a separate legal or administrative entity or joint board to accomplish the purposes hereof. The City shall be responsible for administering the cooperative undertaking described herein and the City's Chief Financial Officer shall be the administrator of this Agreement. Any real or personal property used or acquired by any Party in connection with the Agreement shall be used, acquired, held and disposed of by that Party as it shall determine in its discretion, except as otherwise expressly provided in this Agreement.

4. SPONSORING LOCAL GOVERNMENT. The City agrees to take all actions required of a sponsoring local government under Section 104 of the LRF Act, including without limitation: (i) creation of the Revitalization Area (as defined at Section 102(20) of the LRF Act hereinafter "Revitalization Area") in substantially the form depicted in Exhibit "A" attached hereto and incorporated herein, and (ii) application in accordance with Section 401 of the Act to the Board with respect to the Project.

5. PARTICIPATING LOCAL GOVERNMENT; PARTICIPATING TAXING DISTRICT. Pursuant to Section 107 of the LRF Act, the FVRL agrees to dedicate and apply a portion of the FVRL's Local Property Tax Allocation Revenue allocable to the Revitalization Area identified in Section 4 above for local infrastructure financing authorized under the LRF Act, and to otherwise function and serve as a Participating Local Government and a Participating Taxing District as provided for herein and under the LRF Act under the conditions described below.

6. FVRL LOCAL PROPERTY TAX ALLOCATION REVENUE. So long as the following conditions are satisfied, the FVRL agrees, in accordance with Section 107 of the LRF Act, that the City shall receive a portion of the FVRL's Local Property Tax Allocation Revenue allocable to the Revitalization Area identified in Section 4 above for the Project and as allowed under RCW Chapter 39.102.120(1)(b):

- a. The Board approves the City's application for the Project as provided for under Section 401 of the LRF Act; and
- b. The City contributes its Local Property Tax Allocation Revenue and Local Excise Tax Allocation Revenue as required in this Agreement.

7. PAYMENT OF CITY LOCAL PROPERTY TAX ALLOCATION REVENUE AND CITY EXCISE TAX ALLOCATION REVENUE. The City shall dedicate its Local Property Tax Allocation Revenue and Local Excise Tax Allocation Revenue allocable to the Revitalization Area identified in Section 4 above for local infrastructure financing authorized under the LRF Act. The City shall dedicate one hundred percent of its annual Local Property Tax Allocation Revenue and Local Excise Tax Allocation Revenue to the local infrastructure financing under this section if the balance in the Columbia Waterfront LRF

Account (See Section 9) as of December 31 of the prior year is less than two hundred twenty thousand dollars (\$220,000). If the balance in the Columbia Waterfront LRF Account as of December 31 of the prior year is equal to or greater than two hundred twenty thousand dollars (\$220,000) the City shall dedicate one hundred percent of its annual Local Property Tax Allocation Revenue and Local Excise Tax Allocation Revenue to the local infrastructure financing under this section in the following year or two hundred twenty thousand dollars (\$220,000), whichever is less. The City may, in its sole discretion, dedicate more than two hundred twenty thousand dollars (\$220,000) per year in City Local Property Tax Allocation Revenue and City Local Excise Tax Allocation Revenue to the local infrastructure financing. The City shall deposit its Local Property Tax Allocation Revenue and Local Excise Tax Allocation Revenue allocable to the Revenue Development Area identified in Section 4 into the Columbia Waterfront LRF Account.

8. PAYMENT OF FVRL LOCAL PROPERTY TAX ALLOCATION REVENUE. On or before December 31, 2010 the FVRL shall notify the Clark County Treasurer that the FVRL has agreed to dedicate and apply the FVRL's Local Property Tax Allocation Revenue allocable to the Revitalization Area identified in Section 4 above for local infrastructure financing authorized under the LRF Act and shall authorize the County Treasurer to distribute the FVRL Local Property Tax Allocation Revenue to the City in accordance with the LRF Act. The City shall deposit FVRL Local Property Tax Allocation Revenue payments into the City's Columbia Waterfront LRF Account.

9. COLUMBIA WATERFRONT LRF ACCOUNT.

- a. Account Established.** The City shall establish and maintain a separate account to account for the Local Excise Tax Allocation Revenue and Local Property Tax Allocation Revenue received by the City allocable to the Revitalization Area identified in Section 4 above.
- b. Use of Funds.** The City shall use Columbia Waterfront LRF Account revenues to pay debt service on the Bonds. Any revenues in excess of Bond payments and Project expenses shall accumulate in the Columbia Waterfront LRF Account. If the Columbia Waterfront LRF Account balance as of December 31 in any year is equal to or greater than two hundred twenty thousand dollars (\$220,000) the City may use the amount in excess of two hundred twenty thousand dollars (\$220,000) for any lawful purpose. Any funds remaining in the Columbia Waterfront LRF Account on May 1 in the year the Bonds mature shall be used to pay debt service with respect to the Bonds. Any funds from participating taxing districts remaining in the separate fund as of the date the Bonds mature shall be refunded back to the taxing district and any remaining funds shall be retained by the City.
- c. Account Reconciliation and FVRL Refund.** Prior to April 30 of each year the City shall provide the FVRL with an accounting of the activity in the Columbia Waterfront LRF Account during the prior year. If the total of the City Local Excise Tax Allocation Revenue, the City Local Property Tax Allocation Revenue and the FVRL Local Property Tax Allocation Revenue received during the prior year plus

the balance in the Columbia Waterfront LRF Account as of January 1 of the prior year is in excess of \$220,000 then the City shall refund the excess FVRL Local Property Tax Allocation Revenue to the FVRL in proportion to all other participating taxing districts. In no event shall the amount refunded to the FVRL exceed the FVRL Local Property Tax Allocation Revenue received by the City in the prior year.

10. TERMINATION OR REDUCTION OF CITY'S RIGHT TO FVRL LOCAL PROPERTY TAX ALLOCATION REVENUE. Unless terminated earlier pursuant to Section 2 above, the City's right to receive the FVRL's Local Property Tax Allocation Revenue as allowed under Section 106 of the LRF Act shall cease from and after the date as of which the City determines, in its reasonable discretion, that all or a specified portion of such revenues will no longer be needed to satisfy debt service with respect to any Bonds or the bonds mature, whichever comes first.

11. FINAL MATURITY OF BONDS. The final maturity of any Bonds issued by the City pursuant to the LRF Act to refund or refinance any outstanding Bonds shall not extend beyond the final permissible maturity of the original Bonds issued to finance public improvement costs with respect to the Project.

12. INDEMNITY. To the extent permitted by law, the City shall defend, indemnify, and hold harmless the FVRL and its Trustees, officers, officials, employees and agents (collectively, the "FVRL Indemnified Parties") at the City's sole cost and expense, for, from and against any and all claims, losses, suits, actions, legal or administrative proceedings, costs, attorneys' fees, litigation costs, expenses, damages, penalties, fines, judgments or decrees by reason of any death, injury or disability to or of any person or party, including employees, and/or damage to any property or business, including loss of use, or other causes (collectively, "Damages") which may be imposed upon, incurred by, or asserted against the FVRL Indemnified Parties arising out of or relating to the Project, including without limitation the offering and sale of any Bonds. Such indemnification obligation shall include, but not be limited to, defending all claims alleging damages from any negligent action, error or omission or breach of any common law, statutory or other duty by the City or its officers, agents, employees. The City's obligations to indemnify, defend and hold harmless shall apply except and to the extent caused by the sole negligence and/or willful misconduct of any of the FVRL Indemnified Parties.

13. AMENDMENTS. This Agreement shall not be modified or amended in any manner except by instrument in writing executed by the parties hereto and approved by the Bond Trustee and Bond Insurer if any.

14. ASSIGNMENT; BENEFIT OF AGREEMENT. No Party shall assign its rights or obligations under this Agreement without prior written consent of the parties hereto. This Agreement shall inure to the benefit of and be binding on the Parties and their successors or permitted assigns.

15. NOTICES. All communications, notices and demands of any kind which are required by this Agreement shall be in writing and shall be deemed given when deposited in the

U.S. Mail, first class postage prepaid to the following addresses or to such other addresses as the Parties from time to time give notice to the other Parties:

If to the City: Chief Financial Officer
210 E. 13th Street
Vancouver, WA 98660-3230

With a copy to: City Attorney
210 E. 13th Street
Vancouver, WA 98660-3230

And

Economic Development Director
210 E. 13th Street
Vancouver, WA 98660-3230

If to the FVRL: Executive Director
1007 E Mill Plain Blvd.
Vancouver, WA 98663

16. FILING THIS AGREEMENT. Within five (5) days from the date of execution of this Agreement, a copy thereof shall be filed with the Clark County Auditor.

17. COUNTERPARTS. This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed to be an original, and all of which together shall constitute one and the same instrument.

18. HEADINGS. The headings are solely for convenience of reference and shall not constitute part of this Agreement nor shall they affect its meaning, construction, or effect.

19. GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the Constitution and laws of the State of Washington applicable to contracts made and performed within such State.

20. VENUE. The venue for any dispute arising under this Agreement shall be the Superior Court of the State of Washington for Clark County, Washington.

21. NO PERSONAL LIABILITY. Notwithstanding anything contained to the contrary in any provision of this Agreement, it is specifically agreed and understood that there shall be absolutely no personal liability on the part of any individual officer, director, councilmember, or trustee with respect to any of the obligations, terms, covenants, and conditions of this Agreement.

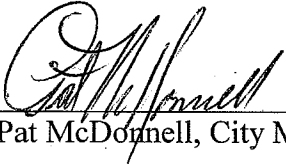
22. **LIMITATION OF RIGHTS.** Nothing expressed or to be implied from this Agreement is intended to give, or shall be construed to give, any person other than the Parties hereto, and their permitted successors and assigns, and the owners of any Bonds, any benefit or legal or equitable right, remedy, or claim under or by virtue of this Agreement.

23. **SEVERABILITY.** If any term or provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and shall continue in full force and effect.

24. **RECITALS.** The recitals above are hereby incorporated into the Agreement and shall be binding as terms of this Agreement.

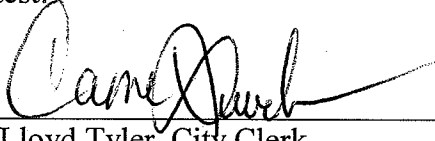
IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first written above.

CITY OF VANCOUVER



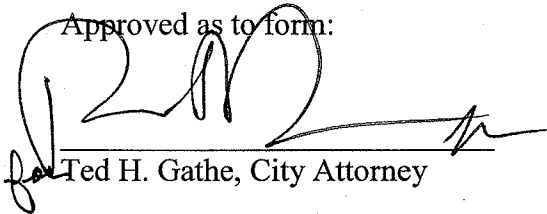
Pat McDonnell, City Manager

Attest:



R. Lloyd Tyler, City Clerk
By: Carrie Lewellen, Deputy City Clerk

Approved as to form:



Ted H. Gathe, City Attorney

Fort Vancouver Regional Library



Bruce Ziegman, Executive Director