

PORTLAND DEVELOPMENT COMMISSION

Portland, Oregon

RESOLUTION NO. 7182

APPROVING AMENDED INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PORTLAND FOR THE SUPPORT OF CITY GUARANTEE OF STATE OF OREGON LOAN

WHEREAS, the 10th & Yamhill City of Portland (“City”)-owned SmartPark facility (“Garage”) requires significant renovation to address deferred maintenance of both the parking levels and ground floor retail spaces to improve its position as a valuable and safe public asset;

WHEREAS, the Portland Bureau of Transportation (“PBOT”) and the Portland Development Commission (“PDC”) entered into an Intergovernmental Agreement (“IGA”) in February 2015 to cost share in developing a jointly agreed upon concept design and scope of improvements for the Garage;

WHEREAS, the 2002 Downtown Retail Strategy focuses on maintaining the sustained successes of Portland’s downtown retail core in the face of suburban retail mall competition and having SW Morrison and SW Yamhill streets as primary retail frontages, the Garage was identified as a key redevelopment opportunity;

WHEREAS, on May 25, 2011, the PDC Board of Commissioners (“Board”), through Resolution No. 6878, approved an IGA with the City wherein PDC agreed to back-up a City Loan Guarantee in the amount of \$5,000,000 for the Oregon Department of Energy’s commitment to provide a \$20,000,000 State Energy Loan Program loan (“SELP loan”) to SoloPower, Inc. (“SoloPower”), for the construction of certain solar facilities;

WHEREAS, SoloPower is a manufacturer of thin solar panels and is included within the Clean Tech industry as one of the five target industry clusters for which the State of Oregon and the City developed programming to foster job retention/creation, support innovation, and further the City as a leader in sustainability;

WHEREAS, PDC agreed to back a City Loan Guarantee by providing \$5,000,000 to a tax increment eligible project in the River District Urban Renewal Area (“URA”) that would be of benefit to the City and consistent with the River District Urban Renewal Plan. If PDC elected to contribute tax increment and the City Loan Guarantee was not called upon then such PDC contributions would be repaid to PDC from non-tax City revenues at such time as the City Loan Guarantee was released;

WHEREAS, the Garage was identified as a preferred project in the context of a PDC contribution;

WHEREAS, at the time of the IGA, PDC also budgeted \$13,500,000 to the Garage for complete demolition and redevelopment of the site. Subsequently, the scope of redevelopment of the Garage has

been reduced to: i) improvements to the existing garage including ground floor retail areas, ii) Americans with Disabilities Act improvements, and iii) deferred maintenance (the “Project”);

WHEREAS, PDC subsequently reallocated the \$13,500,000 to priority projects in the River District URA and provided a \$5,000,000 commitment consistent with the IGA.

WHEREAS, PDC and the City have agreed that it is prudent for the parties to select and for PDC to provide additional funding for the Project before the City Loan Guarantee is either terminated or called upon given the immediate needs of the Project and the City’s prioritization to complete the scope of improvements;

WHEREAS, given PDC’s focus on economic development and asset management abilities, the City and PDC have also considered the benefits of assigning to PDC the management and operation of the ground floor retail component of the Project;

WHEREAS, the amended IGA establishes a six month period within which PDC and the City shall work to reach agreement on the potential assignment of the ground floor retail component of the Project to PDC;

WHEREAS, in the event that an assignment of the ground floor retail component of the Project to PDC cannot be agreed upon then the PDC contribution of \$5,000,000 to the Project shall be repaid at the time the loan guarantee expires, is terminated, or the underlying loan is paid;

WHEREAS, in the event that PDC elects to decline an assignment of the ground floor retail portion of the Project then the PDC contribution of \$5,000,000 to the Project shall not be repaid; and

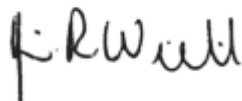
WHEREAS, in the event that PDC and the City agree upon terms for the assignment of the ground floor retail portion then the PDC contribution of \$5,000,000 to the Project shall not be repaid.

NOW THEREFORE, BE IT RESOLVED, that the PDC Board authorizes the Executive Director to enter into the amended IGA, attached hereto as Exhibit A;

BE IT FURTHER RESOLVED, that the Executive Director may approve changes to the IGA if such modifications, in the opinion of the Executive Director in consultation with PDC’s General Counsel, do not materially increase PDC’s obligations or risks; and

BE IT FURTHER RESOLVED, that this resolution shall become effective immediately upon its adoption.

Adopted by the Portland Development Commission on May 11, 2016



Gina Wiedrick, Recording Secretary

PORTLAND DEVELOPMENT COMMISSION

Portland, Oregon

RESOLUTION NO. 7182

EXHIBIT A

**APPROVING AMENDED INTERGOVERNMENTAL AGREEMENT WITH THE
CITY OF PORTLAND FOR THE SUPPORT OF CITY GUARANTEE OF STATE
OF OREGON LOAN**

Exhibit A includes this cover page and contains four pages:

- Amendment to Intergovernmental Agreement between City of Portland and Portland Development Commission for the Support of City Guarantee of State of Oregon Loan

AMENDMENT
TO
INTERGOVERNMENTAL AGREEMENT
Between
City of Portland
And
Portland Development Commission
For the
Support of City Guarantee of State of Oregon Loan

This instrument (“Amendment”) amends an Intergovernmental Agreement (“Agreement”) made and entered into by and between the City of Portland, Bureau of Transportation (“the City”) and the Portland Development Commission (“PDC”) on July 9, 2013.

RECITALS

- A. SoloPower, Inc. (“SoloPower”) has secured a loan commitment from the Oregon Department of Energy (“ODOE”) for a \$20 million State Energy Loan Program loan (“SELP Loan”) for the construction of certain Solar Facilities, conditioned upon obtaining at least \$5 million in guarantees for a State Energy Loan Program (SELP) Loan.
- B. The City has provided a \$5 million guarantee of the SELP Loan (the “City Loan Guarantee”).
- C. At the time of the Agreement, PDC agreed to back up the City's guarantee by providing up to \$5 million in “additional contributions” to a tax increment eligible project in the River District Urban Renewal Area that will be of benefit to the City, which contributions will be repaid to PDC from non-tax City revenues at such time as the City Loan Guarantee is released. The Agreement established a contingent obligation for PDC to provide support to the City in the event the City Loan Guarantee was called upon. Thus, if the City was called upon to make payment to ODOE under the City Loan Guarantee, PDC would backstop such payment by making a contribution to a tax increment financing eligible project in the River District Urban Renewal District that is of interest and benefit to the City and which is consistent with the River District Urban Renewal Plan.
- D. The 10th and Yamhill City-owned SmartPark facility (Garage) was identified in the Agreement as a preferred project that would be eligible to receive the potential additional contributions of tax increment financing from PDC.
- E. At the time of the Agreement, PDC also had budgeted \$13.5 million to the Garage and the project scope had envisioned a complete demolition and redevelopment of the site.
- F. After the time of the Agreement the scope of redevelopment was reduced to improvements to the existing garage, including to the ground floor retail areas and the installation of tenant improvements and improvements to the exterior street frontage of the structure (Project). PDC subsequently removed the amount of \$13.5 million from its budget and reduced the project budget to the \$5 million “additional contribution” commitment.
- G. Given the uncertain nature of the likely duration of the City Loan Guarantee (which will likely have a term of approximately 10 years, but may be extinguished far earlier in the event SoloPower repays the SELP Loan earlier), the parties agreed that it may be more prudent for the parties to select, and for PDC to provide additional funding for, an Identified TIF Project

before the City Loan Guarantee is either terminated or called upon.

- H. Given PDC's focus on economic development and asset management abilities the City and PDC have considered the benefits of assigning to PDC the management and operation of the retail aspect of the Project.

Now therefore, the parties agree as follows:

AMENDMENT

1. The City Loan Guarantee has not been called upon nor terminated or extinguished as of the date of this instrument.
2. PDC and the City have now agreed that PDC will contribute \$5 million of total contributions to the existing garage aspect of the Project (excluding the ground floor retail spaces and tenant improvements). PDC's contribution is deemed to be an Identified TIF Project under the Agreement.
3. PDC and the City have agreed to a scope of improvements to the garage and ground floor retail as defined in Attachment A and at a total estimated cost of \$25 million with \$5 million contributed from PDC and \$20 million contributed from the City.
4. PDC's contribution of funds under this Amendment shall be fulfilled by way of reimbursement of PBOT costs after submittal to PDC of invoices that evidence the generation of PBOT costs that are consistent with section 2 above.
5. With regard to the planned improvements, including the retail aspect of the Project, PDC shall be a member of the RFP selection committees for the following consultants: Owner's representative, design services; and CMGC for the Project.
6. The City hereby agrees to cooperate exclusively with PDC to establish terms for the transfer of management and operation rights and responsibilities associated with the ground floor retail aspect of the Project and to establish an agreement with PDC in accord.
 - a. The City and PDC shall work in good faith to develop an agreement with specific terms of an assignment, lease or other instrument acceptable to both. Under any such agreement, PBOT will reserve and commit not less than \$100 per square foot of the ground floor retail space to a budget for tenant improvements and shall make that budget available to PDC to use for improvements to the ground floor retail aspect of the Project. If, within six (6) months of the date of execution of this instrument, such agreement to transfer is reached and executed then PBOT shall not be required to repay PDC for the \$5M contribution to the Project.
 - b. If, by written notice to PBOT, PDC waives its right to negotiate a transfer then PBOT shall not be required to repay PDC for the \$5M contribution to the Project.
 - c. If, within six (6) months of the date of execution of this instrument, the City and PDC do not reach agreement on the specific terms of an assignment, and PDC has not waived its right to negotiate same, then the City agrees to reimburse PDC the \$5M contribution ~~to~~

the Project consistent with section 6, 7 and 8 of that Intergovernmental Agreement between PDC and PBOT made July 9, 2013 at the earliest to occur of any of the following events: 1) that the City Loan Guarantee expires, 2) is terminated or 3) the underlying guaranteed loan is paid down sufficiently to negate the obligations under the City Loan Guarantee. If the City Loan Guarantee is called upon then the City shall also be obligated to reimburse PDC but such reimbursement obligation shall be reduced by the amount, if any, the City actually pays to ODOE pursuant to the City Loan Guarantee. Any potential extension of the City Loan Guarantee term shall not operate to extend the reimbursement obligation period established under this section without PDC's written consent.

7. The commitment of PDC funds to the Project under this Amendment shall satisfy any current outstanding commitments of PDC to the City with regard to the Project.
8. The commitment of PDC funds to the Project under this Amendment shall satisfy all the outstanding obligations of PDC under the Agreement.
9. The City shall remain the guarantor of the Solo Power SELP Loan until called upon, terminated or extinguished.
10. All other terms of the Agreement not inconsistent with this Amendment shall remain in full force and effect.

Signatures following on page 3.

IN WITNESS WHEREOF, the City and PDC have executed this Agreement as of the Effective Date.

CITY OF PORTLAND

PORTLAND DEVELOPMENT COMMISSION

Charlie Hales
Mayor

Patrick Quinton
Executive Director

Date

Date

APPROVED AS TO FORM

APPROVED AS TO FORM

City Attorney

Legal Counsel

City Auditor

Date

RESOLUTION NO. 7182

RESOLUTION TITLE:

APPROVING AMENDED INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PORTLAND FOR THE SUPPORT OF CITY GUARANTEE OF STATE OF OREGON LOAN

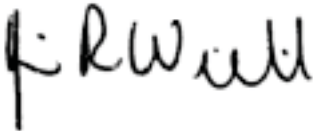
Adopted by the Portland Development Commission on May 11, 2016

PRESENT FOR VOTE	COMMISSIONERS	VOTE		
		Yea	Nay	Abstain
<input checked="" type="checkbox"/>	Chair Tom Kelly	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner Gustavo Cruz, Jr.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner Aneshka Dickson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner Mark Edlen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner William Myers	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Consent Agenda		<input checked="" type="checkbox"/> Regular Agenda		

CERTIFICATION

The undersigned hereby certifies that:

The attached resolution is a true and correct copy of the resolution as finally adopted at a Board Meeting of the Portland Development Commission and as duly recorded in the official minutes of the meeting.

	<p>Date:</p> <p>May 13, 2016</p>
<p>Gina Wiedrick, Recording Secretary</p>	