

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR TILLAMOOK COUNTY, OREGON

FILED  
MAR 15 AM 11:25

JOSEPHINE VELTRI  
COUNTY CLERK

ORDINANCE # 56

AN ORDINANCE AUTHORIZING A LOAN FROM )  
SPECIAL PUBLIC WORKS FUND BY ENTERING )  
INTO A LOAN CONTRACT WITH THE OREGON )  
ECONOMIC AND COMMUNITY DEVELOPMENT )  
DEPARTMENT )

The Tillamook County Board of Commissioners ("the municipality") Ordains as follows:

Section A. The Municipality is a "municipality" within the meaning of Oregon Revised Statutes 285B.410(1).

Section B. Oregon Revised Statutes 285B.410 through 285B.479 (the "Act") authorizes any municipality to file an application with the Oregon Economic and Community Development Department ("the Department") to obtain financial assistance from the Special Public Works Fund.

Section C. The Municipality has filed an application with the Department to obtain financial assistance for an "infrastructure project" within the meaning of the Act.

Section D. The Department has approved the Municipality's application for financial assistance from the Special Public Works Fund pursuant to the Act.

Section E. The Municipality is required, as a prerequisite to the receipt of financial assistance from the Department, to enter into a Financial Assistance Award Contract and a Loan Agreement with the Department in substantially the form attached hereto as Exhibits "A" and "B".

Section F. The project described in Exhibit "A" to the Loan Agreement (the "Project") is an "infrastructure project" within the meaning of the Act which is needed by and is in the public interest of the Municipality.

Section G. Notice relating to the Municipality's consideration of the adoption of this Ordinance was published at least once in a newspaper of general circulation within Tillamook County. Such notice was published at least 14 days in advance of the adoption of this Ordinance.

NOW THEREFORE, BE IT RESOLVED by the Governing Body of the Municipality as follows:

Section 1. Loan Authorized. The Governing Body authorizes the Chair of the Board to execute the Financial Assistance Award Contract, Loan Agreement, the Promissory Note attached as Exhibit "F" to the Loan Agreement (the "Financing Documents") and such other documents as may be required to obtain financial assistance including a loan from the Department on the condition that the principal amount of the loan from the Department to the Municipality is not in excess of \$420,000 and the interest rate on such loan is not in excess of 6 percent. The proceeds of the loan from the

Department shall be applied solely to the "Costs of the Project" as such term is defined in the Loan Agreement.

Section 2. Security. Amounts payable by the Municipality shall be payable from the sources described in Section 2.05 of the Loan Agreement and the Oregon Revised Statutes Section 285B.443(2) which include:

- a. any sources of funds that are legally available to the Municipality,
- b. the revenues, if any, of the Project, including special assessment revenues, if any, and
- c. the Municipality's general fund, including the tax and other general revenues of the Municipality, subject only to the restrictions of Article XI, Section 10, 11 and 11b of the Constitution of the State of Oregon. The Municipality acknowledges its current intention to make all payments due pursuant to the Financing Documents and, to the extent that funds are appropriated to make such payments, the full faith and credit of the municipality are pledged to such payments.

Section 3. Additional Documents. The Chair of the Board is hereby authorized to enter into any agreements and to execute any documents or certificates which may be required to obtain financial assistance from the Department for the Project pursuant to the Financial Assistance Award Contract and the Loan Agreement.

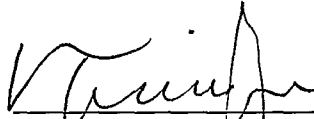
Section 4. Tax Exempt Status. The Municipality covenants not to take any action or omit to take any action if the taking or omission would cause interest paid by the Municipality pursuant to the Loan Agreement not to qualify for the exclusion from gross income provided by Section 103(a) of the Internal Revenue Code of 1986, as amended, the Chair of the Municipality may enter into covenants on behalf of the Municipality to protect the tax-exempt status of the interest paid by the Municipality pursuant to the Loan Agreement and may execute any Tax Certificate, Internal Revenue Service forms or other documents as shall be required by the Department or their bond counsel to protect the tax-exempt status of such interest.

Section 5. Reimbursement Bonds. The Municipality may reimburse expenditures for the Project with amounts received from the Department pursuant to the Financing Documents. Additionally, the Municipality understands that the Department may fund or reimburse itself for the funding of amounts paid to the Municipality pursuant to the Financing Documents with the proceeds of bonds issued by the State of Oregon pursuant to the Act. This Ordinance shall constitute "official intent" within the meaning of Section 1.150-2 of the Income Tax Regulations promulgated by the United States Department of the Treasury with respect to the funding or the reimbursement for the funding of the costs of the Project with the proceeds of the Municipality's loan pursuant to the Financing Documents and with the proceeds of any bonds issued by the State of Oregon pursuant to the Act.

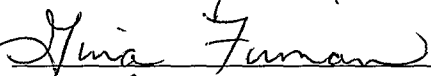
Section 6. Declaration of Emergency. The Governing Body declares that an emergency exists in order that there be no delay in financing the Project as provided in this Ordinance. Therefore, this Ordinance shall be in force and effect from and after passage by the Governing Body.

ADOPTED this 13 day of May, 2000.

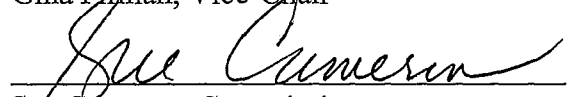
**THE BOARD OF COMMISSIONERS  
FOR TILLAMOOK COUNTY, OREGON**

  
\_\_\_\_\_  
Tim Josi, Chair

Aye	Nay	Abstain/absent
—	✓	— / —

  
\_\_\_\_\_  
Gina Firman, Vice-Chair

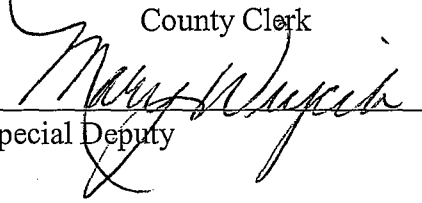
✓	—	— / —
---	---	-------

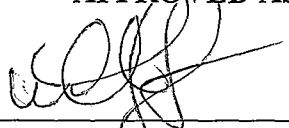
  
\_\_\_\_\_  
Sue Cameron, Commissioner

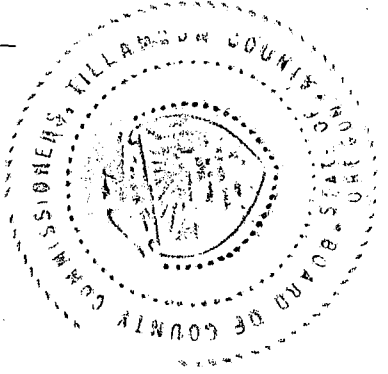
✓	—	— / —
---	---	-------

**ATTEST:** Josephine Veltri,  
County Clerk

**APPROVED AS TO FORM:**

By   
\_\_\_\_\_  
Special Deputy

  
\_\_\_\_\_  
William K. Sargent,  
County Counsel



STATE OF OREGON  
SPECIAL PUBLIC WORKS FUND  
FINANCIAL ASSISTANCE AWARD CONTRACT

This Contract is made and entered into by and between the STATE OF OREGON, ACTING BY AND THROUGH ITS ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT ("State") and Tillamook County ("Borrower"). The reference number of this Contract is L00010.

RECITALS

WHEREAS, the award of financial assistance which is the subject of this Contract is authorized by ORS 285B.410 through 285B.482 (the "Act"); and

WHEREAS, a reasonable estimate of the Costs of the Project, as hereinafter defined, is three million, three hundred eighty-two thousand dollars (\$3,382,000); and

WHEREAS, the Borrower has committed to provide \$2,871,000 in public and/or private resources as matching funds for the Project; and

WHEREAS, the State has reviewed the Borrower's application and determined the Project, as hereinafter defined, is feasible and merits funding; and

WHEREAS, the State is willing to provide a Loan of \$261,000 and a Grant of \$250,000 to the Borrower on the terms and conditions of this Contract.

NOW, THEREFORE, the parties agree as follows:

SECTION 1

CERTAIN DEFINITIONS

As used in this Contract, the following terms shall have the following meanings:

"Act" shall mean ORS 285B.410 through 285B.482, as amended.

"Award" shall mean written notification from the State offering a Loan and/or Grant to the Borrower.

"Contract" means this contract between the State and the Borrower, including any exhibits, schedules and attachments thereto, as amended from time to time.

"Costs of the Project" shall mean all costs of acquiring and constructing the Project, including any financing costs properly allocable to the Project, as set out in the approved Project Budget in Exhibit B to the Loan Agreement.

“Default” shall mean an event which with notice or lapse of time or both would become an Event of Default as set out in Section 7 hereof.

“Event of Default” shall mean any of the events described paragraphs A through E of Section 7 of this Contract.

“Grant” shall have the meaning ascribed thereto in Section 2(B) of this Contract.

“Loan” shall have the meaning ascribed thereto in Section 2(A) of this Contract.

“Loan Account” shall mean the Loan Account created by the State for the Borrower in the Special Public Works Fund.

“Loan Agreement” shall mean that certain loan agreement, substantially in the form of Exhibit 1 attached hereto and by this reference made a part hereof, entered into between the State and the Borrower on the date hereof, as such agreement may from time to time be amended and/or restated.

“Note” shall mean that certain promissory note, substantially in the form of Exhibit F to the Loan Agreement, executed by the Borrower in favor of the State, as it may from time to time be amended, extended, renewed or restated.

“Project” shall have the meaning ascribed thereto in the Loan Agreement and described in Exhibit A of the Loan Agreement.

“Project Area” shall mean all properties that will be directly benefited and served by construction of the Project.

“Project Close-Out Date” shall mean the date on which the State sends the Borrower written confirmation that the Project has been properly constructed and that the job creation required by Section 5(D) hereof has occurred.

“Project Completion Date” shall mean the date on which the Borrower has in fact completed the construction of the Project, as described in Section 3.02(d) of the Loan Agreement.

“Special Public Works Fund” shall mean the Special Public Works Fund created by ORS 285B.455(1).

“State Bonds” shall mean the bonds or other obligations issued by the State of Oregon, acting by and through its State Treasurer, to fund, refund or refinance the Loan.

## SECTION 2

### FINANCIAL AWARD

#### A. Amount of Loan

Subject to the terms and conditions of this Contract and the Loan Agreement, the State agrees to make a loan to Borrower in the principal amount of two hundred sixty-one thousand dollars (\$261,000) (the “Loan”).

B. Amount of Grant

Subject to the terms and conditions of this Contract, the State agrees to provide funds to the Borrower in the amount of two hundred fifty thousand dollars (\$250,000) (the "Grant").

C. Availability of Funds

The amounts set out in Sections 2(A) and (B) above are subject to the availability of moneys in the Special Public Works Fund.

D. Change in the Act

The State shall not be obligated to provide the Loan and/or Grant if, on or prior to the time the Borrower satisfies all conditions for disbursement of the Loan and/or Grant, there has been a change in the Act so that the Project is no longer eligible for the financial assistance authorized by this Contract.

E. Drawdowns

The Borrower must submit drawdown requests for the Loan and/or Grant on a State-approved cash request form.

F. Participation Rate

The Borrower shall finance no more than fifteen percent (15%) of the Costs of the Project from the Grant and Loan ("Participation Rate"), and the Borrower agrees that notwithstanding any other provision of this Contract, the aggregate drawdowns on the Loan and Grant shall not exceed the Participation Rate times the Costs of the Project.

### SECTION 3

#### USE OF AWARD

A. Eligible Activities

The use of the Grant and/or Loan is expressly limited to the Project activities described in Exhibit A of the Loan Agreement. The use of these funds is also expressly subject to the Special Conditions set out in Exhibit 2 attached hereto and by this reference incorporated herein.

B. Ineligible Activities

No part of the Loan or Grant shall be used for:

1. Administrative costs;
2. Costs incurred prior to award of funds to the Borrower except in the case of preliminary and final engineering, surveying, architectural reports and other support activities necessary to the construction of the Project;

3. Assistance to facilities which are or will be privately owned;
4. Purchase of equipment, such as motor vehicles, not directly appurtenant to the Project;
5. Purchase of off-site property for project-related purposes such as wetland mitigation or other uses not directly related to the Project;
6. Operation and maintenance expenses;

C. Unexpended Funds

Any portion of the Grant remaining after this Contract is terminated or ninety (90) days after the Project Completion Date shall be returned to the Special Public Works Fund. Unexpended Loan proceeds shall be applied in accordance with Section 2.06 of the Loan Agreement.

**SECTION 4**

**REPRESENTATIONS OF THE STATE**

The State certifies that at the time this Contract is signed, sufficient funds are available and authorized for this Contract.

**SECTION 5**

**REPRESENTATIONS OF THE BORROWER**

The Borrower represents and warrants to the State that:

A. Costs of the Project

A reasonable estimate of the Costs of the Project is three million, three hundred eighty-two thousand dollars (\$3,382,000).

B. Matching Funds

As of the date hereof, matching funds of \$2,871,000 are available and committed to the Project. Before any disbursement of the Loan or Grant, the Borrower shall demonstrate, to the satisfaction of the State, that it has obtained matching funds in an amount sufficient, when added to the amount of the Loan and Grant, to pay for the Costs of the Project.

C. Binding Obligation

This Contract has been duly authorized, executed and delivered by the Borrower and constitutes the legal, valid and binding obligation of the Borrower, enforceable in accordance with its terms.

D. Job Creation

The Project will create and/or retain zero full-time jobs. The following firms have pledged to (create/retain) jobs in connection with the Project.

Firm	Number of Jobs to be Created/Retained	Number of Family-Wage Jobs
N/A	0	0
The minimum number of jobs that must be created within two (2) years from the date of this Contract to meet program requirements are:	0	0

**SECTION 6**

**COVENANTS OF BORROWER**

The Borrower covenants as follows and understands that the requirements of the covenants may only be waived or amended by a written instrument executed by the State:

A. Compliance with Laws

The Borrower will comply with the requirements of all applicable laws, rules, regulations and orders of any governmental authority that relate to the construction of the Project and the operation of any utility system of which the Project is a component. In particular, but without limitation, the Borrower shall comply with:

1. State procurement regulations found in ORS Chapter 279.
2. State labor standards and wage rates found in ORS Chapter 279.
3. State municipal finance and audit regulations found in ORS Chapter 297.
4. State regulations regarding industrial accident protection found in ORS Chapter 656.
5. State conflict of interest requirements for public contracts.
6. State environmental laws or regulations enacted by agencies listed in Exhibit 3 hereto.
7. Oregon Administrative Rules, chapter 123, Division 43, as amended from time to time at the discretion of the State.
8. State municipal bonding requirements found in the Act and in ORS Chapters 280, 284, 286, 287 and 288.

8



9. Special Public Works Fund/Oregon Bond Bank Applicant's Handbook.

The State's performance under this Contract is conditioned upon the Borrower's compliance with the provisions of ORS 279.312, 279.314, 279.316, 279.320, and 279.555, as amended from time to time, which are incorporated by reference herein.

B. Disbursement of Grant Drawdowns

The amount of time between receipt of Grant funds by the Borrower and disbursement shall be kept as brief as is administratively possible.

C. Drawings

The Borrower shall obtain as-built drawings for all facilities constructed with the proceeds of the Loan and/or Grant. The Borrower shall obtain certification of completion per the as-built drawings from the Project engineer.

D. Operation and Maintenance of the Project

By the Project Completion Date, the Borrower will have a program, documented to the satisfaction of the State, for the on-going maintenance, operation and replacement, at its sole expense, of the public works service system, if any, of which the Project is a part. This program should include a plan for generating revenues sufficient to assure the operation, maintenance and replacement of the facility during the service life of the Project.

E. Signs and Notifications

The Borrower shall display a sign, provided by the State, near the Project construction site stating that the Project is being funded by Lottery proceeds. The Borrower shall include the following statement, prominently placed, on all plans, reports, bid documents and advertisements relating to the Project:

"This Project was funded in part with a financial award from the Special Public Works Fund, funded by the Oregon State Lottery and administered by the State of Oregon, Economic and Community Development Department."

F. Creation of Construction Account

In case of any Loan that is not funded in whole or in part with the proceeds of State Bonds, the Borrower shall establish and maintain a segregated construction account.

The Loan proceeds and Grant amount (as and when the Loan proceeds or Grant amounts are disbursed by the State to the Borrower) and matching funds shall be deposited in this account. Earnings on this account shall be credited to this account. Moneys in this account shall only be used to pay the Costs of the Project.

#### G. Insurance

Except as may be provided in the Special Conditions of Award, in the event the Project, or any portion thereof, is destroyed and the Project is insured, any insurance proceeds shall be paid to the State and shall be applied to the outstanding balance of the Loan in such manner as the State in its sole discretion shall determine unless the State agrees in writing that the insurance proceeds shall be used to rebuild the Project.

#### H. Indemnity

To the extent permitted by Article XI, Section 10 of the Oregon Constitution, the Oregon Tort Claims Act, the Borrower's charter, and relevant Oregon statutes, the Borrower shall indemnify the State and its officers, employees and agents against any liability for damage to life or property arising from the actions of Borrower or its subcontractors, agents or employees.

#### I. Sales, Leases and Encumbrances

Borrower may not sell, lease, exchange, transfer or otherwise dispose of any property constituting a part of the Project or any interest therein unless (1) it is worn out, obsolete or, in the reasonable business judgement of the Borrower, no longer useful in the operation of the Project, and (2) such transaction will not adversely affect the exclusion from gross income for federal income tax purposes of the interest on the note pursuant to Section 103(a) of the Code. Except as may be provided in the Special Conditions of Award, proceeds of such sale, lease, exchange, transfer or other disposition which are not used to replace the property up to the amount of such proceeds times the Participation Rate shall be deposited in the Loan Account and shall be applied to the outstanding balance of the Loan.

#### J. Condemnation Proceeds

Except as may be provided in the Special Conditions of Award, in the event the Project, or any portion thereof is condemned, any condemnation proceeds shall be deposited in the Loan Account and shall be applied to the outstanding balance of the Loan.

#### K. Economic Benefit Reports

The Borrower shall submit reports on the economic development benefits of the Project for the period from the date hereof until two (2) years after the Project Close Out Date at such intervals and in such form as the State shall specify. Reports shall document temporary construction jobs associated with the Project and any new direct permanent or retained jobs resulting from the Project. The reports shall document the general economic benefits of the Project to the community and provide other information necessary to evaluate the success of the Project. The preparation and filing of these reports shall be at the Borrower's expense.

#### L. First Source Hiring Agreement

If this project includes a business, listed in Section 5.D., then prior to disbursement of the Loan or Grant, the business or businesses shall enter into a First Source Hiring Agreement with the appropriate employment agency, and a copy of the fully executed First Source Hiring Agreement must be forwarded to the State.

M. Registered Engineer

A registered professional engineer will be responsible for design and construction of the project. The Borrower will check with the Oregon Board of Engineering Examiners to verify an engineer's registration and complaint history prior to contracting with the engineer.

**SECTION 7**

**DEFAULT**

If any of the following Events of Default occurs and is continuing, namely:

- A. The Borrower fails to proceed expeditiously with, or to complete, the Project or any segment or phase of the Project in accordance with the plans and schedules approved by the State; or
- B. Any representation with respect to current or historical information made to the State herein or in any other pertinent documents, certificates and reports relied upon by the State in gauging the progress of the Project, compliance with the requirements of the Act or compliance with the requirements of Section 103 and Sections 141 through 150 of the Code and performance of duties by the Borrower is untrue in any material respect; or
- C. The Borrower fails to perform or observe any of its covenants or agreements contained herein and fails to correct such deficiencies within thirty (30) days of notice from the State of such deficiencies, or such longer period as the State may authorize in its sole discretion; or
- D. If, within six (6) months from the date of this Contract, the Borrower has not entered into binding legal agreements with all private parties necessary to complete the Project; or
- E. The occurrence of an Event of Default under the Loan Agreement;

thereupon, and in each such case, the State, upon notice to the Borrower, may terminate the whole or any part of this Contract.

**SECTION 8**

**REMEDIES**

Upon the occurrence of an Event of Default under this Contract, the State may pursue any or all of the remedies set forth herein or in the Loan Agreement or Note and any other remedies available at law or in equity. Such remedies may include, but are not limited to, termination of the Contract and/or Loan Agreement, acceleration of the Loan, return of the Grant, payment of amounts earned from the investment of the proceeds of the Loan and the Grant, declaration of the Borrower's ineligibility to receive future lottery funded awards and the withholding pursuant to ORS 285B.449 of other State funds due the Borrower.

**SECTION 9**  
**MISCELLANEOUS**

**A. No Implied Waiver, Cumulative Remedies**

No failure on the part of the State to exercise, and no delay in exercising, any right, power, or privilege under this Contract shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power, or privilege under this Contract preclude any other or further exercise thereof or the exercise of any other such right, power or privilege. The remedies provided herein are cumulative and not exclusive of any remedies provided by law.

**B. Notices**

All notices, requests, demands, and other communications to or upon the parties hereto shall be in writing and shall be deemed to have been duly given or made when deposited in the mails, postage prepaid, addressed to the party to which such notice, request, demand, or other communication is requested or permitted to be given or made at the addresses set forth below or at such other address of which such party shall have notified in writing the other party hereto.

If to the State:	Manager, Northwest Team Economic and Community Development Department 121 SW Salmon, Suite 300 Portland, OR 97204
------------------	--

If to the Borrower:	Chair Tillamook County 201 Laurel Avenue Tillamook, OR 97141
---------------------	---

**C. Amendments**

The terms of this Contract, including timeframes for Project completion, will not be waived, altered, modified, supplemented, or amended in any manner except by written instrument signed by the parties.

**D. Attorney Fees**

The prevailing party in any dispute arising from this Contract shall be entitled to recover from the other its reasonable attorney's fees at trial and on appeal.

**E. Severability**

If any term or condition of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or condition held to be invalid.

F. Merger

This Contract constitutes the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements or representations, oral or written, not specified herein regarding this Contract. The Borrower, by the signature below of its authorized representative, hereby acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be duly executed as of the last date set forth below the signatures of their respective representatives.



**STATE OF OREGON**  
acting by and through its Economic and  
Community Development Department

**TILLAMOOK COUNTY**  
\_\_\_\_\_  
(Borrower)

By: Joan Rutledge  
Joan Rutledge, Manager  
Northwest Team

By: \_\_\_\_\_  
(Signature)

Title: \_\_\_\_\_

Date: 2/8/00

Date: \_\_\_\_\_

**EXAMPLE ONLY-Loan Documents Using \$261,000**  
(Actual Amount to be \$420,000)

---

Loan Agreement

**BETWEEN**

**STATE OF OREGON**

acting by and through its

**ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT**

**AND**

**TILLAMOOK COUNTY**

---

*18.*

**TABLE OF CONTENTS**

Page

**ARTICLE I**

**DEFINITIONS**

<b>SECTION 1.01. Definitions</b> .....	4
<b>SECTION 1.02. General Rules</b> .....	7
<b>SECTION 1.03. Loan Agreement Not Assigned to Trustee</b> .....	7

**ARTICLE II**

**LOAN TO BORROWER**

<b>SECTION 2.01. Loan Amount; Loan Terms; Disbursements; Use of Proceeds</b> .....	7
<b>SECTION 2.02. Loan Payment</b> .....	8
<b>SECTION 2.03. Unconditional Obligations</b> .....	8
<b>SECTION 2.04. Loan Agreement to Survive Bond Indenture and State Bonds</b> .....	9
<b>SECTION 2.05. Loan Prepayments</b> .....	9
<b>SECTION 2.06. Unexpended Loan Proceeds</b> .....	10
<b>SECTION 2.07. Sources of Payment of Borrower's Obligations</b> .....	10
<b>SECTION 2.08. Disclaimer of Warranties; Limitation of Liability; Indemnification</b> .....	11
<b>SECTION 2.09. Maintenance of Records by the State</b> .....	11

**ARTICLE III**

**REPRESENTATIONS, WARRANTIES AND COVENANTS OF BORROWER**

<b>SECTION 3.01. Representations and Warranties of Borrower</b> .....	12
<b>SECTION 3.02. Particular Covenants of the Borrower</b> .....	16

**ARTICLE IV**

**CONDITIONS PRECEDENT**

<b>SECTION 4.01. Loan Closing</b> .....	22
<b>SECTION 4.02. Conditions to Disbursements</b> .....	22

**ARTICLE V**  
**ASSIGNMENT**

**SECTION 5.01.** Assignment and Transfer by the State ..... 23  
**SECTION 5.02.** Assignment by Borrower ..... 24

**ARTICLE VI**  
**DEFAULTS AND REMEDIES**

**SECTION 6.01.** Event of Default ..... 24  
**SECTION 6.02.** Notice of Default ..... 25  
**SECTION 6.03.** Remedies on Default ..... 25  
**SECTION 6.04.** Attorney's Fees and Other Expenses ..... 26  
**SECTION 6.05.** Application of Moneys ..... 26  
**SECTION 6.06.** No Remedy Exclusive; Waiver; Notice ..... 26  
**SECTION 6.07.** Retention of State's Rights ..... 27  
**SECTION 6.08.** Default by the State ..... 27

**ARTICLE VII**  
**MISCELLANEOUS**

**SECTION 7.01.** Notices ..... 27  
**SECTION 7.02.** Binding Effect ..... 28  
**SECTION 7.03.** Severability ..... 28  
**SECTION 7.04.** Amendments, Supplements and Modifications ..... 28  
**SECTION 7.05.** Execution in Counterparts ..... 28  
**SECTION 7.06.** No Construction against Drafter ..... 28  
**SECTION 7.07.** Applicable Law ..... 28  
**SECTION 7.08.** Consents and Approvals ..... 29  
**SECTION 7.09.** Merger; No Waiver ..... 29

**EXHIBITS**

- Exhibit A Project Description
- Exhibit B Project Budget
- Exhibit C Description of the Loan
- Exhibit D Repayment Schedule
- Exhibit E Form of Requisition
- Exhibit F Form of Promissory Note



THIS LOAN AGREEMENT, made and entered into as of the Loan Closing Date (as defined below), by and between the STATE OF OREGON, ACTING BY AND THROUGH ITS ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT (the "State"), and the Borrower (as defined below). Capitalized terms not otherwise defined herein shall have the meanings assigned to them in Section 1.01 hereof.

**WITNESSETH THAT:**

WHEREAS, the State, in accordance with the Act, the Contract and the Bond Indenture, will provide funds in the Special Public Works Fund and/or will issue State Bonds for the purpose of making loans to Municipalities, including the Borrower, to finance a portion of the cost of water projects within the meaning of ORS 285B.410(2); and

WHEREAS, the Borrower has made timely application to the State for a Loan to finance all or a portion of the Costs of the Project, and the State has approved the Borrower's application for an infrastructure Loan in an amount not to exceed the Loan amount set forth in Exhibit C attached hereto and by this reference made a part hereof to finance a portion of the Costs of the Project; and

WHEREAS, the Borrower agrees under this Loan Agreement to make payments sufficient to pay when due the principal of, premium, if any, and interest on the Loan from the State pursuant to the repayment schedule set forth in Exhibit D attached hereto and by this reference made a part hereof; and

WHEREAS, the Borrower's obligations under this Loan Agreement and the other Loan Documents may be assigned to the Trustee under the Bond Indenture, to provide for the payment of and security for State Bonds issued by the State of Oregon;

NOW, THEREFORE, for and in consideration of the award of the Loan by the State, the Borrower agrees to perform its obligation under this Loan Agreement in accordance with the conditions, covenants and procedures set forth herein.

**ARTICLE I**

**DEFINITIONS**

**SECTION 1.01. Definitions.** The following terms as used in this Loan Agreement shall, unless the context clearly requires otherwise, have the meanings assigned to them below:

"Act" means ORS 285B.410 through 285B.482, as amended.

"Authorized Officer" means, in the case of the Borrower, the person whose name is set forth in Exhibit C hereto or such other person or persons authorized pursuant to a resolution or ordinance of the governing body of the Borrower to act as an authorized officer of the Borrower to perform any act or execute any document relating to the Loan or this Loan Agreement and whose name is furnished in writing to the State.

"Bond Closing Date" means the Bond Closing Date set forth in Exhibit C hereto.

“Bond Counsel” means a law firm having knowledge and expertise in the field of municipal law and whose opinions are generally accepted by purchasers of municipal bonds.

“Bond Indenture” means the Indenture of Trust dated as of July 1, 1993, between the State, the Issuer, and the Trustee, pursuant to which the State Bonds are issued, and all amendments and supplements thereto adopted in accordance with the provisions thereof.

“Borrower” means the Municipality that is a party to this Loan Agreement and is described on Exhibit C hereto, and its successors and assigns.

“Business Day” means any day other than (a) a Saturday, Sunday or legal holiday or a day on which banking institutions in Salem, Oregon or in the city in which the principal office of the Trustee is located are closed, or (b) a day on which the New York Stock Exchange is closed.

“Code” means the Internal Revenue Code of 1986, as the same may be amended or supplemented from time to time, including any regulations promulgated thereunder and any administrative or judicial interpretations thereof.

“Completion Date” means the earlier of (a) the date on which all of the proceeds of the Loan, including any investment earnings derived from the investment of such proceeds, have been spent, or (b) the second anniversary of the Loan Closing Date.

“Contract” means the Contract to which this Loan Agreement is attached as Exhibit 1.

“Costs of the Project” means those costs that are (a) reasonable, necessary and directly related to an “infrastructure project” within the meaning of ORS 285B.410(2), including any financing costs properly allocable to the Project and preliminary costs such as engineering and architectural reports, studies, surveys, soil tests, designs, plans, working drawings and specifications that are necessary for the construction of the Project, and (b) permitted by generally accepted accounting principles to be costs of such Project. The term “Costs of the Project” does not include (i) costs in excess of one-hundred percent (100%) of the total cost of the Project, (ii) the purchase of equipment and other property not directly related to the Project, (iii) construction or repair of facilities owned or operated by private parties, (iv) costs incurred prior to the date of the Loan, except as provided in Section 3.02(a), (v) administrative expenses of the Borrower or (vi) costs that do not comply with the requirements of the General Certificate executed by the Borrower in connection with the closing of the Loan.

“Counsel” means an attorney at law or firm of attorneys at law (who may be, without limitation, of counsel to, or an employee of, the State, the Issuer, the Trustee or the Borrower) duly admitted to practice law before the highest court of any state.

“Event of Default” means any occurrence or event specified in Section 6.01 hereof.

“Issuer” means the State of Oregon acting by and through the State Treasurer of the State of Oregon.

“Loan” means the loan made by the State to the Borrower to finance or refinance a portion of the Costs of the Project pursuant to this Loan Agreement. The Loan may be funded by the State from the proceeds of the State Bonds or from other amounts held in the Special Public Works Fund.

“Loan Agreement” means this loan agreement, including any exhibits, schedules or attachments hereto, as it may be supplemented, modified or amended from time to time in accordance with the terms hereof.

“Loan Closing Date” means the date on which the Loan closes, as set forth in Exhibit C hereto.

“Loan Documents” means the Loan Agreement, Note and any agreements, instrument and certificates required to be executed and delivered hereunder.

“Loan Prepayment” means any amount paid by the Borrower that are in excess of the amount required to be paid as a Loan Repayment.

“Loan Repayment” means the scheduled payments of principal and interest required to be made by the Borrower pursuant to Exhibit D hereto.

“Loan Term” means the term of the Loan as set forth in Exhibit D hereto.

“Municipality” means any entity described in ORS 285B.410(1) that has entered into a Contract with the State pursuant to which such entity will borrow money from the Special Public Works Fund.

“Note” means the promissory note of the Borrower substantially in the form of Exhibit F attached hereto and by this reference made a part hereof.

“Optional Loan Prepayment Date” means the Optional Loan Prepayment Date described in Exhibit C hereto.

“Project” means an “infrastructure project”, within the meaning of ORS 285B.410(2), of the Borrower described in Exhibit A attached hereto and by this reference made a part hereof, all or a portion of the of which is financed or refinanced by the State pursuant to this Loan Agreement.

“Project Completion Date” means the earlier of (a) the date on which all of the proceeds of the Loan, including any investment earnings derived from the investment of such proceeds, have been spent; or (b) the date on which the Borrower completes construction of the Project.

“Revenues” means the revenues identified in Exhibit 2 to Borrower’s Contract as a source of repayment for the Loan

“Special Public Works Fund” means the fund created by ORS 285B.455(1).

“State” means the State of Oregon acting by and through its Economic and Community Development Department.

“State Bonds” means the series of bonds, if any, authorized by the Bond Indenture and the Act, together with any refunding bonds authenticated and delivered pursuant to the Bond Indenture, in each case to finance or refinance the Project through the initial funding or refinancing of all or a portion of the Loan.

“System” means the utility system or systems, if any, of the Borrower which includes the Project or components of the Project, as such system or systems may be modified or expanded from time to time. References in this Loan Agreement to the Borrower’s “System” shall be ignored to the extent that the Project is not a component of a utility system or systems.

“Trustee” means the Trustee pursuant to the Bond Indenture, or its successor or successors, and any other corporation which may at any time be substituted in its place as Trustee pursuant to the Bond Indenture.

“Underwriter” means the broker, dealer or municipal securities dealer acting as an underwriter in the primary offering of the State Bonds.

**SECTION 1.02. General Rules.** Except where the context otherwise requires, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations, corporations, partnerships, agencies and districts. Words importing one gender shall include any other gender.

**SECTION 1.03. Loan Agreement Not Assigned to Trustee.** DURING ANY PERIOD OF TIME IN WHICH THIS LOAN AGREEMENT HAS NOT BEEN ASSIGNED TO THE TRUSTEE, ALL REFERENCES IN THIS LOAN AGREEMENT TO “TRUSTEE,” “BOND INDENTURE,” “STATE BONDS,” “UNDERWRITER” AND “ISSUER” AND THE PROVISIONS OF THIS LOAN AGREEMENT PERTAINING THERETO SHALL BE VOID AND OF NO FORCE OR EFFECT EXCEPT FOR PURPOSES OF DETERMINING THE APPLICABLE REQUIREMENTS OF THE BOND INDENTURE OR DETERMINING ANY REQUIREMENTS OF THIS LOAN AGREEMENT THAT REFER TO PROVISIONS OF THE BOND INDENTURE.

## ARTICLE II

### LOAN TO BORROWER

**SECTION 2.01. Loan Amount; Loan Terms; Disbursements; Use of Proceeds.**

(a) Loan Amount. Subject to the terms and conditions hereof, in particular Section 4.01 and 4.02 hereof, the State hereby agrees to loan and disburse to the Borrower, and the Borrower agrees to borrow and accept from the State, the Loan which in the aggregate shall not exceed the lesser of (i) the maximum principal amount of the Loan set forth in Exhibit C hereof together with all earnings derived by the State from the investment of the proceeds of the Loan held in the Special Public Works Fund and (ii) the Costs of the Project.

(b) Loan Terms. The terms of the Loan are set forth in Exhibit F hereto.

(c) Disbursements. Subject to Section 4.02 hereof, the proceeds of the Loan shall be disbursed to the Borrower upon receipt by the State of a requisition executed by the Borrower in substantially the form attached hereto as Exhibit E which is by this reference incorporated herein.

(d) Use of Proceeds. The Borrower shall use the proceeds of the Loan strictly in accordance with Section 3.02(a) hereof.

**SECTION 2.02. Loan Payment.**

(a) Payment. The Borrower hereby covenants and agrees to repay the Loan in accordance with the terms hereof and of the Note.

(b) Payments if Assignment. In the event that the Borrower receives written notification from the State, the Issuer or the Trustee that payments made pursuant to this Loan Agreement and Note have been assigned by the State to the Trustee under the Bond Indenture, all payments pursuant to this Loan Agreement and the Note shall be made directly to the Trustee for the account of the State pursuant to such assignment. The Borrower acknowledges that payment or defeasance of the State Bonds by the State or the Issuer does not constitute payment of the amounts due under this Loan Agreement or the Note.

**SECTION 2.03. Unconditional Obligations.**

Loan Repayments and all other payments required under the Loan Documents are payable solely from the sources of repayment described in Section 2.07 hereof, and the obligation of the Borrower to make the Loan Repayments and all other payments required under the Loan Documents and the obligation to perform and observe the other duties, covenants, obligations and agreements on its part to be performed or observed contained therein shall be absolute and unconditional. Payments hereunder and under any of the other Loan Documents shall not be abated, rebated, set-off, reduced, abrogated, terminated, waived, diminished, postponed or otherwise modified in any manner or to any extent whatsoever, or any payments under this Loan Agreement or Note remain unpaid, regardless of any contingency, act of God, event or cause whatsoever, including (without limitation) any acts or circumstances that may constitute failure of considerations, eviction or constructive eviction, the taking by eminent domain or destruction of or damage to the Project or the System, commercial frustration of the purpose, any change in the laws of the United States of America or of the State of Oregon or any political subdivision of either or in the rules or regulations of any governmental authority, any failure of the State, the Issuer or the Trustee to perform and observe any agreement, whether express or implied, or any duty, liability, or obligation arising out of or connected with the Project, this Loan Agreement or the Bond Indenture or any rights of set off, recoupment, abatement or counterclaim that the Borrower might otherwise have against the State, the Issuer, the Trustee or any other party or parties; provided, however, that payments hereunder shall not constitute a waiver of any such rights. The Borrower shall not be obligated to make any payments required to be made by any other Municipality under any separate loan agreement or the Bond Indenture.

**SECTION 2.04. Loan Agreement to Survive Bond Indenture and State Bonds.**

The Borrower acknowledges that its duties, covenants, obligations and agreements hereunder shall survive the discharge of the Bond Indenture applicable to the State Bonds and payment of the principal of, redemption premium, if any, and interest on the State Bonds.

**SECTION 2.05. Loan Prepayments.**

(a) Mandatory Prepayment. The Borrower shall prepay the outstanding balance of the Loan upon the destruction of all or a substantial portion of the Project.

(b) Optional Prepayment on or after the Optional Loan Prepayment Date. Subject to the following terms and conditions, the Borrower may make Loan Prepayments upon not less than ninety (90) days prior written notice to the State and the Trustee; provided, however, that

(i) no Loan Prepayment shall be made prior to the Optional Loan Prepayment Date or, if later, the date on which the State Bonds are first subject to optional redemption;

(ii) each Loan Prepayment shall include (A) payment of the accrued interest on the amount prepaid and (B) the prepayment premium, if any, applicable to such Loan Prepayment as determined in accordance with Exhibit C hereof, and (C) the payment of any expenses of the Trustee, Counsel to the State or Bond Counsel associated with such prepayment; and

(iii) No Loan Prepayment shall be made without the prior written approval of the State.

(c) Optional Prepayment prior to the Optional Loan Prepayment Date. Loan Prepayments may be made prior to the Optional Loan Prepayment Date if (i) the Borrower obtains the prior written approval of the State, (ii) an opinion is obtained from the State's Bond Counsel to the effect that such a Loan Prepayment will not adversely affect the exclusion from gross income for federal and state income tax purposes of the interest on the State Bonds and the Loan, (iii) an escrow fund is established with the State or with an escrow agent acceptable to the State, and a deposit shall have been made to such escrow fund of cash and/or United States Treasury obligations which are not subject to redemption or prepayment and maturing as to principal and interest in such amounts and at such times as will, in the opinion of an independent certified public accountant delivered to the State, provide sufficient moneys, without reinvestment of any matured amounts, to make all payments of principal and interest on the Loan or portion to the Loan to be prepaid to and including the Optional Loan Prepayment Date together with any applicable prepayment premium, and (iv) the investment of amounts held in the escrow fund satisfies the requirements of Section 148 of the Code.

(d) General. Loan Prepayments shall be applied first to any expenses of the Trustee, then to accrued interest on the portion of the Loan prepaid, and finally to principal payment(s) on the Loan (including premium, if any). In the case of a Loan Prepayment that does not prepay all of the principal of the Loan, the State shall determine, in its sole discretion, the method by which such Loan Prepayment shall be applied to the outstanding principal payments. In the case of any Loan Prepayment prior to the Optional Loan Prepayment Date, Loan Prepayments shall be applied to the expenses of establishing an escrow fund and paying any expenses of the Counsel to the State, Bond Counsel and any independent certified public accountant required in connection with the actions required pursuant to paragraph (c) above, before such Loan Prepayments are applied to the payment of interest, principal or any redemption premium on the Loan.

**SECTION 2.06. Unexpended Loan Proceeds.**

Any proceeds of the Loan held by the State on the Project Completion Date shall be applied, together with any interest earnings thereon, on the Optional Loan Prepayment Date specified in Exhibit C hereof:

first to pay any arbitrage rebate due with respect to the Loan pursuant to Section 148(f) of the Code, secondly to pay unpaid interest accrued to the Optional Loan Prepayment Date,

second to pay unpaid interest accrued to the Optional Loan Prepayment Date, and

third to prepay principal on the Loan and any prepayment premium specified on Exhibit C hereof associated with such prepayment.

The State shall determine, in its sole discretion, the method by which any payments on the Loan pursuant to this Section 2.06 shall be applied to the outstanding balance of the Loan. If any proceeds of the of the Loan remain after the payment of the entire outstanding principal balance of the Loan, such amounts shall be the property of the State, and the Borrower shall have no claim to such amounts.

**SECTION 2.07. Sources of Payment of Borrower's Obligations.**

(a) The State and the Borrower agree that the amounts payable by the Borrower under this Loan Agreement and any of the other Loan Documents, including, without limitation, the amounts payable by the Borrower pursuant to Sections 2.02, 2.05, 2.08 and 6.04 hereof, are payable from the sources of repayment described in paragraph (b) of this Section 2.07; provided however that nothing herein shall be deemed to prevent the Borrower from paying the amounts payable under this Loan Agreement and the other Loan Documents from any other legally available source.

(b) The amounts payable by the Borrower under this Loan Agreement and the other Loan Documents are payable from the Revenues, the Borrower's general fund and other sources identified on Exhibit 2 to the Borrower's Contract.

(c) The Borrower expressly acknowledges that if the Borrower defaults on payments due under this Loan Agreement or any of the other Loan Documents, the State of Oregon, pursuant to ORS 285B.449, may withhold all or a portion of any amounts otherwise due to the Borrower and apply said amounts to payments due under this Loan Agreement and the other Loan Documents to the fullest extent permitted by law; provided however that the provisions of the Loan Agreement and the Note are not to be construed in a way that would cause the obligations of the Borrower thereunder to constitute debt which violates Section 10, Article XI of the Oregon Constitution.

**SECTION 2.08. Disclaimer of Warranties; Limitation of Liability; Indemnification.**

The Borrower acknowledges and agrees that:

(a) neither the Issuer, the State nor the Trustee makes any 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 System or the Project or any portions thereof or any other warranty or representation with respect thereto;

(b) in no event shall the State, the Issuer or the Trustee or their respective agents be liable or responsible for any direct, indirect, incidental, special or consequential damages in connection with or arising out of this Loan Agreement, any of the other Loan Documents or the Project or the existence, furnishing, functioning or use of the System or the Project or any item or products or services provided for in this Loan Agreement; and

(c) to the extent authorized by law, the Borrower shall indemnify, save and hold harmless the Issuer and the State against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the Borrower, or its employees, agents or subcontractors pursuant to the terms of this Loan Agreement or any of the other Loan Documents, provided, however, that the provisions of this paragraph (c) are not intended to and shall not be construed as a waiver of any defense or limitation on damages provided for under and pursuant to Chapter 30 of the Oregon Revised Statutes or under the laws of the United States or other laws of the State of Oregon.

**SECTION 2.09. Maintenance of Records by the State.**

The State shall maintain records of all amounts held in the account within the Special Public Works Fund allocable to the Loan. All earnings derived from the investment of such amounts shall be retained in and credited to such account and shall be available for disbursement to the Borrower pursuant to Section 2.01 hereof. The State shall provide the Borrower a copy of records relating to such account at least twice each year so long as the State is making disbursements from such account.



**ARTICLE III**  
**REPRESENTATIONS, WARRANTIES AND COVENANTS OF BORROWER**

**SECTION 3.01. Representations and Warranties of Borrower.**

The Borrower represents and warrants for the benefit of the State and the holders of the State Bonds, if any, as follows:

(a) Organization and Authority.

(i) The Borrower is a Municipality as defined in the Act.

(ii) The Borrower has full legal right and authority and all necessary licenses and permits required as of the date hereof to own, operate and maintain the Project and its System, other than licenses and permits relating to the Project which the Borrower expects to receive in the ordinary course of business, to carry on its activities relating thereto, to execute and deliver this Loan Agreement, to undertake and complete the Project, and to carry out and consummate all transactions contemplated by this Loan Agreement and the other Loan Documents.

(iii) The Project is a project which the Borrower may undertake pursuant to Oregon law and for which the Borrower is authorized by law to borrow money.

(iv) The proceedings of the Borrower's governing members and voters, if necessary, approving this Loan Agreement and the other Loan Documents and authorizing the execution and delivery of this Loan Agreement and other Loan Documents on behalf of the Borrower, and authorizing the Borrower to undertake and complete the Project have been duly and lawfully adopted in accordance with the laws of Oregon, and the actions of such proceedings were duly approved and published, if necessary, in accordance with applicable Oregon law, at a meeting or meetings which were duly called pursuant to necessary public notice and held in accordance with applicable Oregon law, and at which quorums were present and acting throughout.

(v) This Loan Agreement and all other Loan Documents required hereunder to be executed by Borrower have been duly authorized and executed and delivered by an Authorized Officer of the Borrower; and, assuming that the State has all the requisite power and authority to authorize, execute and deliver, and has duly authorized, executed and delivered, this Loan Agreement and the Loan Documents required hereunder to be executed by the State, this Loan Agreement and other Loan Documents required hereunder to be executed by the Borrower constitute the legal, valid and binding obligation of the Borrower in accordance with their terms, and the information contained in Exhibits A and B hereto and in Sections 3, 4, 9 and 11 of Exhibit C hereto is true and accurate in all respects.

(vi) Borrower's Contract and the Loan Agreement have been authorized by an ordinance or resolution of the Borrower which was adopted in accordance with ORS 285B.443(3) after proper publication at least fourteen (14) days prior notice published at least once in a newspaper of general circulation within the Borrower's jurisdiction and was adopted in accordance with applicable law and the Borrower's requirements for filing public notices and holding public meetings.

(b) Full Disclosure.

There is no fact that the Borrower has not disclosed to the State in writing on the Borrower's application for the Loan or otherwise that materially adversely affects the properties, activities, prospects or condition (financial or otherwise) of the Borrower, the Project or the Borrower's System, or the ability of the Borrower to make all Loan Repayments and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement and the other Loan Documents. Neither the Borrower's application for the Loan or the Borrower's representations in this Loan Agreement or any of the other Loan Documents contain any untrue statement of a material fact or omits any statement or information which is necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

(c) Pending Litigation.

There are no proceedings pending, or, to the knowledge of the Borrower threatened, against or affecting the Borrower, in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would materially adversely affect the Project, properties, activities, prospects or condition (financial or otherwise) of the Borrower or its System, or the ability of the Borrower to make all Loan Repayments and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement and the other Loan Documents, that have not been disclosed in writing to the State in the Borrower's application for the Loan or otherwise.

(d) Compliance with Existing Agreements, Etc.

The authorization, execution and delivery of this Loan Agreement and the other Loan Documents by the Borrower, the observation and performance by the Borrower of its duties, covenants, obligations and agreements thereunder and the consummation of the transactions provided for in this Loan Agreement and the other Loan Documents, the compliance by the Borrower with the provisions of this Loan Agreement and the other Loan Documents and the undertaking and completion of the Project will not result in any breach of any of the terms, conditions or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or asset of the Borrower pursuant to, any existing ordinance or resolution, trust agreement, indenture, mortgage, deed of trust, loan agreement or other instrument (other than any lien and charge of this Loan Agreement or any of the documents related hereto or to the Bond Indenture) to which the Borrower is a party or by which the Borrower, its System or any of its property or assets may be bound, nor will such action result in any violation of the provisions of the charter or other document pursuant to which the Borrower was established or any laws, ordinances, resolutions, governmental rules, regulations or court orders to which the Borrower, its System or its properties or operations is subject.

(e) No Defaults.

No event has occurred and no condition exists that, upon authorization, execution and delivery of this Loan Agreement or any of the Loan Documents or receipt of the amount of the Loan, would constitute an Event of Default hereunder. The Borrower is not in violation of, and has not received notice of any claimed violation of, any term of any agreement or other instrument to which it is a party or by which it, its System or its property may be bound, which violation would materially adversely affect the Project, properties, activities, prospects or condition (financial or otherwise) of the Borrower or its System or the ability of the Borrower to make all Loan Repayments or otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement and the other Loan Documents.

(f) Governmental Consent.

The Borrower has obtained or will obtain all permits and approvals required to date by any governmental body or officer for the making, observance and performance by the Borrower of its duties, covenants, obligations and agreements under this Loan Agreement and the other Loan Documents or for the undertaking or completion of the Project and the financing or refinancing thereof; and the Borrower has complied or will comply with all applicable provisions of law requiring any notification, declaration, filing or registration with any governmental body or officer in connection with the making, observance and performance by the Borrower of its duties, covenants, obligations and agreements under this Loan Agreement and the other Loan Documents or with the undertaking or completion of the Project and the financing or refinancing thereof. No consent, approval or authorization of, or filing, registration or qualification with, any governmental body or officer that has not been obtained is required on the part of the Borrower as a condition to the authorization, execution and delivery of this Loan Agreement or any other Loan Document.

(g) Compliance with Law.

The Borrower

(i) is in compliance with all laws, ordinances, and governmental rules and regulations to which it is subject, the failure to comply with which would materially adversely affect the ability of the Borrower to conduct its activities or undertake or complete the Project or the condition (financial or otherwise) of the Borrower or its System; and

(ii) has obtained or will obtain all licenses, permits, franchises or other governmental authorizations presently necessary for the ownership of its property or for the conduct of its activities which, if not obtained, would materially adversely affect the ability of the Borrower to conduct its activities or undertake or complete the Project or the condition (financial or otherwise) of the Borrower or its System.

The State's performance under this Loan Agreement is conditioned upon the Borrower's compliance with the provisions of ORS 279.312, 279.314, 279.316, 279.320, and 279.555, which are incorporated by reference herein.

(h) The Project.

(i) The Project is feasible, and there will be adequate funds available to complete the Project and repay the Loan.

(ii) The Borrower has been provided with a copy of the rules adopted by the State under ORS 285B.419(1), and the Project is in compliance with such rules.

(iii) The term of the Loan is not in excess of the useful life of the Project.

(iv) The Borrower has provided, as part of the security for repayment of the Loan, provisions for payments from any owners of property specially benefitted by the Project which are sufficient when considered with other security to assure repayment of the Loan.

(v) The Project is situated in an area in which economic development is prevented or substantially restricted by a lack of adequate sewage treatment works, solid waste disposal sites, water supply works, roads, public transportation or other facilities that comprise the physical foundation for industrial and commercial activity.

(vi) The Project is situated in a city or county with a comprehensive land use plan that allows industrial and commercial development of a type and scale that is sufficient to produce revenues to repay the costs of the Project.

(vii) A high probability exists for industrial or commercial development, or both, of the properties served by the Project.

(viii) To the extent shown in the Special Conditions of Award, the Borrower has provided as part of the security for repayment of the Loan, provisions for payments from any owners of property specially benefitted by the Project which are sufficient when considered with other security to assure repayment of the Loan and the portion of any State Bonds that fund or refinance the Loan.

(i) Costs of the Project.

The Borrower certifies that the Costs of the Project, as listed in Exhibits B and C hereto, (i) are a reasonable and accurate estimation and based upon an engineer's feasibility report and engineer's estimate stamped by a registered professional engineer, a copy of which shall be promptly provided to the State upon request, (ii) exceeds the maximum principal amount of the Loan shown on Exhibit C, and (iii) are not less than the sum of the proceeds of the Loan and the investment earnings projected to be derived from the investment of such proceeds.

(j) Continuing Representations.

The representations of the Borrower contained herein shall be true at the time of the Loan Closing Date and at all times during the term of this Loan Agreement.

**SECTION 3.02. Particular Covenants of the Borrower.**

(a) Use of Proceeds.

The Borrower will apply the proceeds of the Loan (i) to finance all or a portion of the Costs of the Project; and (ii) where applicable and with prior written approval of the State, to reimburse the Borrower for a portion of the Costs of the Project, which portion was paid or incurred in anticipation of reimbursement by the State; provided however that all such reimbursements shall satisfy the requirements of Section 1.150-2 of the Code. None of the proceeds of the Loan shall be used for ineligible activities as specified in Section 3.B. of the Contract.

(b) Source of Repayment.

The Loan shall be paid from such sources of repayment described in Section 2.07 of this Loan Agreement and in Exhibit 2 to the Contract. Funds from such sources shall be applied to the punctual payment of the principal of and the interest on the Loan and all other amounts due under this Loan Agreement and the other Loan Documents according to their respective terms.

(c) Performance Under Loan Documents.

The Borrower covenants and agrees (i) to maintain the Project and its System in good repair and operating condition; (ii) to cooperate with the State in the observance and performance of the respective duties, covenants, obligations and agreements of the Borrower and the State under this Loan Agreement and the other Loan Documents; and (iii) to comply with the covenants described in this Loan Agreement and the other Loan Documents.

(d) Completion of Project and Provision of Moneys Therefor.

The Borrower covenants and agrees to provide the State with copies of all plans and specifications relating to the Project for review and approval by the State, but in any event no later than ten days prior to the date on which bids are advertised. The Borrower shall obtain as-built drawings for all facilities of the Project and obtain certification of completion per as-built drawings from the Project engineer within ninety (90) days of the Project Completion Date. The Borrower shall supply a copy of such drawings and certification to the State upon request. The Borrower further covenants and agrees (i) to exercise its best efforts in accordance with prudent practice to complete the Project and to so accomplish such completion on or before the estimated Project Completion Date set forth in Exhibit C; (ii) to proceed expeditiously with, and complete, the Project in accordance with plans reviewed and approved by the State and (iii) to provide from its own fiscal resources all moneys, in excess of the total amount of Loan proceeds it receives pursuant to this Loan Agreement, required to complete the Project. For purposes of (ii) of the preceding sentence, if the State does not review the plans and specifications or suggests modifications thereto within thirty (30) days of the receipt by the State of the plans and specifications, they shall be deemed approved. The Borrower shall have a program, documented to the satisfaction of the State, for the on-going maintenance, operation and replacement, at its sole expense, of the Project. The program shall include a plan for generating revenues sufficient to assure the operation, maintenance and replacement of the Project during the useful life of the Project. Borrower shall provide such documentation to the State on or before the Project Completion Date.

(e) Disposition of Project or System.

Unless worn out, obsolete, or in the reasonable business judgement of the Borrower, no longer useful in the operation of the Project, the Borrower shall not sell, lease, exchange, abandon or otherwise dispose of all or substantially all or any substantial portion of the Project or its System or any other system which provides revenues for payment of amounts due under this Loan Agreement and the Loan Documents, except (i) if the State consents thereto in writing upon ninety (90) days' prior written notice to the State and (ii) either:

(i) The Borrower assigns this Loan Agreement and the other Loan Documents pursuant to Section 5.02 hereof,

(ii) The Borrower demonstrates to the satisfaction of the Trustee that such sale, lease, abandonment or other disposition will not adversely affect the rating of the State Bonds,

(iii) A rating of the Loan is obtained which (a) addresses such sale, lease, exchange, abandonment or other disposition, (b) is no lower than the rating of the State Bonds and (c) shall be in one of the three highest rating categories (without regard to any refinement or gradation of rating category by numerical modifier or otherwise) by Moody's Investors Service or Fitch Investors Service, Inc., or

(iv) The State certifies to the Borrower that this Loan Agreement has not been assigned to the Trustee and provides a copy of such certification to the Trustee. The State shall not consent to any such sale, lease, exchange, abandonment or other disposition unless the State shall have received an opinion of Bond Counsel to the effect that such sale, lease, exchange, abandonment or other disposition complies with the Act and will not adversely affect the exclusion of interest on the Loan and on the State Bonds from gross income for purposes of federal income taxation under Section 103(a) of the Code. Proceeds of any such transfer not used to replace property that is part of the Project shall be applied to the payment of the outstanding principal of and interest in the Loan as a Loan Prepayment subject to a prepayment premium, if any, as provided in Section 2.05 of this Agreement.

(f) Exclusion of Interest from Federal Gross Income and Compliance with Code.

(i) The Borrower covenants and agrees that it shall not take any action or omit to take any action which action or omission would result in the loss of the exclusion of the interest on the Loan from gross income for purposes of federal income taxation as that status is governed by Section 103(a) of the Code.

(ii) The Borrower shall not take any action or omit to take any action, which action or omission would cause the Loan to be "private activity bonds" within the meaning of Section 141(a) of the Code. Accordingly, unless the Borrower receives the prior written approval of the State, the Borrower shall neither (A) permit in excess of 10 percent of either (1) the proceeds of the Loan or (2) the Project financed or refinanced with the proceeds of the Loan, to be used directly or indirectly in any manner that would constitute "private business use" within the meaning of Section 141(b)(6) of the Code, nor (B) use directly or indirectly any of the proceeds of the Loan, to make or finance loans to persons other than governmental units as such term is used in Section 141(c) of the Code; provided further, that at least one half of the private business use permitted by clause (A) shall be neither disproportionate related business use, nor private business use not related to the government use of such proceeds of the Loan.

(iii) The Borrower shall not directly or indirectly use or permit the use of any of the "gross proceeds" (within the meaning of Section 148 of the Code) of the Loan or any other funds or take any action or omit to take any action, which use or action or omission would cause the Loan to be an "arbitrage bond" within the meaning of Section 148(a) of the Code.

(iv) The Borrower shall not use directly or indirectly the proceeds of the Loan in any manner that would constitute an "advance refunding" within the meaning of Section 149(d)(5) of the Code and shall not prepay the Loan or any part of the Loan without the prior written approval of the State and as provided in this Loan Agreement.

(v) The Borrower will not cause the Loan to be treated as a "federally guaranteed" obligation for purposes of Section 149(b) of the Code, as may be modified in any applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service with respect to "federally guaranteed" obligations described in Section 149(b) of the Code. For purposes of this paragraph, the Loan shall be treated as "federally guaranteed" if: (A) all or any portion of the principal or interest is or will be guaranteed directly or indirectly by the United States of America or any agency or instrumentality thereof, or (B) five percent (5%) or more of the proceeds of the Loan will be (1) used in making loans, the payment of principal or interest with respect to which is guaranteed in whole or in part by the United States of America or any agency or instrumentality thereof, or (2) invested directly or indirectly in federally insured deposits or accounts, and (C) none of the exceptions described in Section 149(b)(3) of the Code apply.

(vi) The Borrower agrees to assist the State, the Issuer and the Trustee to ensure that all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code are rebated to the United States of America. The Borrower agrees to provide all amounts necessary to satisfy the requirements of Section 148(f) applicable to the Loan and, to pay to the State, the Issuer, or the Trustee such amounts as may be directed by the State, the Issuer, or the Trustee and at such times as the Borrower may be so directed to satisfy the requirements of Section 148(f) of the Code applicable to the portion of the proceeds of any State Bonds, including any proceeds or other amounts held in a reserve fund, applied to fund or refinance the Loan. The Borrower further agrees to reimburse the State, the Issuer or the Trustee for the portion of any expenses incurred by them that relate to the Loan and are necessary to satisfy the requirements of Section 148(f) of the Code.

(vii) In furtherance of the foregoing, the Borrower covenants that it will comply with the provisions of this Loan Agreement and with the provisions of any certificate executed by the Borrower relating to compliance with the provisions of Sections 103 and 141 through 150 of the Code executed by the Borrower, the State or the Issuer with respect to the Loan and will furnish to the State, the Issuer, or the Trustee in writing, upon reasonable request, information regarding investments and use of proceeds of the Loan and of any facilities financed or refinanced therewith.

(viii) The Borrower shall not enter into any management agreement for the operation of the Project that would cause the Loan to be or become a "private activity bond" within the meaning of Section 141(a) of the Code.

(ix) Notwithstanding anything to the contrary, so long as is necessary to maintain the exclusion from gross income for purposes of federal income taxation of interest on the Loan, the covenants contained in this subsection (f) shall survive the payment of the Loan and the State Bonds, and the interest thereon, including any payment pursuant to Section 2.05 of this Loan Agreement. The Borrower acknowledges that the Loan may be funded in whole or in part with the proceeds of the State Bonds and that failure to comply with the requirements of this subsection (f) could adversely affect any exclusion of the interest on the State Bonds from gross income for federal income tax purposes.

(x) Neither the Borrower nor any related party to the Borrower, within the meaning of Section 1.150-1(b) of the federal income tax regulations shall, purchase State Bonds in an amount related to the amount of the Loan.

(g) Operation and Maintenance of System.

The Borrower covenants and agrees that it shall, in accordance with prudent utility practice, (i) at all times operate the properties of its System and any business in connection therewith in an efficient manner, (ii) maintain its System in good repair, working order and operating condition, (iii) from time to time make all necessary and proper repairs, renewals, replacements, additions, betterments and improvements with respect to its System so that at all times the business carried on in connection therewith shall be properly and advantageously conducted and (iv) not provide free service to any customer served by the System except in an emergency; provided, however, this covenant shall not be construed as requiring the Borrower to expend any funds which are derived from sources other than the operation of its System or other receipts of such System which are not sources of repayment under Section 2.07(a), and provided further that nothing herein shall be construed as preventing the Borrower from doing so.

(h) Records; Accounts.

The Borrower shall keep accurate records and accounts for the revenues and funds that are the source of repayment of the Loan, including but not limited to the Revenues (the "Repayment Revenue Records"), separate and distinct from its other records and accounts (the "General Records"). Such Repayment Revenue Records shall be maintained in accordance with generally accepted accounting principles as established by the Government Accounting Standards Board as in effect from time to time and shall be audited annually by an independent accountant, which audit may be part of the annual audit of the General Records of the Borrower. Such Repayment Revenue Records and General Records shall be made available for inspection by the State, the Issuer or the Trustee at any reasonable time, and a copy of such annual audit(s) therefor, including all written comments and recommendations of such accountant, shall be furnished to the State within 210 days of the close of the fiscal year being so audited.



(i) Inspections; Information.

The Borrower shall permit the State and the Trustee and any party designated by any of such parties to examine, visit and inspect, at any and all reasonable time, the property, if any, constituting the Project, and to inspect and make copies of any accounts, books and records, including, without limitation, its records regarding receipts, disbursements, contracts, investments and any other matters relating thereto and to its financial standing, and shall supply such reports and information as the State and the Trustee may reasonably require in connection therewith. In addition, the Borrower shall provide the State with copies of loan documents or other financing documents and any official statements or other forms of offering prospectus relating to any other bonds, notes or other indebtedness of the Borrower that are issued after the Loan Closing Date and are secured by the Revenues.

(j) Insurance.

The Borrower shall maintain or cause to be maintained insurance policies with responsible insurers or self insurance programs providing against risk of direct physical loss, damage or destruction of its System, at least to the extent that similar insurance is usually carried by governmental units constructing, operating and maintaining system facilities of the nature of the Borrower's System, including liability coverage, all to the extent available at reasonable cost. Nothing herein shall be deemed to preclude the Borrower from exerting against any party, other than the State, a defense which may be available to the Borrower, including without limitation a defense of immunity. In the event the Project or any portion thereof is destroyed, any insurance proceeds shall be paid to the State and shall be applied to the principal of and interest on the Loan, unless the State agrees in writing that the insurance proceeds shall be used to rebuild the Project. Any application of insurance proceeds to prepay the outstanding principal of the Loan shall not be subject to the prepayment premium, if any, as provided in Section 2.05(b).

(k) Condemnation.

In the event the Project or any portion thereof is condemned, any condemnation proceeds shall be used to prepay the outstanding balance on the Loan and shall not be subject to the prepayment premium, if any, as provided in Section 2.05(b).

(l) Notice of Material Adverse Change.

The Borrower shall promptly notify the State and the Trustee of any material adverse change in the activities, prospects or condition (financial or otherwise) of the Borrower, the Project, or the Borrower's System, or in the ability of the Borrower to make all Loan Repayments and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement and the other Loan Documents.

(m) Continuing Disclosure Requirements.

The Borrower shall provide the State with any information needed to comply with paragraph (b)(5) of the Securities and Exchange Commission Rule 15c2-12, 17 C.F.R. § 240.15c2-12 (the "SEC Rule"), with respect to State Bonds. In addition, if the Borrower becomes an "obligated person" within the meaning of the SEC Rule or an "Obligated Borrower" (as such term is defined by the State or the State Treasurer of the State of Oregon) for the State Bonds, the Borrower shall, in addition to the requirements of paragraphs (h) and (i) of Section 3.02 of this Loan Agreement, provide the following to the State upon request:

(i) any and all financial information or operating data that may reasonably be requested by the State to comply with the SEC Rule, and

(ii) audited financial statements, when and if prepared and available, prepared in accordance with generally accepted accounting principles as established by the Government Accounting Standards Board as in effect from time to time; provided, however, that if audited financial statements are not available, unaudited financial statements will be provided with audited financial statements to follow when and if available.

(n) Financial Statements; Reports. The Borrower shall deliver to the State in form and detail satisfactory to the State:

(i) As soon as reasonably possible and in any event within ninety (90) days after the close of each fiscal year of the Borrower, unaudited statements of revenues, expenditures, cash flows, and changes in retained earnings for each of the funds constituting the Revenues for such period, all in comparative form and all in reasonable detail and certified by the chief financial officer of the Borrower, subject to year-end audit adjustments.

(ii) Such other statement or statements or reports as to the Borrower as the State may reasonably request.

(o) Contract Covenants.

The Borrower covenants and agrees to comply with the terms of the Contract including the covenants of the Borrower in Section 6 of the Contract.

(p) Further Assurances.

The Borrower shall, at the request of the State, authorize, execute, acknowledge and deliver such further resolutions, conveyances, transfers, assurances, financing statements and other instruments 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 Loan Agreement.

**ARTICLE IV**  
**CONDITIONS PRECEDENT**

**SECTION 4.01. Loan Closing.** The State's obligations hereunder are subject to the condition that on or prior to the Loan Closing Date,

(a) the Borrower will cause to be duly executed and delivered to the State (regardless of whether the Loan Agreement is assigned to the Trustee) the following items, each in form and substance satisfactory to State, its Counsel and Bond Counsel:

- (i) this Loan Agreement duly executed and delivered by an Authorized Officer of the Borrower;
- (ii) the Note duly executed and delivered by an Authorized Officer of the Borrower;
- (iii) the Contract duly executed and delivered by an Authorized Officer of the Borrower;

(iv) copy of the ordinance or resolution of the governing body of the Borrower authorizing the execution and delivery of this Loan Agreement, the other Loan Documents, and the Borrower's Contract, certified by an Authorized Officer of the Borrower;

(v) an opinion of the Borrower's Counsel substantially in the form set forth in Section 6.3 (a) of the Bond Indenture (such opinion or portions of such opinion may be given by one or more Counsel); provided, however, that the State and its Counsel or Bond Counsel may permit variances in the form of such opinion, if such variances are not to the material detriment of the interests of the holders of the State Bonds;

(vi) the documents required by Section 6.3 (a), (c), (d) and (f) (if applicable) of the Bond Indenture (regardless of whether the Loan Agreement is assigned to the Trustee) to the State; and

(vii) such other certificates, documents, opinions and information as the State, the Issuer, the Trustee, the Bond Counsel, or the Underwriter may reasonably require.

(b) there is money available in the Special Public Works Fund for the Project;

provided, however, the State shall be under no obligation to make this Loan if there has been a change in the Act so that the Project is no longer eligible for financial assistance authorized by this Loan Agreement.

**SECTION 4.02. Conditions to Disbursements.** Notwithstanding anything in this Loan Agreement or any of the Loan Documents to the contrary, the State shall have no obligation to make the Loan or any disbursement to the Borrower hereunder if:

(a) an Event of Default has occurred and is continuing under this Loan Agreement or any of the Loan Documents or the Bond Indenture or event, omission or failure of a condition which would constitute an Event of Default as defined in this Loan Agreement or any of the Loan Documents or the Bond Indenture after notice or lapse of time or both;

(b) All representations and warranties of the Borrower made in this Loan Agreement shall be true and correct on the date of disbursement with the same effect as if made on such date;

(c) Receipt by the State of (i) a requisition executed by the Borrower in substantially the form of Exhibit E attached hereto and by this reference made a part hereof and (ii) any other written evidence of materials and labor furnished to or performed upon the Project, itemized receipts or invoices for the payment of the same, and releases, satisfactions and other signed statements and forms as the State may require as a condition for making disbursement of the Loan. The State may, at its option, from time to time, either reimburse the Borrower for construction costs paid or may make direct payment for construction costs to suppliers, subcontractors and others for sums due them in connection with construction of the Project. Nothing herein contained shall require the State to pay any amounts for labor or materials unless satisfied that such claims are reasonable and that such labor and materials were actually expended and used in the construction of the Project. The State, at its option, from time to time, may also require that the Borrower have a contractor or subcontractor execute and/or deliver a surety bond or indemnification in form and substance acceptable to the State for the faithful performance of the construction contract or subcontract and payment of all liens and lienable expenses in connection therewith in a sum equal to the contract or subcontract price. Disbursements for the Costs of the Project shall be subject to a retainage at the rate of five percent (5%) which will be released upon satisfactory completion of the Project.

Further, the State shall have no obligation to make any disbursement to the Borrower if, on or before the time for disbursement, there has been a change in the Act so that the Project is no longer eligible for financial assistance authorized by this Loan Agreement.

## ARTICLE V ASSIGNMENT

### SECTION 5.01. Assignment and Transfer by the State.

(a) The Borrower expressly acknowledges that, other than the right, title and interest of the State under Sections 2.08 and 6.04, all right, title and interest of the State in, to and under this Loan Agreement and the other Loan Documents either has been or may, at the sole discretion of the State, be assigned to the Trustee as security for the State Bonds as provided in the Bond Indenture, and that if any Event of Default shall occur and if this Loan Agreement and other Loan Documents have been assigned to the Trustee, the Trustee, pursuant to the Bond Indenture, shall be entitled to act hereunder in the place and stead of the State. The Borrower hereby consents to assignment of this Loan Agreement and the other Loan Documents to the Trustee for the State Bonds. The State acknowledges that the Borrower is not a party to the Bond Indenture and has no obligation to perform any of the State's covenants, agreements or obligations under the Bond Indenture or the State Bonds, and that the Borrower is only required to observe and perform its covenants, agreements and obligations under this Loan Agreement, the other Loan Documents, and the Contract and, if and when requested by the State, to cooperate with the State in order to enable the State to comply with the State's covenants, agreements or obligations under the Bond Indenture. This Loan Agreement and the other Loan Documents, including, without limitation, the right to receive payments required to be made by the Borrower hereunder and under the other Loan Documents and to compel or otherwise enforce observance and performance by the Borrower of its other duties, covenants, obligations and agreements hereunder and under the other Loan Documents, may be sold by the State to a third party or may be further

transferred, assigned and reassigned in whole or in part to one or more assignees or subassignees by the Trustee at any time without the necessity of obtaining the consent of, but after giving prior written notice to, the Borrower.

In the event of the assignment of this Loan Agreement and the other Loan Documents to the Trustee, the State shall retain the right to compel or otherwise enforce observance and performance by the Borrower of its duties, covenants, obligations and agreements under Sections 3.01(f) and 3.02(d); provided, however, that in no event shall the State have the right to accelerate the outstanding balance payable pursuant to this Loan Agreement in connection with the enforcement of Sections 3.01(f) and 3.02(d).

(b) The Borrower hereby approves and consents to any assignment, sale or transfer of this Loan Agreement and the Loan Documents that the State deems to be necessary, including any assignment, sale or transfer in connection with any refunding of the State Bonds or the issuance of additional bonds under the Bond Indenture or otherwise in connection with any pooled loan program of the State.

**SECTION 5.02. Assignment by Borrower.**

This Loan Agreement and the other Loan Documents may not be assigned by the Borrower without the prior written consent of the State. The State may grant or withhold such consent in its sole discretion. In the event of an assignment of this Loan Agreement and the other Loan Documents by Borrower and assumption of the obligations hereunder, Borrower shall pay, or cause to be paid, to the State any fees or costs incurred by the State as the result of such assignment, including but not limited to, attorney fees of Bond Counsel or in-house Counsel.

**ARTICLE VI**

**DEFAULTS AND REMEDIES**

**SECTION 6.01. Event of Default.**

If any of the following events occurs, it is hereby defined as and declared to be and to constitute an "Event of Default":

(a) Failure by the Borrower to pay, or cause to be paid, on December 1 of any year any Loan Repayment required to be paid hereunder on such due date, except if the Borrower is a county and such failure is the result of nonappropriation of funds; or

(b) Failure by the Borrower to make, or cause to be made, any required payments of principal, redemption premium, if any, and interest on any bonds, notes or other obligations of the Borrower for borrowed money (other than the Loan), after giving effect to the applicable grace period; or

(c) Any representation made by or on behalf of the Borrower contained in this Loan Agreement or any other Loan Document, or in any agreement, instrument, certificate or document furnished in compliance with or with reference to this Loan Agreement, any other Loan Document or the Loan or in connection with the State Bonds, is false or misleading in any material respect; or

(d) A petition is filed by or against the Borrower under any federal or state bankruptcy or insolvency law or other similar law in effect on the date of this Loan Agreement or thereafter enacted, unless in the case of any such petition filed against the Borrower, such petition shall be dismissed within twenty (20) calendar days after such filing, and such dismissal shall be final and not subject to appeal; or the Borrower shall become insolvent or bankrupt or make an assignment for the benefit of its creditors; or a custodian (including, without limitation, a receiver, liquidator or trustee of the Borrower or any of its property) shall be appointed by court order or take possession of the Borrower or its property or assets if such order remains in effect or such possession continues for more than thirty (30) calendar days; or

(e) Failure of the Borrower's governing body to appropriate sufficient funds to fully fund all of the Borrower's obligations to make Loan Repayments hereunder for any future fiscal period, except if the Borrower is a county and such failure is the result of nonappropriation of funds; or

(f) The occurrence of any event of default under Section 7 of the Contract; or

(g) Failure by the Borrower to observe and perform any duty, covenant, obligation or agreement (including that described in subsection (i) below) on its part to be observed or performed under this Loan Agreement or any other Loan Documents, other than as referred to in subsections (a) through (g) of this Section, which failure shall continue for a period of thirty (30) calendar days after written notice, specifying such failure and requesting that it be remedied, is given to the Borrower by the State or the Trustee, unless the State or the Trustee shall agree in writing to an extension of such time prior to its expiration; provided, however, that if the failure stated in such notice is correctable but cannot be corrected within the applicable period, the State or the Trustee may not unreasonably withhold their consent to an extension of such time up to one hundred twenty (120) days from the delivery of the written notice referred to above if corrective action is instituted by the Borrower within the applicable period and diligently pursued until the Event of Default is corrected; or

(h) The Borrower fails to proceed expeditiously with, or to complete, the Project or any segment or phase of the Project in accordance with the plans and schedules approved by the State.

#### **SECTION 6.02. Notice of Default.**

The Borrower shall give the State and the Trustee (if this Loan Agreement and the other Loan Documents have been assigned to the Trustee) prompt telephonic notice of the occurrence of any Event of Default referred to in Section 6.01(d) hereof, and of the occurrence of any other event or condition that constitutes an Event of Default at such time as any senior administrative or financial officer of the Borrower becomes aware of the existence thereof. Any telephone notice pursuant to this Section 6.02 shall be confirmed in writing as soon as practicable by the Borrower.

#### **SECTION 6.03. Remedies on Default.**

Whenever an Event of Default referred to in Section 6.01 hereof shall have occurred and be continuing, the State shall have the right to take, or to direct the Trustee to take, any action permitted or required pursuant to the Loan Agreement or any other Loan Document or the Bond Indenture and to take whatever other action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due hereunder or to enforce the performance and observance of any duty, covenant,

obligation or agreement of the Borrower hereunder, including without limitation, (a) declaring all Loan Repayments and all other amounts due hereunder and under the other Loan Documents (including, but not limited to the state's cost of defeasance of the portion of any State Bonds allocable to the Loan, if all or a portion of the principal of and interest on the Bonds has been accelerated pursuant to the Bond Indenture) to be immediately due and payable, and upon notice to the Borrower the same shall become due and payable without further notice or demand, (b) appointment of a receiver of the System, (c) refusal to disburse any Loan proceeds, (d) barring the Borrower from applying for future Special Public Works Fund assistance, or (e) withholding amounts otherwise due to the Borrower to apply to the payment of amounts due under this Loan Agreement as provided in ORS 285B.599.

**SECTION 6.04. Attorney's Fees and Other Expenses.**

The Borrower shall, on demand, pay to the State, the Issuer or the Trustee the reasonable fees and expenses of attorneys, whether at trial or on appeal, and other reasonable expenses (including without limitation the reasonable allocated costs of the State's Counsel, Bond Counsel or any other Counsel appointed by the State and legal staff) incurred by either of the State, the Issuer or the Trustee in the collection of Loan Repayments or any other sum due hereunder or under any of the Loan Documents in the enforcement of performance or observation of any other duties, covenants, obligations or agreements of the Borrower.

**SECTION 6.05. Application of Moneys.**

Any moneys collected by the State or the Trustee pursuant to Section 6.03 hereof shall be applied (a) first, to pay any attorney's fees, Trustee's fees, or other fees and expenses owed by the Borrower hereunder, (b) second, to pay interest due and payable on the Loan, (c) third, to pay principal due and payable on the Loan, and (d) fourth, to pay any other amounts due and payable under this Loan Agreement or any of the Loan Documents.

**SECTION 6.06. No Remedy Exclusive; Waiver; Notice.**

No remedy herein conferred upon or reserved to the State or the Trustee is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement or any of the Loan Documents or now or hereafter existing at law or in equity. No delay or omission to exercise any right, remedy or power accruing upon any Event of Default shall impair any such right, remedy or power or shall be construed to be a waiver thereof, but any such right, remedy or power may be exercised from time to time and as often as may be deemed expedient. To entitle the State or the Trustee to exercise any remedy reserved to it in this Article VI, it shall not be necessary to give any notice, other than such notice as may be required in this Article VI.

**SECTION 6.07. Retention of State's Rights.**

Notwithstanding any assignment or transfer of this Loan Agreement and the Loan Documents pursuant to the provisions hereof or of the Bond Indenture, or anything else to the contrary contained herein, the State shall have the right upon the occurrence of an Event of Default to take any action, including (without limitation) bringing an action against the Borrower at law or in equity, as the State may, in its discretion, deem necessary to enforce the obligations of the Borrower to the State pursuant to Sections 2.02, 2.08, and 6.04 hereof.

**SECTION 6.08. Default by the State.**

In the event of any default by the State under any covenant, agreement or obligation of this Loan Agreement, the Borrower's remedy for such default shall be limited to injunction, special action, action for specific performance or any other available equitable remedy designed to enforce the performance or observance of any duty, covenant, obligation or agreement of the State hereunder as may be necessary or appropriate. The State shall on demand pay to the Borrower the reasonable fees and expenses of attorneys and other reasonable expenses in the enforcement of such performance or observation.

**ARTICLE VII**

**MISCELLANEOUS**

**SECTION 7.01. Notices.** All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when hand delivered or mailed by registered or certified mail, postage prepaid, to the Borrower at the address specified on Exhibit C hereof and to the State, the Issuer and the Trustee at the following addresses:

(a) State:

Economic and Community Development Department  
Attention: Manager, Northwest Team  
121 SW Salmon, Suite 300  
Portland, OR 97204

(b) Issuer:

State Treasurer  
Attention: Manager, Debt Management Division  
100 Labor & Industries Building  
Salem, OR 97301

(c) Trustee:

BNY Western Trust Company  
Attention: Corporate Trust Department  
Two Union Square  
601 Union Street, Suite 525  
Seattle, WA 98101



Any of the foregoing parties may designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent, by notice in writing given to the others.

**SECTION 7.02. Binding Effect.**

This Loan Agreement shall inure to the benefit of and shall be binding upon the State and the Borrower and their respective successors and assigns. In addition, the Trustee shall be considered as a beneficial party to this Loan Agreement, with all attendant rights to enforce the duties, obligations, covenants and agreements of the Borrower set forth herein, to the same extent as if the Trustee was a party hereto.

**SECTION 7.03. Severability.**

In the event any provision of this Loan Agreement shall be held illegal, invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

**SECTION 7.04. Amendments, Supplements and Modifications.**

This Loan Agreement may not be amended, supplemented or modified without the prior written consent of the State and the Borrower. This Loan Agreement may not be amended, supplemented or modified in a manner that is not in compliance with the Act and the Bond Indenture or so as to adversely affect the interest of the owners of the State Bonds.

**SECTION 7.05. Execution in Counterparts.**

This Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**SECTION 7.06. No Construction against Drafter.** Both parties acknowledge that they are each represented by and have sought the advice of Counsel in connection with this Loan Agreement and the transactions contemplated hereby and have read and understand the terms of this Loan Agreement. The terms of this Loan Agreement shall not be construed against either party as the drafter hereof.

**SECTION 7.07. Applicable Law.**

This Loan Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, including the Act. Any claim, action, suit or proceeding (collectively, "Claim") between the State (and/or any agency or department of the State of Oregon) and the Borrower that arises from or relates to this Loan Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

**SECTION 7.08. Consents and Approvals.**

Whenever the written consent or approval of the State shall be required under the provisions of this Loan Agreement, such consent or approval may only be given by the State unless otherwise provided by law or by rules, regulations or resolutions of the State or unless expressly delegated to the Trustee.

**SECTION 7.09. Merger; No Waiver.** This Loan Agreement and attached exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Loan Agreement. No waiver of any provision of this Loan Agreement or consent shall bind either party unless in writing and signed by both parties and all necessary State approvals have been obtained. Such waiver or consent, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of the State to enforce any provision of this Loan Agreement shall not constitute a waiver by the State of that or any other provision.

IN WITNESS WHEREOF, the State and the Borrower have caused this Loan Agreement to be executed and delivered, effective as of the Loan Closing Date set forth on Exhibit C hereto.



**STATE OF OREGON**

**TILLAMOOK COUNTY**

By: Joan Rutledge  
Joan Rutledge, Manager  
Northwest Team

By: \_\_\_\_\_  
(Signature)

Title: \_\_\_\_\_

Date: 2/8/00

Date: \_\_\_\_\_

## PROJECT DESCRIPTION

### Tillamook County

This project will develop a flood management model for the five rivers that discharge into the Tillamook Bay. The study will identify the feasibility of elements that will be comprehensive in nature, beneficial to wildlife, water quality, and offset the effects of flooding. Funding will provide local cash match to federal resources to complete this project.

The scope of work for this project is to develop a GIS-based hydrodynamic model, conduct a hydrologic analysis, ecosystem restoration alternative analysis, and flood threat recognition system analysis. The goals of this project are to improve water quality, enhance fish habitat, reduce flood damage, and improve economic conditions.

1. **Hydraulic Model Development:** This project will develop a one-dimensional unsteady state hydraulic model of the Wilson, Trask, Tillamook, Kilchis, and Miami Rivers. Each model will be fully developed and shall include cross-sections at approximately every quarter-mile and all floodplain areas subjected up to the 500-year flood level. Models shall be developed such that the county will have the ability to utilize the end product as a planning tool.
2. **Hydrologic Analysis:** Hydrologic analysis will consist of establishing inflow hydrographs for the hydraulic models for ungaged tributaries, establishment and monitoring of flow and water quality gages, river data analysis including flow-frequency, and tidal analysis of Tillamook Bay.
3. **Ecosystem Restoration Alternative Analysis:** The Hydrologic, Coastal and River Engineering Section will provide input to the development and analysis of ecosystem reostration alternatives.
4. **Flood Threat Recognition System Analysis:** Two alternate flood threat recognition systems will be researched for the watersheds leading to the town of Tillamook. The two alternatives shall be least cost versus a more elaborate system. Systems will be designed with the intent of utilizing system gages for multiple benefits including watershed and precipitation analysis.

**SPECIAL PUBLIC WORKS FUND**  
**PROJECT BUDGET**

Recipient: Tillamook County Project No. L00010  
 Project Name: Tillamook Bay Basin Predesign and Engineering Project

Activities	SPWF Grant	SPWF Loan	Tillamook County	US Army Corps of Engineers	Oregon Emergency Board *	Total
1. Water System Improvements a. b.						
2. Sanitary Sewer Improvements a. b.						
3. Storm Sewer Improvements a. b.						
4. Road and Bridge Improvements a. b.						
5. Public Transportation & Railroad Facility a. b.						
6. Contractual Services a. b.						
7. a. Engineering/Architectural b. Administration c. Contingencies	XXXXXX	XXXXXX				
8. Other a. Predesign and Modeling b. c.	\$ 250,000	\$ 261,000	\$ 852,000	\$ 1,690,000	\$ 329,000	\$ 3,382,000
<b>9. Total all Expenses</b>	<b>\$ 250,000</b>	<b>\$ 261,000</b>	<b>\$ 852,000</b>	<b>\$ 1,690,000</b>	<b>\$ 329,000</b>	<b>\$ 3,382,000</b>

**DESCRIPTION OF THE LOAN**

1. Loan Closing Date: The date shown as the Loan Closing Date on Exhibit D
2. Bond Closing Date: The Closing Date of the Series of Oregon Bond Bank Bonds, if any, that is applied to fund the Loan
3. Name and Address of Borrower: Tillamook County  
201 Laurel Avenue  
Tillamook, OR 97141
4. Cost of the Project: \$3,382,000
5. Estimated Completion Date of Project: January 31, 2002
6. Maximum Principal Amount of Loan: \$261,000
7. Interest Rate: The interest rate, including any adjustments to such rate, as described in the Note.
8. Optional Loan Prepayment Date: December 1, 2008
9. Prepayment Premium:

Redemption Dates	Redemption Prices
December 1, 2008 through November 30, 2009	102%
December 1, 2009 through November 30, 2010	101%
December 1, 2010 and thereafter	100%

10. Unexpended Loan Proceeds Transfer Date: November 15, 2002
11. Authorized Officers of Borrower: Chair  
County Treasurer  
Management Analyst

LOAN AMORTIZATION SCHEDULE  
 Water/Wastewater Financing Program  
 \*\*\*\*\*ANNUAL PAYMENT\*\*\*\*\*

EXHIBIT D

FILE NUMBER:		PRINCIPAL AMOUNT:	\$261,000
		INTEREST RATE:	6.00%
MUNICIPALITY:	Tillamook Bay Basin	LOAN TERM IN YEARS:	20
		CLOSING DATE:	01-Mar-00
BUSINESS/PROJECT: (estimate)	SPWF	TRUE INTEREST COST (TIC):	0.00000%
		NET INTEREST COST (NIC):	6.00000%
		WEIGHTED AVERAGE MATURITY:	12.14485

YEAR	PAYMENT DATE	PAYMENT	INTEREST	PRINCIPAL	CUMULATIVE INTEREST	CUMULATIVE PRINCIPAL	UNPAID BALANCE	PERIODS
2001	01-Dec-00	18,840.17	11,745.00	7,095.17	11,745.00	7,095.17	253,904.83	0.7500
2002	01-Dec-01	22,755.17	15,234.29	7,520.88	26,979.29	14,616.05	246,383.95	1.7500
2003	01-Dec-02	22,755.17	14,783.04	7,972.13	41,762.33	22,588.18	238,411.82	2.7500
2004	01-Dec-03	22,755.17	14,304.71	8,450.46	56,067.04	31,038.64	229,961.36	3.7500
2005	01-Dec-04	22,755.17	13,797.68	8,957.49	69,864.72	39,996.13	221,003.87	4.7500
2006	01-Dec-05	22,755.17	13,260.23	9,494.94	83,124.95	49,491.07	211,508.93	5.7500
2007	01-Dec-06	22,755.17	12,690.54	10,064.63	95,815.49	59,555.70	201,444.30	6.7500
2008	01-Dec-07	22,755.17	12,086.66	10,668.51	107,902.14	70,224.21	190,775.79	7.7500
2009	01-Dec-08	22,755.17	11,446.55	11,308.62	119,348.69	81,532.83	179,467.17	8.7500
2010	01-Dec-09	22,755.17	10,768.03	11,987.14	130,116.72	93,519.97	167,480.03	9.7500
2011	01-Dec-10	22,755.17	10,048.80	12,706.37	140,165.52	106,226.34	154,773.66	10.7500
2012	01-Dec-11	22,755.17	9,286.42	13,468.75	149,451.94	119,695.09	141,304.91	11.7500
2013	01-Dec-12	22,755.17	8,478.29	14,276.87	157,930.24	133,971.97	127,028.03	12.7500
2014	01-Dec-13	22,755.17	7,621.68	15,133.49	165,551.92	149,105.45	111,894.55	13.7500
2015	01-Dec-14	22,755.17	6,713.67	16,041.50	172,265.59	165,146.95	95,853.05	14.7500
2016	01-Dec-15	22,755.17	5,751.18	17,003.99	178,016.77	182,150.94	78,849.06	15.7500
2017	01-Dec-16	22,755.17	4,730.94	18,024.23	182,747.72	200,175.16	60,824.84	16.7500
2018	01-Dec-17	22,755.17	3,649.49	19,105.68	186,397.21	219,280.84	41,719.16	17.7500
2019	01-Dec-18	22,755.17	2,503.15	20,252.02	188,900.36	239,532.86	21,467.14	18.7500
2020	01-Dec-19	22,755.17	1,288.03	21,467.14	190,188.39	261,000.00	(0.00)	19.7500

**Oregon Economic and Community Development Department  
Cash Request and Progress on Activities Form**

**Special Public Works Fund, Water/Wastewater Financing Program  
or Safe Drinking Water Revolving Loan Fund**

Recipient \_\_\_\_\_

Address \_\_\_\_\_

Project Title \_\_\_\_\_

Project Number \_\_\_\_\_

Date \_\_\_\_\_

Request is for:

SPWF     W/W     SDWRLF

Cash Request # \_\_\_\_\_

\_\_\_\_\_ to \_\_\_\_\_  
Progress Reporting Period

Total Project Expenditure Report (Including this Request) All the Project Funding Sources						Activities	Cash Request Only Economic Development Source			
A. Grant	B. Loan	C.	D.	E.	F. Total to Date	G.	H. Cash Request	I. Prior Requests	J. Approved Budget	K. Balance
						1. Water Improvements				
						a.				
						b.				
						2. Sanitary Sewer Improvements				
						a.				
						b.				
						3. Storm Sewer Improvements				
						a.				
						b.				
						4. Road and Bridge Improvements				
						a.				
						b.				
						5. Public Trans. and R. R. Facilities				
						a.				
						b.				
						6. Contractual Services				
						a.				
						b.				
						7. a. Engineering/Architectural				
						b. Administration				
						c. Contingencies				
						8. Other				
						a.				
						b.				
						c.				
						9. Total				

Cash On Hand: 1. Please show the amount of funds currently on hand (total prior monies received minus total expenditures) \$ \_\_\_\_\_  
 2. If you have funds on hand, attach information supporting the request for additional funds.

Mail this form to: Oregon Economic and Community Development Department  
775 Summer Street NE, Salem, OR 97310

F:\USERICDSUP\CONTRACT\INFRICASHREQ.WPO

Progress on Activities

\_\_\_\_\_  
Recipient

\_\_\_\_\_  
Project Number

\_\_\_\_\_  
Project Name

\_\_\_\_\_  
Report Period

\_\_\_\_\_ to \_\_\_\_\_

**A. Project Goals** (report for every cash request)

List each project activity and describe progress on each activity since your last report. Also discuss any problems or delays encountered (change orders, schedule revisions, etc.). Attach additional sheets if necessary.

Proposed Accomplishments	Results Achieved
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____

**B. Construction Employment** (Special Public Works Fund only)

In the space below, show the cumulative total number of hours construction employees worked on the infrastructure project. Also show cumulative construction man hours worked on any private business projects served by the infrastructure project.

Business Projects	Infrastructure Projects
1. Firm Name _____ Hours Worked _____	Hours Worked _____
2. Firm Name _____ Hours Worked _____	Hours Worked _____

**C. Permanent Jobs** (Special Public Works Fund only)

In the space below, show the cumulative number of new or retained permanent jobs in private businesses served by the infrastructure project. Show all jobs as full-time equivalents based on a standard 40-hour work week.

Firm Name			Firm Name			Firm Name		
Jobs	New	Retained	Jobs	New	Retained	Jobs	New	Retained
_____	_____	_____	_____	_____	_____	_____	_____	_____

**Certification:** We certify that the data is correct and that the amount of any grant request is not in excess of current needs. (TWO SIGNATURES REQUIRED)

\_\_\_\_\_  
Authorized Signature/Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Signature/Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Contact Person

\_\_\_\_\_  
Phone Number

**For State of Oregon Use**

\_\_\_\_\_  
Total Amount Approved

\_\_\_\_\_  
Project Coordinator

\_\_\_\_\_  
Date

Amount	Description	Fund	Cost Center
\$ _____	_____	_____	_____
\$ _____	_____	_____	_____
\$ _____	_____	_____	_____
\$ _____	_____	_____	_____
\$ _____	_____	_____	_____

\_\_\_\_\_  
Fiscal Coordinator

\_\_\_\_\_  
Date

\_\_\_\_\_  
Manager

\_\_\_\_\_  
Date

**Send Wire Transfers To:**

Name of Payee: \_\_\_\_\_

Name of Receiving Bank: \_\_\_\_\_

Location or Branch Name of Bank: \_\_\_\_\_

Bank Address: \_\_\_\_\_

Bank Account Number: \_\_\_\_\_

Bank ABA Routing Number: \_\_\_\_\_

28.



**PROMISSORY NOTE**

ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT  
STATE OF OREGON

\$261,000

(Dated) XXXXXXXXXXXXXXXXXX, XXXX

Portland, Oregon

FOR VALUE RECEIVED, Tillamook County (hereinafter "Borrower"), promises to pay in lawful money of the United States of America to the order of the STATE OF OREGON, ACTING BY AND THROUGH ITS ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT, at its principal office at 775 Summer Street NE, Salem, Oregon 97301-1280 (hereinafter "State"), the principal sum of two hundred sixty-one thousand dollars (\$261,000), plus interest at the rate of six percent (6%) per annum from the date hereof until paid; provided however that on the Bond Closing Date the interest rate shall be adjusted by the State (and such rate shall be retroactive to the date of this Note) to equal the lowest rate (in one basis point increments) that will be sufficient to ensure that the annual amounts paid by the Borrower pursuant to this Note shall be no less than the Borrower's pro-rata portion of the maximum annual debt service on the State Bonds. Interest shall be computed on the basis of a 360-day year, consisting of twelve (12) thirty-day (30-day) months.

Capitalized terms not otherwise defined in this Note shall have the meanings assigned to them by that certain loan agreement dated XXXXXXXXXXXXXXXXXX, XXXX, between the State and the Borrower (as amended from time to time the "Loan Agreement").

Principal and Interest shall be payable as follows:

(a) The Borrower shall pay the principal of this Note at the times and in the amounts specified on the repayment schedule set forth in Exhibit D to the Loan Agreement.

(b) All payments required hereunder shall be paid by the Borrower no later than the first day of December of each year.

(c) This note is not payable prior to its maturity except as provided for in Sections 2.05 and 2.06 of the Loan Agreement.

(d) In the event that the Borrower receives written notification from the State, the Issuer or the Trustee that this Note, the Loan Agreement and the other Loan Documents have been assigned to the Trustee under the Bond Indenture, all payments hereunder shall be made directly to the Trustee for the account of the State.

Each payment made by the Borrower hereunder shall be applied first to interest then due and payable on the Loan, then to the principal of the Loan.

If any Event of Default occurs, the outstanding balance of the Note, including principal, interest and other charges, if any, shall, at the option of the State, become immediately due and payable in accordance with Section 6.03 of the Loan Agreement. Failure or delay of the holder of this Note to exercise any option available to the State under the terms of this Note or the Loan Agreement shall not constitute a waiver of the right to exercise the option in the event of any continuing or subsequent default and shall not constitute a waiver of any subsequent breach of the same or of any other provision of this Note or the Loan Agreement.

All parties to this Note hereby waive presentment, dishonor, notice of dishonor, and protest. All parties hereto hereby consent to, and the holder hereof is hereby expressly authorized to make, without notice, any and all renewals, extensions, modifications or waivers of the time for or the terms of payment of any sum or sums due hereunder, or under any documents or instruments relating to or securing this Note, or of the performance of any covenants, conditions or agreements hereof or thereof, or the taking or release of collateral securing this Note. The liability of all parties on this Note shall not be discharged by any action consented to above taken by any holder of this Note.

If this Note is placed in the hands of an attorney for collection, the Borrower shall, on demand, pay to the State, the Issuer or the Trustee the reasonable fees and expenses of attorneys, whether at trial or on appeal, and other reasonable expenses (including without limitation the reasonable costs of the State's Counsel, Bond Counsel and legal staff) incurred by either of the State, the Issuer or the Trustee in the collection of Loan Repayments or any other sum due hereunder or under any of the Loan Documents in the enforcement of performance or observation of any other duties, covenants, obligations or agreements of the Borrower.

This Note is made with reference to, and is to be construed in accordance with, the laws of the State of Oregon.

This Note is subject to, and is secured pursuant to, the terms and conditions of the Loan Agreement.

IN WITNESS WHEREOF, Borrower has caused this Note to be executed this XX day of XXXXXXXXXXXXXXXXXX, XXXX.

**TILLAMOOK COUNTY**

By: XXXXXXXXXXXXXXXXXXXXXXXXXXXX

Title: XXXXXXXXXXXXXXXXXXXXXXXXXX

**NOTICE TO BORROWER**

DO NOT SIGN THIS NOTE BEFORE YOU READ IT. THIS NOTE IS NOT SUBJECT TO FULL OR PARTIAL PREPAYMENT BEFORE THE DATE PROVIDED FOR REPAYMENT IN THIS NOTE AND IN THE LOAN AGREEMENT AND A PENALTY FOR ANY SUCH PREPAYMENT MAY BE CHARGED AND COLLECTED.

52.

**SPECIAL CONDITIONS OF AWARD**

Tillamook County

1. The Loan shall be payable from the general fund of the Borrower and shall be a full faith and credit obligation of the Borrower which is payable from any taxes which the Borrower may levy within the limitations of Article XI of the Oregon Constitution.

## ENVIRONMENTAL AND NATURAL RESOURCE AGENCIES

The following list is provided in compliance with ORS 279.318. The federal, state, and local agencies listed have enacted ordinances or regulations relating to environmental pollution or the preservation of natural resources that may affect the performance of construction contracts.

### FEDERAL AGENCIES

- Agriculture, Department of
  - Forest Service
  - Soil Conservation Service
- Army, Department of the
  - Corps of Engineers
- Coast Guard
- Energy, Department of
- Environmental Protection Agency
- Health & Human Services, Department of
- Heritage Conservation and Recreation Service
- Interior, Department of
  - Bureau of Indian Affairs
  - Bureau of Land Management
  - Fish and Wildlife Service
  - Office of Surface Mining, Reclamation and Enforcement
  - Bureau of Reclamation
- Labor, Department of
  - Occupational Safety & Health Administration
  - Mine Safety & Health Administration
- Transportation, Department of
  - Federal Highway Administration

### STATE AGENCIES

- Agriculture, Department of
- Energy, Department of
- Environmental Quality, Department of
- Fish and Wildlife, Department of
- Forestry, Department of
- Geology and Mineral Industries, Department of
- Human Resources, Department of
- Land Conservation and Development Commission
- State Lands, Division of
- State Soil & Water Conservation Commission
- Transportation, Department of
- Water Resources Department

### LOCAL AGENCIES

- City Councils
- County Courts
- County Commissioners, Boards of
- Planning Commissions
- Special Districts: Ports, Water, Sewer, Roads

# Count Work Last Record

Book: 106 Pg: 831

Inst:.

Date: 3-15-00