

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of an Ordinance)
Authorizing Permanent Loan Financing)
from the Special Public Works Fund by) Ordinance No. 2010-8
by Entering into a Loan Contract with the)
Oregon Business Development Department)
-L02002)

The Board of County Commissioners for Columbia County, Oregon ordains as follows:

Section 1. Title.

This Ordinance shall be known as Ordinance No. 2010-8.

Section 2. Authority.

This Ordinance is adopted pursuant to ORS 203.035 and ORS 285B.437(4).

Section 3. Findings.

The Board of County Commissioners for Columbia County, Oregon, makes the following findings:

- A. Columbia County is a “municipality” within the meaning of ORS 285B.410(8).
- B. ORS 285B.410 through 285B.482 (the “Act”) authorizes any municipality to file an application with the Oregon Business Development Department (“OBDD”) to obtain financial assistance from the Special Public Works Fund.
- C. In 2001 Columbia County filed a joint application with the City of Clatskanie with the Oregon Economic and Community Development Department (OECDD) to obtain financial assistance for an “infrastructure project” within the meaning of the Act.
- D. OECDD approved Columbia County’s application for financial assistance from the Special Public Works Fund pursuant to the Act and on August 15, 2002, the County entered into a Financial Assistance Award Contract and Interim Loan Agreement with the Oregon Economic and Community Development Department (now referred to as the “Oregon Business Development Department” or “OBDD”) as evidence of the debt.
- E. The principal amount of the debt was increased by Amendment 2 on January 4, 2006, to Five Million Five Hundred Fifty-Seven Thousand Eight Hundred and Eighteen Dollars

(\$5,557,818).

F. The principal amount of the debt was increased by Amendment 3, effective November 15, 2007, to Five Million Eight Hundred Ninety-Four Thousand Eight Hundred and Eighteen Dollars (\$5,894,818).

G. OBDD is prepared to convert the existing Interim Financing Loan to permanent financing for L02002.

H. Columbia County is required, as a prerequisite to the receipt of financial assistance from OBDD for the permanent financing loan, to enter into an Amended and Restated Financial Assistance Award Contract and an Amended and Restated Loan Agreement with OBDD in substantially the form attached hereto as Exhibits "A" and "B".

I. The project described in Exhibit "B" to the Amended and Restated 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 Columbia County.

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

Section 4. Loan Authorized.

The Board of County Commissioners authorizes its Chair to execute the Amended and Restated Financial Assistance Award Contract, the Amended and Restated Loan Agreement, and the Promissory Note attached as Exhibit "F" to the Amended and Restated Loan Agreement (the "Financing Documents") and such other documents as may be required to obtain the permanent loan financing for L02002, on the condition that the principal amount of the loan from OECD is not in excess of the outstanding balance of the L02002 Interim Loan; Five Million seven Hundred Forty-Six Thousand, Eight Hundred Ninety-Two Dollars (\$5,746,892), and the interest rate on such loan is not in excess of Four and 99/100 percent (4.99%) per annum. 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 Amended and Restated Loan Agreement.

Section 5. Security.

Amounts payable by Columbia County shall be payable from the sources described in Section 2.06 and Exhibit A of the Amended and Restated Loan Agreement and ORS 285B.437 which include:

- a. Any sources of funds that are legally available to Columbia County, including its interest in Tax Increment Financing;

- b. The revenues, if any, of the Project, including special assessment revenues, if any; and
- c. Columbia County's General Fund, including the tax and other general revenues of Columbia County, subject only to the restrictions of Article XI, Sections 10, 11, and 11b of the Constitution of the State of Oregon. Columbia County acknowledges its current intention to make all payments due pursuant to the financing Documents and, to the extent that funds are appropriated to make payments, the full faith and credit of Columbia County are pledged to such payments.

Section 6. Additional Documents.

The Chair of the Board of County Commissioners 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 Amended and Restated Financial Assistance Award Contract and the Amended and Restated Loan Agreement.

Section 7. Tax-Exempt Status.

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

Section 8. Reimbursement Bonds.

Columbia County may reimburse expenditures for the Project with amounts received from the Department pursuant to the Financing Documents. Additionally, Columbia County understands that the Department may fund or reimburse itself for the funding of the amounts paid to Columbia County 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 Treasury with respect to the funding or the reimbursement for the funding of the costs of the Project with the proceeds of Columbia County's loan pursuant to the Financing Documents and with the proceeds of any bonds issued by the State of Oregon pursuant to the Act.

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Section 9. Emergency.

This Ordinance being immediately necessary in order that there be no delay in financing the Project as provided in this Ordinance, an emergency is declared to exist and this Ordinance shall take effect immediately upon its adoption.

Dated this 20th day of October 2010.

Approved as to form

By: *Smaliban*
Office of the County Counsel

Attest:

By: *Jan Sunhede*
Recording Secretary

First Reading : 10-20-10
Second Reading: 10-20-10
Effective Date: 10-20-10

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY OREGON

By: *[Signature]*
Anthony Hyde, Chair

By: *[Signature]*
Earl Fisher, Commissioner

By: *[Signature]*
Rita Bernhard, Commissioner

AMENDED AND RESTATED LOAN AGREEMENT

BETWEEN

STATE OF OREGON

ACTING BY AND THROUGH ITS

BUSINESS DEVELOPMENT DEPARTMENT

AND

COLUMBIA COUNTY

TABLE OF CONTENTS

Page

**ARTICLE I
DEFINITIONS**

SECTION 1.01. Definitions5
SECTION 1.02. General Rules6

**ARTICLE II
LOAN TO BORROWER**

SECTION 2.01. Loan Amount; Loan Terms; Use of Proceeds7
SECTION 2.02. Loan Payment.....7
SECTION 2.03. Unconditional Obligations7
SECTION 2.04. Loan Prepayments7
SECTION 2.05. [reserved].....8
SECTION 2.06. Sources of Payment of Borrower’s Obligations8
SECTION 2.07. Disclaimer of Warranties; Limitation of Liability; Indemnification9
SECTION 2.08. [reserved].....9

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

SECTION 3.01. Representations and Warranties of Borrower9
SECTION 3.02. Particular Covenants of the Borrower12

**ARTICLE IV
CONDITIONS PRECEDENT**

SECTION 4.01. Restatement Closing.....15
SECTION 4.02. [reserved].....15

**ARTICLE V
ASSIGNMENT**

SECTION 5.01. Assignment and Transfer by the State.....15
SECTION 5.02. Assignment by Borrower.....15

**ARTICLE VI
DEFAULTS AND REMEDIES**

SECTION 6.01. Event of Default15
SECTION 6.02. Notice of Default.....16
SECTION 6.03. Remedies on Default16
SECTION 6.04. Attorney’s Fees and Other Expenses.....17
SECTION 6.05. Application of Moneys17
SECTION 6.06. No Remedy Exclusive; Waiver; Notice17
SECTION 6.07. Retention of State’s Rights.....17
SECTION 6.08. Default by the State17

**ARTICLE VII
MISCELLANEOUS**

SECTION 7.01. Notices.....17
SECTION 7.02. Binding Effect18
SECTION 7.03. Severability.....18
SECTION 7.04. Amendments, Supplements and Modifications.....18
SECTION 7.05. Execution in Counterparts.....18
SECTION 7.06. No Construction against Drafter18
SECTION 7.07. Choice of Law; Designation of Forum; Federal Forum18
SECTION 7.08. Consents and Approvals.....18
SECTION 7.09. Merger; No Waiver18
SECTION 7.10. Amendment and Restatement.....19

EXHIBITS

- Exhibit A: Special Conditions of Award
- Exhibit B: Project Description
- Exhibit C: Project Budget
- Exhibit D: Description of the Loan
- Exhibit E: [reserved]
- Exhibit F: Form of Second Amended and Restated Promissory Note
- Exhibit G: Form of Opinion of Borrower’s Counsel

THIS AMENDED AND RESTATED LOAN AGREEMENT, made and entered into as of the date of the last signature hereto, by and between the STATE OF OREGON, ACTING BY AND THROUGH ITS BUSINESS 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 is authorized by ORS 285B.410 through 285B.482 to loan money in the Special Public Works Fund to Oregon municipalities to finance infrastructure projects; and

WHEREAS, the Borrower applied to State for a loan to finance all or a portion of the Costs of the Project (as defined below); and

WHEREAS, the State reviewed the Borrower's application and determined that the Project (as defined below) was eligible for loan financing from the Special Public Works Fund and was feasible and merited funding; and

WHEREAS, the State and the Borrower entered into that certain financial assistance award contract for interim financing, number L02002 ("2002 Contract") and interim financing loan agreement ("2002 Loan Agreement"), both dated as of August 15, 2002, and the Borrower executed and delivered to the State that certain promissory note ("2002 Note") dated August 15, 2002;

WHEREAS, the State and the Borrower subsequently entered into:

(1) an amendment ("Amendment No. 1") to the 2002 Loan Agreement dated as of October 1, 2004;

(2) an amendment ("Amendment No. 2") to the 2002 Loan Agreement and 2002 Contract, dated as of January 10, 2006, and pursuant thereto the Borrower executed and delivered to the State an amended and restated promissory note dated January 4, 2006 ("2006 Note"); and

(3) an amendment ("Amendment No. 3") to the 2002 Loan Agreement and 2002 Contract, dated as of November 15, 2007, and pursuant thereto the Borrower executed and delivered to the State an amended promissory note dated November 15, 2007 ("2007 Note").

The 2002 Contract, as amended by Amendment 2 and Amendment 3, is referred to collectively as the "Original Contract", and the 2002 Loan Agreement, as amended by Amendment 1, Amendment 2 and Amendment 3, is referred to collectively as the "Original Loan Agreement".

WHEREAS, the State, pursuant to the Original Contract and Original Loan Agreement, provided a Loan of Five Million, Eight Hundred Ninety-Four Thousand, Eight Hundred Eighteen Dollars (\$5,894,818) and a Grant of Five Hundred Thousand Dollars (\$500,000) to the Borrower for the Project on the terms and conditions of the Original Contract and Original Loan Agreement.

WHEREAS, the current principal balance of the Loan is Five Million, Seven Hundred Forty-Six Thousand, Eight Hundred Ninety-Two Dollars (\$5,746,892), and the State and the Borrower wish to amend and restate the terms and conditions of the Original Contract and Original Loan Agreement.

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.

“Area” means the Port Westward Urban Renewal Area.

“Authorized Officer” means, in the case of the Borrower, the person whose name or title is set forth in Exhibit D 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.

“Borrower” means the Municipality that is a party to this Loan Agreement and is described on Exhibit D 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 are closed, or (b) a day on which the New York Stock Exchange is closed.

“Contract” means the amended and restated financing assistance award contract between the State and the Borrower dated as of the date hereof, as amended or restated from time to time.

“Costs of the Project” means those costs of Borrower that are (a) reasonable, necessary and directly related to the Project, 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) the purchase of equipment and other property not directly related to the Project, (ii) construction or repair of facilities owned or operated by private parties, (iii) costs incurred prior to the date of the Loan, except as provided in Section 3.02(a), (iv) administrative expenses of the Borrower or (v) 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 or the Borrower) duly admitted to practice law before the highest court of any state.

“Draw” means a loan to the Borrower under this Loan Agreement.

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

“IGA” means that certain amended and restated intergovernmental agreement between the Borrower and the URA dated as of November 27, 2007.

“Incremental Tax Revenues” or “Incremental Property Tax Revenues” has the meaning assigned to that term in Exhibit A of this Loan Agreement.

“Loan” means the aggregate principal amount of the Five Million Eight Hundred Ninety-Four Thousand Eight Hundred Eighteen Dollars (\$5,894,818) loaned by the State to the Borrower to provide financing for a portion of the Costs of the Project pursuant to this Loan Agreement.

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

“Maturity Date” means the date by which the Outstanding Balance must be repaid, as set forth in Exhibit D hereto or otherwise designated by the State in writing pursuant to Section 7.04 of this Loan Agreement.

“Municipality” means any entity described in ORS 285B.410(8).

“Note” means the second amended and restated promissory note of the Borrower evidencing the Outstanding Balance on the Restatement Closing Date, substantially in the form of Exhibit F.

“Outstanding Balance” means, at any time, the sum of all Draws, less the sum of all Note principal repayments received by the State.

“Project” means the infrastructure project of the Borrower described in Exhibit B attached hereto and by this reference made a part hereof.

“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.

“Restatement Closing Date” means the date on which all conditions set forth in Section 4.01 are satisfied.

“Restatement Closing Deadline” means the date, as set forth in Exhibit D hereto, by which all conditions set forth in Section 4.01 must be satisfied.

“Revenues” means the net revenues identified in the Special Conditions of Award attached hereto as Exhibit A 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 Business Development Department.

“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.

“URA” means the Columbia County Development Agency.

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.

ARTICLE II
LOAN TO BORROWER

SECTION 2.01. Loan Amount; Loan Terms; 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 make loans to the Borrower in an aggregate amount not to exceed the principal amount of the Loan as set forth in Exhibit D hereto.

(b) Interest Rate. Each Draw under this Loan Agreement shall bear interest at the rate of one and 52/100 percent (1.52%) per annum from date of the 2002 Loan Agreement until November 30, 2008, and thereafter at the rate of four and 99/100 percent (4.99%) per annum, calculated on a 360-day year, consisting of twelve (12) thirty-day (30-day) months.

(c) 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. The Borrower agrees to repay the Loan and all amounts due under the Note in accordance with the terms hereof and of the Note, including the Payment Schedule. Unless earlier repayment is received hereunder or under the terms of the Note, the Outstanding Balance, plus accrued interest, and all other amounts due hereunder, shall be paid no later than the Maturity Date.

SECTION 2.03. Unconditional Obligations. The provisions of this Loan Agreement shall constitute a contract with the State and shall be enforceable by the State. Payments required under the Loan Documents are payable from the sources of repayment described in Section 2.06 hereof, and the obligation of the Borrower to make all 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 to perform and observe any agreement, whether express or implied, or any duty, liability, or obligation arising out of or connected with the Project or this Loan Agreement or any rights of set off, recoupment, abatement or counterclaim that the Borrower might otherwise have against the State or any other party or parties; provided, however, that payments hereunder shall not constitute a waiver of any such rights.

SECTION 2.04. Loan Prepayments.

(a) Mandatory Prepayment. The Borrower shall prepay the Outstanding Balance of the Loan, plus accrued interest, upon the occurrence of the following events:

(i) destruction of all or a substantial portion of the Project; or

(ii) the issuance of any subsequent short or long term financing obligation for the Project or to refund the Loan within thirty (30) days of issuing such financing obligation.

The pledge and lien of this Loan Agreement and the Note shall continue if prepayment under this Section 2.04 does not occur.

(b) Optional Prepayment prior to the Maturity Date. The Borrower may prepay all or any portion of the Outstanding Balance of the Loan on any Business Day upon five (5) Business Day's notice to the State. Each prepayment shall include accrued unpaid interest on the amount prepaid. Prepayments by the Borrower shall be applied first to pay accrued interest, and second to reduce the Outstanding Balance. This Loan Agreement is non-revolving; when the Borrower prepays the Outstanding Balance, it may not reborrow that amount.

SECTION 2.05. [reserved]

SECTION 2.06. 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, 2.04, 2.07 and 6.04 hereof, are payable from the sources of repayment described in paragraph (b) of this Section 2.06; 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 proceeds of any subsequent short or long-term financing to refund the Loan or to finance the Project, and other sources identified in the Special Conditions of Award attached hereto as Exhibit A. The pledges made by the Borrower in these Special Conditions of Award shall be valid and binding from the date of this Loan Agreement pursuant to ORS 287A.310. The amounts so pledged and hereafter received by the Borrower shall immediately be subject to the lien of the pledge without physical delivery or further act and except as may be stated in the Special Conditions of Award, shall be superior to all other claims and liens whatsoever to the fullest extent permitted by ORS 287A.310. The amounts payable by the Borrower under this Loan Agreement and the other Loan Documents are also payable from all legally available general funds in the Borrower's general fund.

(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 or ORS 287A.105.

SECTION 2.07. Disclaimer of Warranties; Limitation of Liability; Indemnification. The Borrower acknowledges and agrees that:

(a) the State makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for particular purpose or fitness for any use of the System or the Project or any portions thereof or any other warranty or representation with respect thereto;

(b) in no event shall the State or its 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 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 2.08. [reserved]

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 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 Exhibit B and Exhibit C hereto and in Sections 2, 3, 4 and 8 of Exhibit D 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.437(4) 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.

(vii) Borrower is authorized, pursuant to ORS 287A.105, to execute this Loan Agreement and Loan Documents, which create a "limited bonded indebtedness" under that statute which the Borrower is unconditionally obligated to pay, and that the amount necessary to repay the obligations created hereunder will not exceed the operating levy in the county within which Borrower may levy and collect taxes to fulfill its obligations made under a full faith and credit pledge or as limited bonded indebtedness. Further:

A. Other than _____, Borrower has not issued limited tax bonded indebtedness prior to the execution of the Loan Document, and there is no limited tax bonded indebtedness currently outstanding other than the limited tax bonded indebtedness evidenced by the Loan Documents;

B. The real market value of all taxable property within Columbia County for fiscal year _____ is \$ _____, and the total amount of limited tax bonded indebtedness which the Borrower may have outstanding is \$ _____; and

C. The principal amount of debt evidenced by the Loan Documents is \$5,894,818, which is less than the maximum amount permitted by ORS 287A.105.

(viii) Borrower may pledge its full faith and credit and taxing power within the limitations of Oregon law, including but not limited to Sections 11 and 11b of Article XI of the Oregon Constitution, and any and all of Borrower's legally available funds, to make the payments due under the Loan Agreement and Loan Documents.

(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 payments 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 payments 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, et Cetera. 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 payments 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.

(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) 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 benefited 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) The Project satisfies the criteria set forth in ORS 285B.410 to 285B.482 and OAR Chapter 123 division 42.

(ix) The Project is included in Columbia County's Port Westward Urban Renewal Plan.

(i) Costs of the Project. The Borrower certifies that the Costs of the Project, as listed in Exhibits C and D hereto, are a reasonable and accurate estimation and based upon an engineer's feasibility report and engineer's estimate stamped by a registered professional engineer or an architect's feasibility report and architect's estimate stamped by a licensed architect, as applicable, a copy of which shall be promptly provided to the State upon request, exceeds the maximum principal amount of the Loan shown on Exhibit D.

(j) Continuing Representations. The representations of the Borrower contained herein shall be true on 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 to finance all or a portion of the Costs of the Project which is included in Columbia County's Port Westward Urban Renewal Plan. 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 2.06 of this Loan Agreement and in the Special Conditions of Award attached hereto as Exhibit A. 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 D; (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 judgment 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 if the State consents thereto in writing upon ninety (90) days' prior written notice to the State. Proceeds of any such transfer not used to replace property that is part of the Project shall be applied to the payment or prepayment of the outstanding principal of and interest in the Loan, as provided in Section 2.04 of this Agreement.

(f) [reserved]

(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 2.06(b), 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 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 any party designated by the State 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 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.

(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.

(l) Notice of Material Adverse Change. The Borrower shall promptly notify the State 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) 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.

(n) Contract Covenants. The Borrower covenants and agrees to comply with the terms of the Contract including the covenants of the Borrower in Section 5 of the Contract.

(o) 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. Restatement Closing. The State's obligations under this amended and restated Loan Agreement are subject to satisfaction of the following conditions precedent on or prior to the Restatement Closing Deadline, as set forth in Exhibit D hereto, or such later date as State may authorize in writing in State's sole and absolute discretion:

(a) the Borrower has caused to be executed and delivered to the State the following items, each in form and substance satisfactory to State:

(i) the Note duly executed and delivered by an Authorized Officer of the Borrower;

(ii) the Contract duly executed and delivered by an Authorized Officer of the Borrower;

(iii) copy of the ordinance, order 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 (if requested by State);

(iv) an opinion of the Borrower's Counsel substantially in the form set forth in Exhibit G hereto (such opinion or portions of such opinion may be given by one or more Counsel); provided, however, that the State and its Counsel may permit variances in the form of such opinion (if requested by State); and

(v) such other certificates, documents, opinions and information as the State may reasonably require.

SECTION 4.02. [reserved]

ARTICLE V ASSIGNMENT

SECTION 5.01. Assignment and Transfer by the State. 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.

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 the Department of Justice.

ARTICLE VI DEFAULTS AND REMEDIES

SECTION 6.01. Event of Default. Time is of the essence of this Loan Agreement. 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 make, or cause to be made, any required payments of principal and interest on the Note when due, as provided in the Note and this Loan Agreement; or

(b) 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, including but not limited to 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 and performance of duties by the Borrower, is false or misleading in any material respect; or

(c) 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

(d) The occurrence of any event of default under Section 6 of the Contract; or

(e) Failure by the Borrower to observe and perform any duty, covenant, obligation or agreement (including that described in subsection (f) 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 (d) 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, unless the State 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 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

(f) 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 prompt telephone notice of the occurrence of any Event of Default referred to in Section 6.01(c) 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 any action permitted or required pursuant to the Loan Agreement or any other Loan Document 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 principal and interest and all other amounts due hereunder and under the other Loan Documents 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 funds under this Loan Agreement, (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.449.

SECTION 6.04. Attorney Fees and Other Expenses. To the fullest extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, the prevailing party in any dispute arising from this Loan Agreement shall be entitled to recover from the other its reasonable attorney fees, costs and expenses at trial and on appeal. Reasonable attorney fees shall not exceed the rate charged to the State by its attorneys. The Borrower shall, on demand, pay to the State reasonable expenses incurred by the State in the collection of Loan payments.

SECTION 6.05. Application of Moneys. Any moneys collected by the State pursuant to Section 6.03 hereof shall be applied (a) first, to pay any attorney'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 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 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 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, 2.07, 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.

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 D hereof and to the State at the following address:

Oregon Business Development Department
Attention: Manager, Infrastructure Finance Authority
775 Summer Street NE, Suite 200
Salem, OR 97301-1280

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.

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.

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. Choice of Law; Designation of Forum; Federal Forum.

(a) The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Loan Agreement, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

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

(c) Notwithstanding Section 7.07 (b), if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This Section 7.07 (c) applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This Section 7.07 (c) is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

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.

SECTION 7.09. Merger; No Waiver. This Loan Agreement and the exhibits, schedules and attachments hereto (which are by this reference incorporated herein) 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.

SECTION 7.10. Amendment and Restatement. This Loan Agreement, effective on the last date set forth below the signatures of the representatives of the parties, amends and restates the Original Loan Agreement. To the extent this Loan Agreement is the same as the Original Loan Agreement, it shall be deemed to be a continuation thereof. To the extent this Loan Agreement is different from the Original Loan Agreement, it shall be deemed to be an amendment thereof.

IN WITNESS WHEREOF, the State and the Borrower have caused this Loan Agreement to be executed and delivered, effective as of the date of the last signature set forth below.



STATE OF OREGON
acting by and through its
Business Development Department



COLUMBIA COUNTY
(Borrower)

By: _____
Lynn Schoessler, Deputy Director
Infrastructure Finance Authority

By: _____
Tony Hyde, Chair

Date: _____

Date: _____

**APPROVED BY THE
URBAN RENEWAL AGENCY**

By: _____

Title: _____

Date: _____

APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:

/s/ Lynn T. Nagasako (as per e-mail dated 8/17/10)

Lynn T. Nagasako, Sr. Assistant Attorney General

Date: August 17, 2010

SPECIAL CONDITIONS OF AWARD

I. General Fund as a Source of Repayment

The Borrower hereby pledges its full faith and credit and taxing power within the limitations of Article XI, Sections 11 and 11b, of the Oregon Constitution to pay the amounts due under the Loan Agreement and the Note. The Loan Agreement and the Note shall be payable from all legally available funds of the Borrower.

II. Pledge of Incremental Property Tax Revenues of the URA

1. In addition to the above, the Loan shall be repaid from the ad valorem tax revenues from property within the Area which are attributable to the increase in assessed value of property within the Area pursuant to Section 1c, Article IX of the Oregon Constitution and ORS Chapter 457 (the "Incremental Tax Revenues" or "Incremental Property Tax Revenues") and all earnings thereon while the Incremental Property Tax Revenues are held in the Incremental Property Tax Revenues Fund for the Area. The Incremental Property Tax Revenues have been pledged to the Borrower by the URA for the purpose of securing, inter alia, the Loan pursuant to the IGA. The Borrower hereby grants to the State a security interest in and irrevocably pledges its interest in the Incremental Property Tax Revenues of the URA that was granted to it pursuant to the IGA to pay all of the obligations owed by the Borrower to the State under the Loan Agreement, and except as provided in Section II.3 below, this security interest shall be senior and superior to any other security interest or lien on Borrower's interest in the Incremental Property Tax Revenues of the URA.
2. Except as set forth in Section II.3 below, the Borrower shall not incur any obligations payable from or secured by an assignment and pledge of its interest in the Incremental Property Tax Revenues under the IGA that is superior to or on a parity with the Loan without State's written consent.
3. Notwithstanding the requirement of paragraphs 1 and 2 above, loans made in the future by State to the Borrower for the Road Project that are secured by the Incremental Property Tax Revenues ("OBDD Parity Loans") shall have a lien on such Incremental Property Tax Revenues on a parity with the Loan; provided, however, that nothing in this paragraph shall adversely affect the priority of the State's lien on the Incremental Property Tax Revenues in relation to the lien of any third party; provided further that the Port Water Loan shall be junior to OBDD Parity Loans, and the Port Rail Loan shall be junior to OBDD Parity Loans and the Port Water Loan, and the Borrower's right to reimbursement of administrative expenses under the IGA shall be superior to such parity and superior liens.
4. The Incremental Property Tax Revenues pledged pursuant to paragraph II.1 above and hereafter received by the Borrower shall immediately be subject to the lien of such pledge without physical delivery or further act, and the lien of the pledge shall be superior to all other claims and liens whatsoever, except as provided in paragraph 3 above, to the fullest extent permitted by ORS 287A.310. The Borrower hereby represents and warrants that the pledge of Incremental Property Tax Revenues hereby made by the Borrower complies with, and shall be valid and binding from the date hereof pursuant to, ORS 287A.310.
5. The Borrower hereby represents and warrants that pursuant to the IGA:
 - (a) the URA has pledged the Incremental Property Tax Revenues to the Borrower for repayment of the Loan and other obligations of this Loan Agreement and that the IGA is a valid and binding obligation of the URA and the Borrower, enforceable in accordance with its terms;

(b) except as provided in the IGA, the URA has covenanted that it will not incur any obligations payable from or secured by a lien on or pledge of the Incremental Property Tax Revenues that is superior to or on a parity with the IGA without the Borrower's written consent; and

(c) the URA has covenanted that it will not remove any property from the Area if such removal will cause the anticipated Incremental Property Tax Revenues to be inadequate to pay the annual debt service on the Loan and any parity obligations.

6. The State subordinates its lien on the Incremental Tax Revenues to the lien of the Borrower on said Incremental Tax Revenues to the extent it secures payment of Administrative Costs (as defined in the IGA); provided however that in the event the Borrower's lien is invalidated or terminates for any reason, this subordination shall automatically terminate.

PROJECT DESCRIPTION

Borrower will design and construct the infrastructure necessary for the further development of Port Westward as an industrial site on the Lower-Columbia River. The Project includes the following road improvements which must be capable of supporting industrial and commercial truck traffic:

- Certain improvements on US Highway 30 at its intersection with Van Street and construction of a westbound deceleration lane and traffic signal if warranted;
- Widening Van Street and its shoulders, AC (asphalt-concrete) paving and drainage system improvements;
- Widening 5th Street, including AC paving overlay, constructing a pool and playground barrier at the city park, and drainage improvements;
- Widening Beaver Falls Road (within the city limits), including AC paving overlay and drainage improvements (improvements within the city limits are to be developed to city road standards); replacing a municipal waterline from the city limits to Kallio Road;
- Widening Beaver Falls Road to its intersection with Quincy Mayger Road, including AC paving overlay, constructing paved turnouts, installing guardrail, and realigning and widening the curves at the intersection of Beaver Falls and Quincy Mayger Roads;
- Paving an AC overlay with shoulder rock on Quincy Mayger Road to its intersection with Kallunki Road, construct paved turnouts, drainage improvements, install guardrail, ~~and construct a refuge lane at the railroad crossing at Kallunki Road.~~ Initial 10/20/10
Date
- Improving railroad crossing from Kallunki Road to the Port Westward security gate complete with active protection devices (flashing lights, drop arms, et cetera), curve widening and driveway improvements, and a paving overlay;
- Graveling the Hermo Road secondary access into the site, and providing maintenance improvements to Collins and Alston Mayger County Roads; and
- Completing preliminary and final engineering and managing construction of the Project.

DESCRIPTION OF THE LOAN

1. Restatement Closing Deadline: October 22, 2010
2. Name and Address of Borrower: Columbia County
Courtthouse
St. Helens, OR 97051
3. Cost of the Project: \$8,292,818
4. Estimated Project Completion Date: December 31, 2011
5. Outstanding Balance of Loan
as of the Restatement Closing Date: \$5,746,892
6. Interest Rate: The interest rate, including any adjustments to such rate,
as described in the Note.
7. Maturity Date: December 1, 2028
8. Authorized Officers of Borrower: Chair, Board of County Commissioners

THIRD AMENDED AND RESTATED PROMISSORY NOTE

(Dated) XXXXXXXXXXXXXXXXXX, XXXX

St. Helens, OR

FOR VALUE RECEIVED, Columbia County, 230 Strand Street, Room 331, St. Helens, OR 97051 (hereinafter "Borrower"), unconditionally 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 BUSINESS DEVELOPMENT DEPARTMENT, at its principal office at 775 Summer Street NE, Suite 200, Salem, Oregon 97301-1280 (hereinafter "State"), the principal sum of Five Million Seven Hundred Forty-Six Thousand Eight Hundred Ninety-Two Dollars (\$5,746,892), plus interest on the outstanding principal balance at the rate of Four and 99/100 percent (4.99%) per annum from the date hereof until paid. Interest shall be computed on the basis of a 360-day year, consisting of twelve (12) thirty (30) day months. All outstanding principal and accrued unpaid interest on this Note are due and payable in full on the Maturity Date (as defined in the Loan Agreement).

Capitalized terms not otherwise defined in this Note shall have the meanings assigned to them by that certain amended and restated loan agreement dated as of XXXXXXXXXXXXX, 2010, between the State and the Borrower (as amended from time to time the "Loan Agreement").

This Note is subject to mandatory prepayment, and is payable prior to its Maturity Date, as provided for in Section 2.04 of the Loan Agreement.

Each payment made by the Borrower hereunder shall be applied in accordance with the terms of the Loan Agreement.

This Note is given to avoid the execution by Borrower of an individual note for each disbursement of Loan proceeds by State to Borrower in accordance with Section 2.01 of the Loan Agreement. In consideration thereof, Borrower authorizes State to record in State's files the date and amount of each such disbursement, the date and amount of each payment and prepayment by Borrower hereunder and the amount of interest accrued and paid. Borrower further agrees that absent manifest error, such notations shall be conclusive evidence of borrowing, payments and interest under this Note; provided, however, that failure to make any such notations shall not affect the obligations of Borrower hereunder or under any of the Loan Documents.

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. No liability of a party on this Note shall be discharged by any action taken by any holder of this Note that is consented to above.

To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, the prevailing party in any dispute arising from this Note shall be entitled to recover from the other its reasonable attorney's fees, expenses and costs at trial and on appeal. Reasonable attorney fees shall not exceed the rate charged to the State by its attorneys. The Borrower shall, on demand, pay to the State reasonable expenses incurred by the State in the collection of Loan payments.

This Note is made with reference to, and is to be construed in accordance with, the laws of the State of Oregon, without regard to conflicts of law principles.

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

COLUMBIA COUNTY

By: XXXXXXXXXXXXXXXXXXXX

Title: XXXXXXXXXXXXXXXXXXXX

Notice to Borrower: Do not sign this Note before you read it.

PAYMENT SCHEDULE TO THIRD AMENDED AND RESTATED PROMISSORY NOTE

Beg. Balance	\$ 5,746,892
Interest Rate	4.99%

Payment Date	Payment	Principal	Interest	Balance
12/1/2010	237,570	(49,200)	286,770	5,796,092
12/1/2011	-	(289,225)	289,225	6,085,317
12/1/2012	975,139	671,482	303,657	5,413,835
12/1/2013	775,139	504,989	270,150	4,908,847
12/1/2014	475,139	230,188	244,951	4,678,659
12/1/2015	475,139	241,674	233,465	4,436,985
12/1/2016	475,139	253,734	221,406	4,183,251
12/1/2017	475,139	266,395	208,744	3,916,856
12/1/2018	475,139	279,688	195,451	3,637,168
12/1/2019	475,139	293,645	181,495	3,343,524
12/1/2020	475,139	308,297	166,842	3,035,226
12/1/2021	475,139	323,681	151,458	2,711,545
12/1/2022	475,139	339,833	135,306	2,371,712
12/1/2023	475,139	356,791	118,348	2,014,921
12/1/2024	475,139	374,595	100,545	1,640,326
12/1/2025	475,139	393,287	81,852	1,247,039
12/1/2026	475,139	412,912	62,227	834,127
12/1/2027	475,139	433,516	41,623	400,611
12/1/2028	420,602	400,611	19,991	-

SAMPLE OPINION OF MUNICIPALITY COUNSEL
[LETTERHEAD OF COUNSEL TO MUNICIPALITY]

[DATED _____]

Oregon Business Development Department
755 Summer Street NE, Suite 200
Salem, OR 97301-1280

Ladies and Gentlemen:

[Insert "I" or "We"] have acted as counsel to Columbia County, [insert specific legal identity of Municipality] of the State of Oregon (the "Municipality"), which has entered into a Loan Agreement (as hereinafter defined) with the Oregon Business Development Department (the "Department") pursuant to Sections 285B.410 through 285B.482 of the Oregon Revised Statutes (the "Act"), and have acted as such in connection with the authorization, execution and delivery by the Municipality of its Contract (as hereinafter defined).

In so acting [insert "I" or "we"] have examined the Constitution and laws of the State of Oregon and the Municipality's Charter, if any. [insert "I" or "We"] have also examined originals, or copies certified or otherwise identified to [insert "my" or "our"] satisfaction, of the following:

A. Amended and Restated Loan Agreement dated as of _____, 2010 by and between the Department and the Municipality including the Second Amended and Restated Promissory Note dated _____, 2010, in the principal amount of \$5,746,892, executed by the Municipality (collectively, the "Loan Agreement").

B. The Amended and Restated Financial Assistance Award Contract number L02002, dated as of _____, 2010 (the "Contract") by and between the Department and the Municipality;

C. Proceedings of the governing body of the Municipality relating to the approval of the Contract and the Loan Agreement and the execution, issuance and delivery thereof on behalf of the Municipality, and the authorization of the undertaking and completion of the Project (as defined in the Loan Agreement);

D. All outstanding instruments relating to bonds, notes or other indebtedness of or relating to the Municipality.

[insert "I" or "We"] have also examined and relied upon originals, or copies certified or otherwise authenticated to [insert "my" or "our"] satisfaction, of such other records, documents, certificates and other instruments, and made such investigation of law as in [insert "my" or "our"] judgment [insert "I" or "we"] have deemed necessary or appropriate to enable [insert "me" or "us"] to render the opinions expressed below.

Based upon the foregoing, [insert "I am" or "We are"] of the opinion that:

1. The Municipality is a duly formed and operating [insert specific nature of Municipality] described in ORS 285B.410(8), with the legal right to own and operate the Project.

2. The Municipality has full legal right and authority to execute and deliver the Contract and the Loan Agreement and to observe and perform its duties, covenants, obligations and agreements thereunder and to undertake and complete the Project; subject, however, to the effect of, restrictions and limitations imposed by or resulting from, bankruptcy, insolvency, moratorium, reorganization, debt adjustment or other similar laws affecting creditors' rights generally ("Creditor's Rights Limitations") heretofore or hereafter enacted.

3a. Amounts due to the Department pursuant to the Contract and the Promissory Note are payable from the sources described in Section 2.06 of the Loan Agreement.

3b. These Loan Documents (as defined in the Loan Agreement) constitute "limited tax bonded indebtedness" under ORS 287A.105, which authorizes the Municipality (as described in the Loan Agreement) to enter into financing agreements under ORS 271.390, such as the Loan Agreement, which constitutes "full faith and credit obligations" that are payable from any taxes that the Municipality may levy within the limitations of Section 11b, Article XI of the Oregon Constitution and either within or outside the limitations of Section 11, Article XI of the Oregon Constitution. ORS 287A.105(1) states: "The amount of revenue bonds permitted by this section may not exceed the lesser of: (a) One percent of the real market value of all taxable property in the county, calculated as provided in ORS 308.207; or (b) A limitation on bonded indebtedness in the county charter."

3c. The Loan Documents create a valid, enforceable and perfected security interest in and pledge of the Incremental Property Tax Revenues of the Urban Renewal Agency, which security interest and pledge is senior and superior to any other security interest in or lien on said Incremental Property Tax Revenues of the Urban Renewal Agency.

- (1) The _____ [insert specific legal identity of Municipality] Charter does not provide a limit upon the issuance of limited tax bonded indebtedness.
- (2) The County has not issued limited tax bonded indebtedness prior to the execution of the Loan Agreement, and there is no limited tax bonded indebtedness currently outstanding in addition to the Loan Agreement.
- (2) The real market value of the County for Fiscal Year 20__-20__ is \$ _____, and the total amount of limited tax bonded indebtedness which the County may have outstanding is \$ _____.
- (3) The principal amount of the Loan Agreement is \$ _____ which is less than the amount permitted by ORS 287A.105.

4. The Ordinance (the "Ordinance") of the Municipality approving the Contract and the Loan Agreement and authorizing their execution, issuance and delivery on behalf of the Municipality, and authorizing the Municipality to undertake and complete the Project has been duly and lawfully adopted and authorized in accordance with the Municipality's Charter, if any, the Act and other applicable Oregon law, and the Ordinance was adopted at a meeting or meetings which were duly called with not less than 14 days' prior public notice and held in accordance with the Municipality's Charter, if any, and applicable Oregon law, and at which quorums were present and acting throughout.

EXHIBIT "A"

STATE OF OREGON
SPECIAL PUBLIC WORKS FUND
AMENDED AND RESTATED FINANCIAL ASSISTANCE AWARD CONTRACT

This Contract is made and entered into by and between the STATE OF OREGON, ACTING BY AND THROUGH ITS BUSINESS DEVELOPMENT DEPARTMENT ("State") and Columbia County ("Borrower"). The reference number of this Contract is L02002.

RECITALS

WHEREAS, the State is authorized by ORS 285B.410 through 285B.482 to provide financial assistance from the Special Public Works Fund (as defined below) to Oregon municipalities for infrastructure projects;

WHEREAS, the Borrower applied to State for financial assistance from the Special Public Works Fund for the Project (as defined below);

WHEREAS, the Borrower committed to provide One Million Three Hundred Ninety-Eight Thousand Dollars (\$1,398,000) in other public and/or private resources as matching funds for the Project;

WHEREAS, the State reviewed the Borrower's application and determined that the Project was eligible for financial assistance from the Special Public Works Fund and was feasible and merited funding;

WHEREAS, the State and the Borrower entered into that certain financial assistance award contract for interim financing number L02002 ("2002 Contract") and interim financing loan agreement ("2002 Loan Agreement"), both dated as of August 15, 2002, and the Borrower executed and delivered to the State that certain promissory note ("2002 Note") dated August 15, 2002;

WHEREAS, the State and the Borrower subsequently entered into:

(1) an amendment ("Amendment No. 1") to the 2002 Loan Agreement dated as of October 1, 2004;

(2) an amendment ("Amendment No. 2") to the 2002 Loan Agreement and 2002 Contract, dated as of January 10, 2006, and pursuant thereto the Borrower executed and delivered to the State an amended and restated promissory note dated January 4, 2006 ("2006 Note"); and

(3) an amendment ("Amendment No. 3") to the 2002 Loan Agreement and 2002 Contract dated as of November 15, 2007, and pursuant thereto the Borrower executed and delivered to the State an amended promissory note dated November 15, 2007 ("2007 Note").

The 2002 Contract, as amended by Amendment No. 2 and Amendment No. 3, is referred to collectively as the "Original Contract", and the 2002 Loan Agreement, as amended by Amendment No. 1, Amendment No. 2 and Amendment No. 3, is referred to collectively as the "Original Loan Agreement".

WHEREAS, the State, pursuant to the Original Contract and Original Loan Agreement, provided a Loan of Five Million, Eight Hundred Ninety-Four Thousand, Eight Hundred Eighteen Dollars (\$5,894,818) and a Grant of Five Hundred Thousand Dollars (\$500,000) to the Borrower for the Project on the terms and conditions of the Original Contract and Original Loan Agreement.

WHEREAS, the current principal balance of the Loan is Five Million, Seven Hundred Forty-Six Thousand, Eight Hundred Ninety-Two Dollars (\$5,746,892), and the State and the Borrower wish to amend and restate the terms and conditions of the Original Contract and Original Loan Agreement.

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 amended and restated financial assistance award contract between the State and the Borrower, including any exhibits, schedules and attachments thereto, as amended or restated from time to time.

“Costs of the Project” has the meaning set forth in 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 6 hereof.

“Event of Default” shall mean any of the events described paragraphs A through E of Section 6 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 amended and restated 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 dated as of the date hereof, as amended or restated from time to time.

“Note” shall mean that certain second amended and restated promissory note, substantially in the form of Exhibit F to the Loan Agreement, executed by the Borrower in favor of the State, dated the date hereof, 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 B of the Loan Agreement.

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

“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).

**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 loan to Borrower, and Borrower agrees to borrow and accept from State, a loan in the maximum aggregate principal amount of Five Million Eight Hundred Ninety-Four Thousand Eight Hundred Eighteen Dollars (\$5,894,818) (the “Loan”).

B. Amount of Grant. Subject to the terms and conditions of this Contract, the State agrees to grant to Borrower, and Borrower agrees to accept from State, a grant in the amount of five hundred thousand dollars (\$500,000) (the “Grant”).

C. Availability of Funds. The amount set out in Section 2(A) and 2(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. [reserved].

F. Participation Rate. The Borrower shall finance no more than 77.1127 % 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 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 B of the Loan Agreement. The use of these funds is also expressly subject to the special conditions set out in the Special Conditions of Award attached as Exhibit A to the Loan Agreement and by this reference incorporated herein.

B. Ineligible Activities. No part of the Loan or Grant shall be used for:

1. 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;

2. Assistance to facilities that are or will be privately owned;

3. Purchase of equipment, such as motor vehicles, not directly appurtenant to the Project;

4. Purchase of off-site property for project-related purposes such as wetland mitigation or other uses not directly related to the Project;

5. 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 2.05 of the Loan Agreement.

SECTION 4 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 Eight Million, Two Hundred Ninety-Two Thousand, Eight Hundred Eighteen Dollars (\$8,292,818).

B. Matching Funds. As of the date hereof, matching funds of three hundred ninety-eight thousand (\$398,000) are available and committed to the Project and Borrower intends and agrees to make a good faith effort to obtain a grant for another one million dollars (\$1,000,000) for 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. [reserved]

SECTION 5 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 279A, 279B and 279C, as applicable.
2. State labor standards and wage rates found in ORS Chapter 279C.
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 and regulations enacted by agencies listed in Exhibit 2 hereto.
7. Oregon Administrative Rules, chapter 123, Division 42 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, 286A, and 287A.

B. Disbursement of Grant Funds. 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, as applicable.

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. If construction is undertaken with Loan proceeds, 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, Business Development Department.”

F. Creation of 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 (if any) shall be deposited in a segregated construction 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 fullest extent permitted by law, the Borrower shall indemnify the State and its officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of, or relating to the activities of Borrower or its officers, employees, contractors, or agents under or related to this Contract or the Project.

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 it is worn out, obsolete or, in the reasonable business judgment of the Borrower, no longer useful in the operation of the Project. 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 Data. The State may request that the Borrower submit specific requested data on the economic development benefits of the Project, from the date hereof until six (6) years after the Loan Closing Date. Upon such request by the State, the Borrower shall, at the Borrower's expense, prepare and file the requested data within the time specified in the request. Data shall document specific requested information such as any new direct permanent or retained jobs resulting from the Project and Project Facilities and other information to evaluate the success and economic impact of the Project and Project Facilities.

L. First Source Hiring Agreement. If this project identifies one or more businesses in Section 4, then prior to disbursement of the Loan or Grant, the business or businesses must 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 or Licensed Architect. A registered professional engineer or a licensed architect in lieu of a registered professional engineer if use of a licensed architect has been approved by the State will be responsible for design and construction of the Project. The Borrower will check with the Oregon Board of Engineering Examiners or the Oregon Board of Architect Examiners, as applicable, to verify an engineer's or architect's registration and complaint history prior to contracting with the engineer or architect.

N. Minority, Women & Emerging Small Business. ORS 200.090 requires all public agencies to "aggressively pursue a policy of providing opportunities for available contracts to emerging small businesses..." The Oregon Business Development Department encourages Borrower, in its contracting activities, to follow good faith efforts described in ORS 200.045, and available at <http://www.leg.state.or.us/ors/200.html>. Additional resources are provided by the Governor's Advocate for

Minority, Women & Emerging Small Business at <http://egov.oregon.gov/Gov/MWESB/index.shtml>. Also, the Office of Minority, Women, and Emerging Small Business at the Department of Consumer and Business Services maintains a list of certified firms and can answer questions. Search for certified MWESB firms on the web at: <http://imd10.cbs.state.or.us/ex/dir/omwesb/>.

SECTION 6 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, or compliance with the requirements of the Act 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 exercise any or all of the remedies set forth in Section 7.

SECTION 7 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 include, but are not limited to, termination of the Contract and/or Loan Agreement, acceleration of the Loan, payment of amounts earned from the investment of the proceeds of the Loan, 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 8 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: Regional Services Manager
Oregon Business Development Department
775 Summer Street NE
Salem, OR 97301-1280

If to the Borrower: Commission Chair
Columbia County
Courthouse
St. Helens, OR 97051

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. To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, the prevailing party in any dispute arising from this Contract shall be entitled to recover from the other its reasonable attorney fees, costs and expenses at trial and on appeal. Reasonable attorney fees shall not exceed the rate charged to the State by its attorneys. The Borrower shall, on demand, pay to the State reasonable expenses incurred by the State in the collection of Loan payments.

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. Choice of Law; Designation of Forum; Federal Forum.

(a) The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Contract, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

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

(c) Notwithstanding Section 8.F. (b), if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This Section 8.F. (c) applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This Section 8.F. (c) is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

G. Merger. This Contract and the exhibits, schedules and attachment hereto (which are by this reference incorporated herein) 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.

H. Execution in Counterparts. This Contract 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.

I. Amendment and Restatement. This Contract, effective on the last date set forth below the signatures of the representatives of the parties, amends and restates the Original Contract. To the extent this Contract is the same as the Original Contract, it shall be deemed to be a continuation thereof. To the extent this Contract is different from the Original Contract, it shall be deemed to be an amendment thereof.

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
Business Development Department



COLUMBIA COUNTY
(Borrower)

By: _____
Lynn Schoessler, Deputy Director
Infrastructure Finance Authority

By: _____
Tony Hyde, Chair

Date: _____

Date: _____

APPROVED BY THE
URBAN RENEWAL AGENCY

By: _____

Title: _____

Date: _____

APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:

/s/ Lynn T. Nagasako (as per e-mail dated 8/17/10)
Lynn T. Nagasako, Sr. Assistant Attorney General
Date: August 17, 2010

EXHIBIT "B"

Loan Agreement
Page 1 of 19

AMENDED AND RESTATED LOAN AGREEMENT

BETWEEN

STATE OF OREGON

ACTING BY AND THROUGH ITS

BUSINESS DEVELOPMENT DEPARTMENT

AND

COLUMBIA COUNTY

TABLE OF CONTENTS

Page

**ARTICLE I
DEFINITIONS**

SECTION 1.01. Definitions5
SECTION 1.02. General Rules6

**ARTICLE II
LOAN TO BORROWER**

SECTION 2.01. Loan Amount; Loan Terms; Use of Proceeds7
SECTION 2.02. Loan Payment.....7
SECTION 2.03. Unconditional Obligations7
SECTION 2.04. Loan Prepayments7
SECTION 2.05. [reserved].....8
SECTION 2.06. Sources of Payment of Borrower’s Obligations8
SECTION 2.07. Disclaimer of Warranties; Limitation of Liability; Indemnification9
SECTION 2.08. [reserved].....9

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

SECTION 3.01. Representations and Warranties of Borrower9
SECTION 3.02. Particular Covenants of the Borrower12

**ARTICLE IV
CONDITIONS PRECEDENT**

SECTION 4.01. Restatement Closing.....15
SECTION 4.02. [reserved].....15

**ARTICLE V
ASSIGNMENT**

SECTION 5.01. Assignment and Transfer by the State.....15
SECTION 5.02. Assignment by Borrower.....15

**ARTICLE VI
DEFAULTS AND REMEDIES**

SECTION 6.01. Event of Default15
SECTION 6.02. Notice of Default16
SECTION 6.03. Remedies on Default16
SECTION 6.04. Attorney’s Fees and Other Expenses17
SECTION 6.05. Application of Moneys17
SECTION 6.06. No Remedy Exclusive; Waiver; Notice17
SECTION 6.07. Retention of State’s Rights17
SECTION 6.08. Default by the State17

ARTICLE VII
MISCELLANEOUS

SECTION 7.01. Notices.....	17
SECTION 7.02. Binding Effect	18
SECTION 7.03. Severability.....	18
SECTION 7.04. Amendments, Supplements and Modifications.....	18
SECTION 7.05. Execution in Counterparts.....	18
SECTION 7.06. No Construction against Drafter	18
SECTION 7.07. Choice of Law; Designation of Forum; Federal Forum	18
SECTION 7.08. Consents and Approvals.....	18
SECTION 7.09. Merger; No Waiver	18
SECTION 7.10. Amendment and Restatement.....	19

EXHIBITS

- Exhibit A: Special Conditions of Award
- Exhibit B: Project Description
- Exhibit C: Project Budget
- Exhibit D: Description of the Loan
- Exhibit E: [reserved]
- Exhibit F: Form of Second Amended and Restated Promissory Note
- Exhibit G: Form of Opinion of Borrower's Counsel

THIS AMENDED AND RESTATED LOAN AGREEMENT, made and entered into as of the date of the last signature hereto, by and between the STATE OF OREGON, ACTING BY AND THROUGH ITS BUSINESS 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 is authorized by ORS 285B.410 through 285B.482 to loan money in the Special Public Works Fund to Oregon municipalities to finance infrastructure projects; and

WHEREAS, the Borrower applied to State for a loan to finance all or a portion of the Costs of the Project (as defined below); and

WHEREAS, the State reviewed the Borrower's application and determined that the Project (as defined below) was eligible for loan financing from the Special Public Works Fund and was feasible and merited funding; and

WHEREAS, the State and the Borrower entered into that certain financial assistance award contract for interim financing, number L02002 ("2002 Contract") and interim financing loan agreement ("2002 Loan Agreement"), both dated as of August 15, 2002, and the Borrower executed and delivered to the State that certain promissory note ("2002 Note") dated August 15, 2002;

WHEREAS, the State and the Borrower subsequently entered into:

(1) an amendment ("Amendment No. 1") to the 2002 Loan Agreement dated as of October 1, 2004;

(2) an amendment ("Amendment No. 2") to the 2002 Loan Agreement and 2002 Contract, dated as of January 10, 2006, and pursuant thereto the Borrower executed and delivered to the State an amended and restated promissory note dated January 4, 2006 ("2006 Note"); and

(3) an amendment ("Amendment No. 3") to the 2002 Loan Agreement and 2002 Contract, dated as of November 15, 2007, and pursuant thereto the Borrower executed and delivered to the State an amended promissory note dated November 15, 2007 ("2007 Note").

The 2002 Contract, as amended by Amendment 2 and Amendment 3, is referred to collectively as the "Original Contract", and the 2002 Loan Agreement, as amended by Amendment 1, Amendment 2 and Amendment 3, is referred to collectively as the "Original Loan Agreement".

WHEREAS, the State, pursuant to the Original Contract and Original Loan Agreement, provided a Loan of Five Million, Eight Hundred Ninety-Four Thousand, Eight Hundred Eighteen Dollars (\$5,894,818) and a Grant of Five Hundred Thousand Dollars (\$500,000) to the Borrower for the Project on the terms and conditions of the Original Contract and Original Loan Agreement.

WHEREAS, the current principal balance of the Loan is Five Million, Seven Hundred Forty-Six Thousand, Eight Hundred Ninety-Two Dollars (\$5,746,892), and the State and the Borrower wish to amend and restate the terms and conditions of the Original Contract and Original Loan Agreement.

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.

“Area” means the Port Westward Urban Renewal Area.

“Authorized Officer” means, in the case of the Borrower, the person whose name or title is set forth in Exhibit D 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.

“Borrower” means the Municipality that is a party to this Loan Agreement and is described on Exhibit D 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 are closed, or (b) a day on which the New York Stock Exchange is closed.

“Contract” means the amended and restated financing assistance award contract between the State and the Borrower dated as of the date hereof, as amended or restated from time to time.

“Costs of the Project” means those costs of Borrower that are (a) reasonable, necessary and directly related to the Project, 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) the purchase of equipment and other property not directly related to the Project, (ii) construction or repair of facilities owned or operated by private parties, (iii) costs incurred prior to the date of the Loan, except as provided in Section 3.02(a), (iv) administrative expenses of the Borrower or (v) 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 or the Borrower) duly admitted to practice law before the highest court of any state.

“Draw” means a loan to the Borrower under this Loan Agreement.

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

“IGA” means that certain amended and restated intergovernmental agreement between the Borrower and the URA dated as of November 27, 2007.

“Incremental Tax Revenues” or “Incremental Property Tax Revenues” has the meaning assigned to that term in Exhibit A of this Loan Agreement.

“Loan” means the aggregate principal amount of the Five Million Eight Hundred Ninety-Four Thousand Eight Hundred Eighteen Dollars (\$5,894,818) loaned by the State to the Borrower to provide financing for a portion of the Costs of the Project pursuant to this Loan Agreement.

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

“Maturity Date” means the date by which the Outstanding Balance must be repaid, as set forth in Exhibit D hereto or otherwise designated by the State in writing pursuant to Section 7.04 of this Loan Agreement.

“Municipality” means any entity described in ORS 285B.410(8).

“Note” means the second amended and restated promissory note of the Borrower evidencing the Outstanding Balance on the Restatement Closing Date, substantially in the form of Exhibit F.

“Outstanding Balance” means, at any time, the sum of all Draws, less the sum of all Note principal repayments received by the State.

“Project” means the infrastructure project of the Borrower described in Exhibit B attached hereto and by this reference made a part hereof.

“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.

“Restatement Closing Date” means the date on which all conditions set forth in Section 4.01 are satisfied.

“Restatement Closing Deadline” means the date, as set forth in Exhibit D hereto, by which all conditions set forth in Section 4.01 must be satisfied.

“Revenues” means the net revenues identified in the Special Conditions of Award attached hereto as Exhibit A 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 Business Development Department.

“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.

“URA” means the Columbia County Development Agency.

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.

**ARTICLE II
LOAN TO BORROWER**

SECTION 2.01. Loan Amount; Loan Terms; 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 make loans to the Borrower in an aggregate amount not to exceed the principal amount of the Loan as set forth in Exhibit D hereto.

(b) Interest Rate. Each Draw under this Loan Agreement shall bear interest at the rate of one and 52/100 percent (1.52%) per annum from date of the 2002 Loan Agreement until November 30, 2008, and thereafter at the rate of four and 99/100 percent (4.99%) per annum, calculated on a 360-day year, consisting of twelve (12) thirty-day (30-day) months.

(c) 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. The Borrower agrees to repay the Loan and all amounts due under the Note in accordance with the terms hereof and of the Note, including the Payment Schedule. Unless earlier repayment is received hereunder or under the terms of the Note, the Outstanding Balance, plus accrued interest, and all other amounts due hereunder, shall be paid no later than the Maturity Date.

SECTION 2.03. Unconditional Obligations. The provisions of this Loan Agreement shall constitute a contract with the State and shall be enforceable by the State. Payments required under the Loan Documents are payable from the sources of repayment described in Section 2.06 hereof, and the obligation of the Borrower to make all 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 to perform and observe any agreement, whether express or implied, or any duty, liability, or obligation arising out of or connected with the Project or this Loan Agreement or any rights of set off, recoupment, abatement or counterclaim that the Borrower might otherwise have against the State or any other party or parties; provided, however, that payments hereunder shall not constitute a waiver of any such rights.

SECTION 2.04. Loan Prepayments.

(a) Mandatory Prepayment. The Borrower shall prepay the Outstanding Balance of the Loan, plus accrued interest, upon the occurrence of the following events:

(i) destruction of all or a substantial portion of the Project; or

(ii) the issuance of any subsequent short or long term financing obligation for the Project or to refund the Loan within thirty (30) days of issuing such financing obligation.

The pledge and lien of this Loan Agreement and the Note shall continue if prepayment under this Section 2.04 does not occur.

(b) Optional Prepayment prior to the Maturity Date. The Borrower may prepay all or any portion of the Outstanding Balance of the Loan on any Business Day upon five (5) Business Day's notice to the State. Each prepayment shall include accrued unpaid interest on the amount prepaid. Prepayments by the Borrower shall be applied first to pay accrued interest, and second to reduce the Outstanding Balance. This Loan Agreement is non-revolving; when the Borrower prepays the Outstanding Balance, it may not reborrow that amount.

SECTION 2.05. [reserved]

SECTION 2.06. 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, 2.04, 2.07 and 6.04 hereof, are payable from the sources of repayment described in paragraph (b) of this Section 2.06; 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 proceeds of any subsequent short or long-term financing to refund the Loan or to finance the Project, and other sources identified in the Special Conditions of Award attached hereto as Exhibit A. The pledges made by the Borrower in these Special Conditions of Award shall be valid and binding from the date of this Loan Agreement pursuant to ORS 287A.310. The amounts so pledged and hereafter received by the Borrower shall immediately be subject to the lien of the pledge without physical delivery or further act and except as may be stated in the Special Conditions of Award, shall be superior to all other claims and liens whatsoever to the fullest extent permitted by ORS 287A.310. The amounts payable by the Borrower under this Loan Agreement and the other Loan Documents are also payable from all legally available general funds in the Borrower's general fund.

(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 or ORS 287A.105.

SECTION 2.07. Disclaimer of Warranties; Limitation of Liability; Indemnification. The Borrower acknowledges and agrees that:

(a) the State makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for particular purpose or fitness for any use of the System or the Project or any portions thereof or any other warranty or representation with respect thereto;

(b) in no event shall the State or its 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 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 2.08. [reserved]

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 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 Exhibit B and Exhibit C hereto and in Sections 2, 3, 4 and 8 of Exhibit D 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.437(4) 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.

(vii) Borrower is authorized, pursuant to ORS 287A.105, to execute this Loan Agreement and Loan Documents, which create a "limited bonded indebtedness" under that statute which the Borrower is unconditionally obligated to pay, and that the amount necessary to repay the obligations created hereunder will not exceed the operating levy in the county within which Borrower may levy and collect taxes to fulfill its obligations made under a full faith and credit pledge or as limited bonded indebtedness. Further:

A. Other than \$15,496,093, Borrower has not issued limited tax bonded indebtedness prior to the execution of the Loan Document, and there is no limited tax bonded indebtedness currently outstanding other than the limited tax bonded indebtedness evidenced by the Loan Documents;

B. The real market value of all taxable property within Columbia County for fiscal year 2010 - 2011 is \$ 6,299,615,211, and the total amount of limited tax bonded indebtedness which the Borrower may have outstanding is \$ 125,992,304; and

C. The principal amount of debt evidenced by the Loan Documents is \$5,894,818, which is less than the maximum amount permitted by ORS 287A.105.

(viii) Borrower may pledge its full faith and credit and taxing power within the limitations of Oregon law, including but not limited to Sections 11 and 11b of Article XI of the Oregon Constitution, and any and all of Borrower's legally available funds, to make the payments due under the Loan Agreement and Loan Documents.

(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 payments 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 payments 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, et Cetera. 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 payments 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.

(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) 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 benefited 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) The Project satisfies the criteria set forth in ORS 285B.410 to 285B.482 and OAR Chapter 123 division 42.

(ix) The Project is included in Columbia County's Port Westward Urban Renewal Plan.

(i) Costs of the Project. The Borrower certifies that the Costs of the Project, as listed in Exhibits C and D hereto, are a reasonable and accurate estimation and based upon an engineer's feasibility report and engineer's estimate stamped by a registered professional engineer or an architect's feasibility report and architect's estimate stamped by a licensed architect, as applicable, a copy of which shall be promptly provided to the State upon request, exceeds the maximum principal amount of the Loan shown on Exhibit D.

(j) Continuing Representations. The representations of the Borrower contained herein shall be true on 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 to finance all or a portion of the Costs of the Project which is included in Columbia County's Port Westward Urban Renewal Plan. 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 2.06 of this Loan Agreement and in the Special Conditions of Award attached hereto as Exhibit A. 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 D; (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 judgment 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 if the State consents thereto in writing upon ninety (90) days' prior written notice to the State. Proceeds of any such transfer not used to replace property that is part of the Project shall be applied to the payment or prepayment of the outstanding principal of and interest in the Loan, as provided in Section 2.04 of this Agreement.

(f) [reserved]

(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 2.06(b), 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 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 any party designated by the State 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 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.

(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.

(l) Notice of Material Adverse Change. The Borrower shall promptly notify the State 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) 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.

(n) Contract Covenants. The Borrower covenants and agrees to comply with the terms of the Contract including the covenants of the Borrower in Section 5 of the Contract.

(o) 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. Restatement Closing. The State's obligations under this amended and restated Loan Agreement are subject to satisfaction of the following conditions precedent on or prior to the Restatement Closing Deadline, as set forth in Exhibit D hereto, or such later date as State may authorize in writing in State's sole and absolute discretion:

(a) the Borrower has caused to be executed and delivered to the State the following items, each in form and substance satisfactory to State:

(i) the Note duly executed and delivered by an Authorized Officer of the Borrower;

(ii) the Contract duly executed and delivered by an Authorized Officer of the Borrower;

(iii) copy of the ordinance, order 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 (if requested by State);

(iv) an opinion of the Borrower's Counsel substantially in the form set forth in Exhibit G hereto (such opinion or portions of such opinion may be given by one or more Counsel); provided, however, that the State and its Counsel may permit variances in the form of such opinion (if requested by State); and

(v) such other certificates, documents, opinions and information as the State may reasonably require.

SECTION 4.02. [reserved]

**ARTICLE V
ASSIGNMENT**

SECTION 5.01. Assignment and Transfer by the State. 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.

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 the Department of Justice.

**ARTICLE VI
DEFAULTS AND REMEDIES**

SECTION 6.01. Event of Default. Time is of the essence of this Loan Agreement. 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 make, or cause to be made, any required payments of principal and interest on the Note when due, as provided in the Note and this Loan Agreement; or

(b) 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, including but not limited to 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 and performance of duties by the Borrower, is false or misleading in any material respect; or

(c) 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

(d) The occurrence of any event of default under Section 6 of the Contract; or

(e) Failure by the Borrower to observe and perform any duty, covenant, obligation or agreement (including that described in subsection (f) 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 (d) 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, unless the State 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 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

(f) 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 prompt telephone notice of the occurrence of any Event of Default referred to in Section 6.01(c) 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 any action permitted or required pursuant to the Loan Agreement or any other Loan Document 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 principal and interest and all other amounts due hereunder and under the other Loan Documents 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 funds under this Loan Agreement, (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.449.

SECTION 6.04. Attorney Fees and Other Expenses. To the fullest extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, the prevailing party in any dispute arising from this Loan Agreement shall be entitled to recover from the other its reasonable attorney fees, costs and expenses at trial and on appeal. Reasonable attorney fees shall not exceed the rate charged to the State by its attorneys. The Borrower shall, on demand, pay to the State reasonable expenses incurred by the State in the collection of Loan payments.

SECTION 6.05. Application of Moneys. Any moneys collected by the State pursuant to Section 6.03 hereof shall be applied (a) first, to pay any attorney'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 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 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 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, 2.07, 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.

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 D hereof and to the State at the following address:

Oregon Business Development Department
Attention: Manager, Infrastructure Finance Authority
775 Summer Street NE, Suite 200
Salem, OR 97301-1280

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.

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.

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. Choice of Law; Designation of Forum; Federal Forum.

(a) The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Loan Agreement, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

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

(c) Notwithstanding Section 7.07 (b), if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This Section 7.07 (c) applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This Section 7.07 (c) is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

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.

SECTION 7.09. Merger; No Waiver. This Loan Agreement and the exhibits, schedules and attachments hereto (which are by this reference incorporated herein) 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.

SECTION 7.10. Amendment and Restatement. This Loan Agreement, effective on the last date set forth below the signatures of the representatives of the parties, amends and restates the Original Loan Agreement. To the extent this Loan Agreement is the same as the Original Loan Agreement, it shall be deemed to be a continuation thereof. To the extent this Loan Agreement is different from the Original Loan Agreement, it shall be deemed to be an amendment thereof.

IN WITNESS WHEREOF, the State and the Borrower have caused this Loan Agreement to be executed and delivered, effective as of the date of the last signature set forth below.



STATE OF OREGON
acting by and through its
Business Development Department



COLUMBIA COUNTY
(Borrower)

By: _____
Lynn Schoessler, Deputy Director
Infrastructure Finance Authority

By: _____
Tony Hyde, Chair

Date: _____

Date: _____

**APPROVED BY THE
URBAN RENEWAL AGENCY**

By: _____

Title: _____

Date: _____

APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:

/s/ Lynn T. Nagasako (as per e-mail dated 8/17/10)
Lynn T. Nagasako, Sr. Assistant Attorney General
Date: August 17, 2010

SPECIAL CONDITIONS OF AWARD

I. General Fund as a Source of Repayment

The Borrower hereby pledges its full faith and credit and taxing power within the limitations of Article XI, Sections 11 and 11b, of the Oregon Constitution to pay the amounts due under the Loan Agreement and the Note. The Loan Agreement and the Note shall be payable from all legally available funds of the Borrower.

II. Pledge of Incremental Property Tax Revenues of the URA

1. In addition to the above, the Loan shall be repaid from the ad valorem tax revenues from property within the Area which are attributable to the increase in assessed value of property within the Area pursuant to Section 1c, Article IX of the Oregon Constitution and ORS Chapter 457 (the "Incremental Tax Revenues" or "Incremental Property Tax Revenues") and all earnings thereon while the Incremental Property Tax Revenues are held in the Incremental Property Tax Revenues Fund for the Area. The Incremental Property Tax Revenues have been pledged to the Borrower by the URA for the purpose of securing, inter alia, the Loan pursuant to the IGA. The Borrower hereby grants to the State a security interest in and irrevocably pledges its interest in the Incremental Property Tax Revenues of the URA that was granted to it pursuant to the IGA to pay all of the obligations owed by the Borrower to the State under the Loan Agreement, and except as provided in Section II.3 below, this security interest shall be senior and superior to any other security interest or lien on Borrower's interest in the Incremental Property Tax Revenues of the URA.
2. Except as set forth in Section II.3 below, the Borrower shall not incur any obligations payable from or secured by an assignment and pledge of its interest in the Incremental Property Tax Revenues under the IGA that is superior to or on a parity with the Loan without State's written consent.
3. Notwithstanding the requirement of paragraphs 1 and 2 above, loans made in the future by State to the Borrower for the Road Project that are secured by the Incremental Property Tax Revenues ("OBDD Parity Loans") shall have a lien on such Incremental Property Tax Revenues on a parity with the Loan; provided, however, that nothing in this paragraph shall adversely affect the priority of the State's lien on the Incremental Property Tax Revenues in relation to the lien of any third party; provided further that the Port Water Loan shall be junior to OBDD Parity Loans, and the Port Rail Loan shall be junior to OBDD Parity Loans and the Port Water Loan, and the Borrower's right to reimbursement of administrative expenses under the IGA shall be superior to such parity and superior liens.
4. The Incremental Property Tax Revenues pledged pursuant to paragraph II.1 above and hereafter received by the Borrower shall immediately be subject to the lien of such pledge without physical delivery or further act, and the lien of the pledge shall be superior to all other claims and liens whatsoever, except as provided in paragraph 3 above, to the fullest extent permitted by ORS 287A.310. The Borrower hereby represents and warrants that the pledge of Incremental Property Tax Revenues hereby made by the Borrower complies with, and shall be valid and binding from the date hereof pursuant to, ORS 287A.310.
5. The Borrower hereby represents and warrants that pursuant to the IGA:
 - (a) the URA has pledged the Incremental Property Tax Revenues to the Borrower for repayment of the Loan and other obligations of this Loan Agreement and that the IGA is a valid and binding obligation of the URA and the Borrower, enforceable in accordance with its terms;

(b) except as provided in the IGA, the URA has covenanted that it will not incur any obligations payable from or secured by a lien on or pledge of the Incremental Property Tax Revenues that is superior to or on a parity with the IGA without the Borrower's written consent; and

(c) the URA has covenanted that it will not remove any property from the Area if such removal will cause the anticipated Incremental Property Tax Revenues to be inadequate to pay the annual debt service on the Loan and any parity obligations.

6. The State subordinates its lien on the Incremental Tax Revenues to the lien of the Borrower on said Incremental Tax Revenues to the extent it secures payment of Administrative Costs (as defined in the IGA); provided however that in the event the Borrower's lien is invalidated or terminates for any reason, this subordination shall automatically terminate.

PROJECT DESCRIPTION

Borrower will design and construct the infrastructure necessary for the further development of Port Westward as an industrial site on the Lower-Columbia River. The Project includes the following road improvements which must be capable of supporting industrial and commercial truck traffic:

- Certain improvements on US Highway 30 at its intersection with Van Street and construction of a westbound deceleration lane and traffic signal if warranted;
- Widening Van Street and its shoulders, AC (asphalt-concrete) paving and drainage system improvements;
- Widening 5th Street, including AC paving overlay, constructing a pool and playground barrier at the city park, and drainage improvements;
- Widening Beaver Falls Road (within the city limits), including AC paving overlay and drainage improvements (improvements within the city limits are to be developed to city road standards); replacing a municipal waterline from the city limits to Kallio Road;
- Widening Beaver Falls Road to its intersection with Quincy Mayger Road, including AC paving overlay, constructing paved turnouts, installing guardrail, and realigning and widening the curves at the intersection of Beaver Falls and Quincy Mayger Roads;
- Paving an AC overlay with shoulder rock on Quincy Mayger Road to its intersection with Kallunki Road, construct paved turnouts, drainage improvements, install guardrail, and construct a refuge lane at the railroad crossing at Kallunki Road;
- Improving railroad crossing from Kallunki Road to the Port Westward security gate complete with active protection devices (flashing lights, drop arms, et cetera), curve widening and driveway improvements, and a paving overlay;
- Graveling the Hermo Road secondary access into the site, and providing maintenance improvements to Collins and Alston Mayger County Roads; and
- Completing preliminary and final engineering and managing construction of the Project.

DESCRIPTION OF THE LOAN

1. Restatement Closing Deadline: October 22, 2010
2. Name and Address of Borrower: Columbia County
Courthouse
St. Helens, OR 97051
3. Cost of the Project: \$8,292,818
4. Estimated Project Completion Date: December 31, 2011
5. Outstanding Balance of Loan
as of the Restatement Closing Date: \$5,746,892
6. Interest Rate: The interest rate, including any adjustments to such rate,
as described in the Note.
7. Maturity Date: December 1, 2028
8. Authorized Officers of Borrower: Chair, Board of County Commissioners

THIRD AMENDED AND RESTATED PROMISSORY NOTE

(Dated) XXXXXXXXXXXXXXXXXX, XXXX

St. Helens, OR

FOR VALUE RECEIVED, Columbia County, 230 Strand Street, Room 331, St. Helens, OR 97051 (hereinafter "Borrower"), unconditionally 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 BUSINESS DEVELOPMENT DEPARTMENT, at its principal office at 775 Summer Street NE, Suite 200, Salem, Oregon 97301-1280 (hereinafter "State"), the principal sum of Five Million Seven Hundred Forty-Six Thousand Eight Hundred Ninety-Two Dollars (\$5,746,892), plus interest on the outstanding principal balance at the rate of Four and 99/100 percent (4.99%) per annum from the date hereof until paid. Interest shall be computed on the basis of a 360-day year, consisting of twelve (12) thirty (30) day months. All outstanding principal and accrued unpaid interest on this Note are due and payable in full on the Maturity Date (as defined in the Loan Agreement).

Capitalized terms not otherwise defined in this Note shall have the meanings assigned to them by that certain amended and restated loan agreement dated as of XXXXXXXXXXXX, 2010, between the State and the Borrower (as amended from time to time the "Loan Agreement").

This Note is subject to mandatory prepayment, and is payable prior to its Maturity Date, as provided for in Section 2.04 of the Loan Agreement.

Each payment made by the Borrower hereunder shall be applied in accordance with the terms of the Loan Agreement.

This Note is given to avoid the execution by Borrower of an individual note for each disbursement of Loan proceeds by State to Borrower in accordance with Section 2.01 of the Loan Agreement. In consideration thereof, Borrower authorizes State to record in State's files the date and amount of each such disbursement, the date and amount of each payment and prepayment by Borrower hereunder and the amount of interest accrued and paid. Borrower further agrees that absent manifest error, such notations shall be conclusive evidence of borrowing, payments and interest under this Note; provided, however, that failure to make any such notations shall not affect the obligations of Borrower hereunder or under any of the Loan Documents.

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. No liability of a party on this Note shall be discharged by any action taken by any holder of this Note that is consented to above.

To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, the prevailing party in any dispute arising from this Note shall be entitled to recover from the other its reasonable attorney's fees, expenses and costs at trial and on appeal. Reasonable attorney fees shall not exceed the rate charged to the State by its attorneys. The Borrower shall, on demand, pay to the State reasonable expenses incurred by the State in the collection of Loan payments.

This Note is made with reference to, and is to be construed in accordance with, the laws of the State of Oregon, without regard to conflicts of law principles.

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

COLUMBIA COUNTY

By: _____XXXXXXXXXXXXXXXXXXXX

Title: _____XXXXXXXXXXXXXXXXXXXX

Notice to Borrower: Do not sign this Note before you read it.

PAYMENT SCHEDULE TO THIRD AMENDED AND RESTATED PROMISSORY NOTE

Beg. Balance	\$ 5,746,892
Interest Rate	4.99%

Payment Date	Payment	Principal	Interest	Balance
12/1/2010	237,570	(49,200)	286,770	5,796,092
12/1/2011	"	(289,225)	289,225	6,085,317
12/1/2012	975,139	671,482	303,657	5,413,835
12/1/2013	775,139	504,989	270,150	4,908,847
12/1/2014	475,139	230,188	244,951	4,678,659
12/1/2015	475,139	241,674	233,465	4,436,985
12/1/2016	475,139	253,734	221,406	4,183,251
12/1/2017	475,139	266,395	208,744	3,916,856
12/1/2018	475,139	279,688	195,451	3,637,168
12/1/2019	475,139	293,645	181,495	3,343,524
12/1/2020	475,139	308,297	166,842	3,035,226
12/1/2021	475,139	323,681	151,458	2,711,545
12/1/2022	475,139	339,833	135,306	2,371,712
12/1/2023	475,139	356,791	118,348	2,014,921
12/1/2024	475,139	374,595	100,545	1,640,326
12/1/2025	475,139	393,287	81,852	1,247,039
12/1/2026	475,139	412,912	62,227	834,127
12/1/2027	475,139	433,516	41,623	400,611
12/1/2028	420,602	400,611	19,991	-

SAMPLE OPINION OF MUNICIPALITY COUNSEL
[LETTERHEAD OF COUNSEL TO MUNICIPALITY]

[DATED _____]

Oregon Business Development Department
755 Summer Street NE, Suite 200
Salem, OR 97301-1280

Ladies and Gentlemen:

[Insert "I" or "We"] have acted as counsel to Columbia County, [insert specific legal identity of Municipality] of the State of Oregon (the "Municipality"), which has entered into a Loan Agreement (as hereinafter defined) with the Oregon Business Development Department (the "Department") pursuant to Sections 285B.410 through 285B.482 of the Oregon Revised Statutes (the "Act"), and have acted as such in connection with the authorization, execution and delivery by the Municipality of its Contract (as hereinafter defined).

In so acting [insert "I" or "we"] have examined the Constitution and laws of the State of Oregon and the Municipality's Charter, if any. [insert "I" or "We"] have also examined originals, or copies certified or otherwise identified to [insert "my" or "our"] satisfaction, of the following:

A. Amended and Restated Loan Agreement dated as of _____, 2010 by and between the Department and the Municipality including the Second Amended and Restated Promissory Note dated _____, 2010, in the principal amount of \$5,746,892, executed by the Municipality (collectively, the "Loan Agreement").

B. The Amended and Restated Financial Assistance Award Contract number L02002, dated as of _____, 2010 (the "Contract") by and between the Department and the Municipality;

C. Proceedings of the governing body of the Municipality relating to the approval of the Contract and the Loan Agreement and the execution, issuance and delivery thereof on behalf of the Municipality, and the authorization of the undertaking and completion of the Project (as defined in the Loan Agreement);

D. All outstanding instruments relating to bonds, notes or other indebtedness of or relating to the Municipality.

[insert "I" or "We"] have also examined and relied upon originals, or copies certified or otherwise authenticated to [insert "my" or "our"] satisfaction, of such other records, documents, certificates and other instruments, and made such investigation of law as in [insert "my" or "our"] judgment [insert "I" or "we"] have deemed necessary or appropriate to enable [insert "me" or "us"] to render the opinions expressed below.

Based upon the foregoing, [insert "I am" or "We are"] of the opinion that:

1. The Municipality is a duly formed and operating [insert specific nature of Municipality] described in ORS 285B.410(8), with the legal right to own and operate the Project.

2. The Municipality has full legal right and authority to execute and deliver the Contract and the Loan Agreement and to observe and perform its duties, covenants, obligations and agreements thereunder and to undertake and complete the Project; subject, however, to the effect of, restrictions and limitations imposed by or resulting from, bankruptcy, insolvency, moratorium, reorganization, debt adjustment or other similar laws affecting creditors' rights generally ("Creditor's Rights Limitations") heretofore or hereafter enacted.

3a. Amounts due to the Department pursuant to the Contract and the Promissory Note are payable from the sources described in Section 2.06 of the Loan Agreement.

3b. These Loan Documents (as defined in the Loan Agreement) constitute "limited tax bonded indebtedness" under ORS 287A.105, which authorizes the Municipality (as described in the Loan Agreement) to enter into financing agreements under ORS 271.390, such as the Loan Agreement, which constitutes "full faith and credit obligations" that are payable from any taxes that the Municipality may levy within the limitations of Section 11b, Article XI of the Oregon Constitution and either within or outside the limitations of Section 11, Article XI of the Oregon Constitution. ORS 287A.105(1) states: "The amount of revenue bonds permitted by this section may not exceed the lesser of: (a) One percent of the real market value of all taxable property in the county, calculated as provided in ORS 308.207; or (b) A limitation on bonded indebtedness in the county charter."

3c. The Loan Documents create a valid, enforceable and perfected security interest in and pledge of the Incremental Property Tax Revenues of the Urban Renewal Agency, which security interest and pledge is senior and superior to any other security interest in or lien on said Incremental Property Tax Revenues of the Urban Renewal Agency.

- (1) The _____ [insert specific legal identity of Municipality] Charter does not provide a limit upon the issuance of limited tax bonded indebtedness.
- (2) The County has not issued limited tax bonded indebtedness prior to the execution of the Loan Agreement, and there is no limited tax bonded indebtedness currently outstanding in addition to the Loan Agreement.
- (3) The real market value of the County for Fiscal Year 20__-20__ is \$ _____, and the total amount of limited tax bonded indebtedness which the County may have outstanding is \$ _____.
- (4) The principal amount of the Loan Agreement is \$ _____ which is less than the amount permitted by ORS 287A.105.

4. The Ordinance (the "Ordinance") of the Municipality approving the Contract and the Loan Agreement and authorizing their execution, issuance and delivery on behalf of the Municipality, and authorizing the Municipality to undertake and complete the Project has been duly and lawfully adopted and authorized in accordance with the Municipality's Charter, if any, the Act and other applicable Oregon law, and the Ordinance was adopted at a meeting or meetings which were duly called with not less than 14 days' prior public notice and held in accordance with the Municipality's Charter, if any, and applicable Oregon law, and at which quorums were present and acting throughout.

5. The Contract and the Loan Agreement have been duly authorized, executed and delivered by the authorized officers of the Municipality and constitute the legal, valid and binding obligation of the Municipality enforceable in accordance with their respective terms; subject, however, to the effect of, and to restrictions and limitations imposed by or resulting from Creditor's Rights Limitations or other laws, judicial decisions and principles of equity relating to the enforcement of contractual obligations generally.

6. To the best of [insert "my" or "our"] knowledge, after such investigation as [insert "I" or "we"] have deemed appropriate, the authorization, execution and delivery of the Contract and the Loan Agreement by the Municipality, the observation and performance by the Municipality of its duties, covenants, obligations and agreements thereunder and the consummation of the transactions contemplated therein and the undertaking and completion of Project do not and will not contravene any existing law or any existing order, injunction, judgment, decree, rule or regulation of any court or governmental or administrative agency, authority or person having jurisdiction over the Municipality or its property or assets or result in a breach or violation of any of the terms and provisions of, or constitute a default under, any existing bond ordinance, resolution, trust agreement, indenture, mortgage, deed of trust or other agreement to which the Municipality is a party or by which it, the Project, or its property or assets is bound.

7. To the best of [insert "my" or "our"] knowledge, after such investigation as [insert "I" or "we"] have deemed appropriate, all approvals, consents or authorizations of, or registrations of or filings with, any governmental or public agency, authority or person required to date on the part of the Municipality in connection with the authorization, execution, delivery and performance of the Contract and the Loan Agreement and the undertaking and completion of the Project have been obtained or made.

8. To the best of [insert "my" or "our"] knowledge, after such investigation as [insert "I" or "we"] have deemed appropriate, there is no litigation or other proceeding pending or threatened in any court or other tribunal of competent jurisdiction (either State or Federal) questioning the creation, organization or existence of the Municipality or of the validity, legality or enforceability of the Contract or the Loan Agreement or the undertaking or completion of the Project.

This opinion is rendered on the basis of the laws of the State of Oregon, including the Act, as enacted and construed on the date hereof. [insert "I" or "We"] express no opinion as to any matter not set forth in the numbered paragraphs herein.

Very truly yours,

5. The Contract and the Loan Agreement have been duly authorized, executed and delivered by the authorized officers of the Municipality and constitute the legal, valid and binding obligation of the Municipality enforceable in accordance with their respective terms; subject, however, to the effect of, and to restrictions and limitations imposed by or resulting from Creditor's Rights Limitations or other laws, judicial decisions and principles of equity relating to the enforcement of contractual obligations generally.

6. To the best of [insert "my" or "our"] knowledge, after such investigation as [insert "I" or "we"] have deemed appropriate, the authorization, execution and delivery of the Contract and the Loan Agreement by the Municipality, the observation and performance by the Municipality of its duties, covenants, obligations and agreements thereunder and the consummation of the transactions contemplated therein and the undertaking and completion of Project do not and will not contravene any existing law or any existing order, injunction, judgment, decree, rule or regulation of any court or governmental or administrative agency, authority or person having jurisdiction over the Municipality or its property or assets or result in a breach or violation of any of the terms and provisions of, or constitute a default under, any existing bond ordinance, resolution, trust agreement, indenture, mortgage, deed of trust or other agreement to which the Municipality is a party or by which it, the Project, or its property or assets is bound.

7. To the best of [insert "my" or "our"] knowledge, after such investigation as [insert "I" or "we"] have deemed appropriate, all approvals, consents or authorizations of, or registrations of or filings with, any governmental or public agency, authority or person required to date on the part of the Municipality in connection with the authorization, execution, delivery and performance of the Contract and the Loan Agreement and the undertaking and completion of the Project have been obtained or made.

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Very truly yours,

ENVIRONMENTAL AND NATURAL RESOURCE AGENCIES

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 Services, 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

**Oregon Business Development Department
Amended and Restated Project Budget**

Project Number: L02002
Project Name: Port Westward Access and Road Corridor Improvements

Recipient: Columbia County
Funding Pgm(s): Special Public Works Fund Loan
Special Public Works Fund Grant

CTS # 033200422

(A)	Department Funds				Other/Matching Funds			All Funds
	(B)	(C)	(D)	(E) = [B-C-D]	(F)	(G)	(H) = [F-G]	(I) = [C+D+G]
Activity	Approved Budget	Prior Disbursements	Current Request	Balance	Approved Budget	Expended To Date	Balance	Disbursed & Expended To Date
Water System Improvements	\$323,255							
Storm Sewer Improvements	99,568							
Road and Bridge Improvements	4,278,944				1,500,000			
Engineering / Architectural	1,623,051				398,000			
Land Clearance / Acquisition	70,000							
Total	\$6,394,818				\$1,898,000			

Total Project Budget		
Funding Sources	Approved Budget	Expenditures To Date
Special Public Works Fund Loan	\$5,894,818	
Special Public Works Fund Grant	\$500,000	
Other/Matching Funds	1,898,000	
Total Project Costs	\$8,292,818	

Non-Department Funds (Other/Matching) Sources Used for all Expenditures		
Funding Sources	Approved Budget	Expenditures To Date
US Economic Dev Administration	\$1,398,000	
ODOT IOF Grant	500,000	
Total Non-Department Funds	\$1,898,000	

SAMPLE OPINION OF MUNICIPALITY COUNSEL
[LETTERHEAD OF COUNSEL TO MUNICIPALITY]

[DATED _____]

Oregon Business Development Department
755 Summer Street NE, Suite 200
Salem, OR 97301-1280

Ladies and Gentlemen:

[Insert "I" or "We"] have acted as counsel to Columbia County, [insert specific legal identity of Municipality] of the State of Oregon (the "Municipality"), which has entered into a Loan Agreement (as hereinafter defined) with the Oregon Business Development Department (the "Department") pursuant to Sections 285B.410 through 285B.482 of the Oregon Revised Statutes (the "Act"), and have acted as such in connection with the authorization, execution and delivery by the Municipality of its Contract (as hereinafter defined).

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C. Proceedings of the governing body of the Municipality relating to the approval of the Contract and the Loan Agreement and the execution, issuance and delivery thereof on behalf of the Municipality, and the authorization of the undertaking and completion of the Project (as defined in the Loan Agreement);

D. All outstanding instruments relating to bonds, notes or other indebtedness of or relating to the Municipality.

[insert "I" or "We"] have also examined and relied upon originals, or copies certified or otherwise authenticated to [insert "my" or "our"] satisfaction, of such other records, documents, certificates and other instruments, and made such investigation of law as in [insert "my" or "our"] judgment [insert "I" or "we"] have deemed necessary or appropriate to enable [insert "me" or "us"] to render the opinions expressed below.

Based upon the foregoing, [insert "I am" or "We are"] of the opinion that:

1. The Municipality is a duly formed and operating [insert specific nature of Municipality] described in ORS 285B.410(8), with the legal right to own and operate the Project.

2. The Municipality has full legal right and authority to execute and deliver the Contract and the Loan Agreement and to observe and perform its duties, covenants, obligations and agreements thereunder and to undertake and complete the Project; subject, however, to the effect of, restrictions and limitations imposed by or resulting from, bankruptcy, insolvency, moratorium, reorganization, debt adjustment or other similar laws affecting creditors' rights generally ("Creditor's Rights Limitations") heretofore or hereafter enacted.

3a. Amounts due to the Department pursuant to the Contract and the Promissory Note are payable from the sources described in Section 2.06 of the Loan Agreement.

3b. These Loan Documents (as defined in the Loan Agreement) constitute "limited tax bonded indebtedness" under ORS 287A.105, which authorizes the Municipality (as described in the Loan Agreement) to enter into financing agreements under ORS 271.390, such as the Loan Agreement, which constitutes "full faith and credit obligations" that are payable from any taxes that the Municipality may levy within the limitations of Section 11b, Article XI of the Oregon Constitution and either within or outside the limitations of Section 11, Article XI of the Oregon Constitution. ORS 287A.105(1) states: "The amount of revenue bonds permitted by this section may not exceed the lesser of: (a) One percent of the real market value of all taxable property in the county, calculated as provided in ORS 308.207; or (b) A limitation on bonded indebtedness in the county charter."

3c. The Loan Documents create a valid, enforceable and perfected security interest in and pledge of the Incremental Property Tax Revenues of the Urban Renewal Agency, which security interest and pledge is senior and superior to any other security interest in or lien on said Incremental Property Tax Revenues of the Urban Renewal Agency.

- (1) The _____ [insert specific legal identity of Municipality] Charter does not provide a limit upon the issuance of limited tax bonded indebtedness.
- (2) The County has not issued limited tax bonded indebtedness prior to the execution of the Loan Agreement, and there is no limited tax bonded indebtedness currently outstanding in addition to the Loan Agreement.
- (3) The real market value of the County for Fiscal Year 20__-20__ is \$ _____, and the total amount of limited tax bonded indebtedness which the County may have outstanding is \$ _____.
- (4) The principal amount of the Loan Agreement is \$ _____ which is less than the amount permitted by ORS 287A.105.

4. The Ordinance (the "Ordinance") of the Municipality approving the Contract and the Loan Agreement and authorizing their execution, issuance and delivery on behalf of the Municipality, and authorizing the Municipality to undertake and complete the Project has been duly and lawfully adopted and authorized in accordance with the Municipality's Charter, if any, the Act and other applicable Oregon law, and the Ordinance was adopted at a meeting or meetings which were duly called with not less than 14 days' prior public notice and held in accordance with the Municipality's Charter, if any, and applicable Oregon law, and at which quorums were present and acting throughout.

5. The Contract and the Loan Agreement have been duly authorized, executed and delivered by the authorized officers of the Municipality and constitute the legal, valid and binding obligation of the Municipality enforceable in accordance with their respective terms; subject, however, to the effect of, and to restrictions and limitations imposed by or resulting from Creditor's Rights Limitations or other laws, judicial decisions and principles of equity relating to the enforcement of contractual obligations generally.

6. To the best of [insert "my" or "our"] knowledge, after such investigation as [insert "I" or "we"] have deemed appropriate, the authorization, execution and delivery of the Contract and the Loan Agreement by the Municipality, the observation and performance by the Municipality of its duties, covenants, obligations and agreements thereunder and the consummation of the transactions contemplated therein and the undertaking and completion of Project do not and will not contravene any existing law or any existing order, injunction, judgment, decree, rule or regulation of any court or governmental or administrative agency, authority or person having jurisdiction over the Municipality or its property or assets or result in a breach or violation of any of the terms and provisions of, or constitute a default under, any existing bond ordinance, resolution, trust agreement, indenture, mortgage, deed of trust or other agreement to which the Municipality is a party or by which it, the Project, or its property or assets is bound.

7. To the best of [insert "my" or "our"] knowledge, after such investigation as [insert "I" or "we"] have deemed appropriate, all approvals, consents or authorizations of, or registrations of or filings with, any governmental or public agency, authority or person required to date on the part of the Municipality in connection with the authorization, execution, delivery and performance of the Contract and the Loan Agreement and the undertaking and completion of the Project have been obtained or made.

8. To the best of [insert "my" or "our"] knowledge, after such investigation as [insert "I" or "we"] have deemed appropriate, there is no litigation or other proceeding pending or threatened in any court or other tribunal of competent jurisdiction (either State or Federal) questioning the creation, organization or existence of the Municipality or of the validity, legality or enforceability of the Contract or the Loan Agreement or the undertaking or completion of the Project.

This opinion is rendered on the basis of the laws of the State of Oregon, including the Act, as enacted and construed on the date hereof. [insert "I" or "We"] express no opinion as to any matter not set forth in the numbered paragraphs herein.

Very truly yours,