

RESOLUTION NO. 1464

**A RESOLUTION APPROVING SPECIAL PUBLIC WORKS FUND
CONTRACT AMENDMENT NO. 3 FOR PROJECT NO. B92002,
WASTEWATER TREATMENT PLANT EXPANSION**


THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. In August, 1991, the City entered into a Financial Assistance Award Contract and Loan Agreement with the State of Oregon, acting by and through its Economic Development Department, for the purpose of expanding the capability of the City's wastewater treatment plant.
2. Section 3.09(b)(ii) of the Loan Agreement specifies that amounts payable by the City under the Loan are payable from, among other sources, revenues of the "Project", and the Project is defined as the City's existing wastewater treatment plant.
3. Since the existing wastewater treatment plant will be decommissioned and likely dismantled after construction of a new Water Pollution Control Facility, the State desired revised language in the Loan Agreement which would indicate the City's ability to make the loan payments from Sewer Fund revenues rather than from the "Project".
4. During staff research of the above matter, an error was found in Section 1 of the contract under the definition of "Project", in which Exhibit A is erroneously referred to as Exhibit B.
5. The State has prepared a proposed Contract Amendment No. 3 to resolve those two items.

**NOW THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY
OF TROUTDALE**

That the City Council approves Special Public Works Contract Amendment No. 3 for Project No. B92002 (Wastewater Treatment Plant Expansion), which is attached hereto and made a part hereof.

YEAS: 6
NAYS: 0
ABSTAINED: 0



Paul Thalhofer, Mayor
Dated: 12-15-99



Debbie Stickney, City Recorder

Adopted: 12-14-99

AMENDMENT TO CONTRACT

BETWEEN: State of Oregon
Economic and Community Development Department
775 Summer Street, NE
Salem, OR 97310

AND: Recipient City of Troutdale Project No. B92002 Amendment No. 3

Project Name: Wastewater Treatment Plant Expansion

Original Contract Date: August 29, 1991 Project Termination Date: August 28, 1993

Amendment Requested by: Recipient Economic and Community Development Department

The agreement between the City of Troutdale and the State of Oregon for the above-named project requires amendment for:

- (✓) the reasons cited in the letter from James E. Galloway, City of Troutdale, to Yvonne Addington, Oregon Economic and Community Development Department, dated July 21, 1999, enclosed with this form and labeled as Exhibit A. Also referenced are the letter from Beth A. Moyer, BNY Western Trust Company, to James E. Galloway, dated July 16, 1999, enclosed with this form and labeled as Exhibit B; the letter from Kenneth E. Iltz, Preston Gates & Ellis, to Beth Moyer, dated March 2, 1999, enclosed with this form and labeled Exhibit C; the letter from James E. Galloway to Yvonne Addington, dated February 23, 1999, enclosed with this form and labeled Exhibit D; the letter from James E. Galloway to Beth Moyer, dated February 23, 1999, enclosed with this form and labeled Exhibit E; and the letter from Yvonne Addington to James E. Galloway, dated February 18, 1999, enclosed with this form and labeled Exhibit F.
- (✓) the following:
Section 3.09(b)(ii) of the Loan Agreement is revised—existing language is replaced with the following language: “the net revenues of the City’s sewer system deposited into the City’s Sewer Fund,”.
Section 1 of the Contract (“Definitions”), “Costs of the Project” is revised—the reference to “Exhibit B” is replaced by “Exhibit A”.

It is understood that this amendment does not alter, remove or modify any other section of the original contract, as amended.

City of Troutdale, Oregon
Recipient

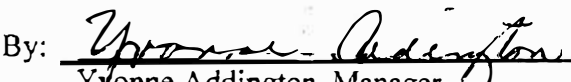
12-15-99
Date signed

, Mayor
Signature & Title

(Any change by either party requires signatures or initials of all parties)

- The amendment is approved as requested.
- The amendment request is denied.
- The amendment is approved, subject to the following conditions:

STATE OF OREGON

By: 
Yvonne Addington, Manager
Finance Team

November 29, 1999
Date signed



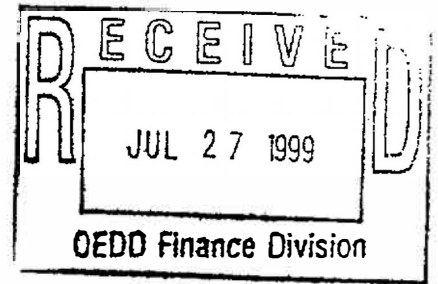
CITY OF TROUTDALE

Exhibit A
Contract Amendment No. 3
Project No. B92002

"Gateway to the Columbia River Gorge"

Page 1 of 1

JULY 21, 1999



Ms. Yvonne Addington
Finance Team Manager, OEDD
775 Summer Street, NE
Salem, OR 97310

**RE: Special Public Works Fund Project No. B92002
(City of Troutdale Wastewater Treatment Plant Expansion)**

Dear Ms. Addington:

In my letter of January 12, 1999, I requested the State's consent to dispose of our existing treatment plant (the "Project" under Special Public Works Fund Project No. B92002). In your reply of February 18th, you agreed to give this consent and make minor change to Section 3.09(b)(ii) of the Loan Agreement and a correction in the Contract's Section 1 if BNY Western Trust Company is satisfied that the dismantling of the existing plant would not adversely affect the rating of the State bonds.

Attached is a letter dated July 16, 1999, from Beth Moyer of BNY Western Trust Company providing its consent. Accordingly, we now request that you make the changes as outlined in your February 18th letter.

Please contact me if you have any questions.

Sincerely,

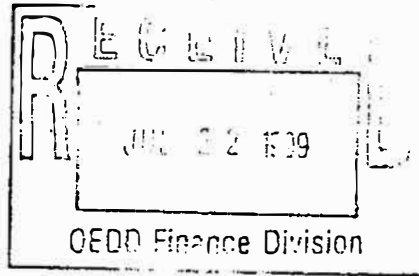
CITY OF TROUTDALE

A handwritten signature in cursive script that reads "James E. Galloway".

James E. Galloway
Public Works Director

C:PWJUL99

BNY
WESTERN
TRUST
COMPANY
A SUBSIDIARY OF
THE BANK OF NEW YORK COMPANY, INC.



July 16, 1999

James E. Galloway,
Public Works Director
City of Troutdale
104 SE Kibling
Troutdale, OR 97060-2099

Re: City of Troutdale Wastewater treatment Plant Expansion
Special Public Works Fund Project #B92002

Dear Mr. Galloway:

BNY Western Trust Company, as Successor Trustee under the Indenture of Trust for the State of Oregon Bond Bank Revenue Bonds, consents to the disposal of portions of the existing wastewater treatment plant financed under the above referenced loan contract as outlined in your letter dated February 23, 1999.

The Trustee is in receipt of the required opinion of Counsel in accordance with Section 11.12 (a) of the Indenture of Trust dated as of July 1, 1993 between the State of Oregon acting by and through its State Treasurer as Issuer and by and through its Economic Development Department and BNY Western Trust Company, as Successor Trustee.

The Trustee is also prepared to consent to an amendment of the Loan Agreement when it is prepared by the Oregon Economic Development Department.

Please call me at 206/667-8903 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Beth A. Moyer".

Beth A. Moyer
Assistant Vice President

cc: Ken Iltz
✓ Yvonne Addington

KENNETH E. ILTZ

March 2, 1999

Beth Moyer
BNY Western Trust Company
Two Union Square
601 Union Street, Suite 1720
Seattle, Washington 98101

Subject: Special Public Works Fund Project No. B92002
City of Troutdale Wastewater Treatment Plant

Dear Beth:

This letter is provided to you pursuant to Section 2.02(d) of the Loan Agreement between the State of Oregon acting by and through its Economic Development Department and the City of Troutdale dated September 19, 1991 (the "Agreement"). In reliance upon the representations made by the City of Troutdale, Oregon (the "City") in Article 14 of the attached Arbitrage and Tax Certificate and based upon our review of the letter from the City addressed to you and dated February 23, 1999 regarding the City's wastewater treatment plant expansion, we are of the opinion that sale, abandonment or disposition of the City's existing wastewater treatment plant financed pursuant to the Agreement will not adversely affect the exclusion of interest on the Loan and on the State Bonds from gross income for purposes of federal income taxation under Section 103(a) of the Code. Capitalized terms not defined in this letter shall have the meanings assigned to them in the Agreement.

Very truly yours,

Preston Gates & Ellis LLP

Kenneth E. Iltz

Cc: Tom Meek, Oregon Economic Development Department
James E. Galloway, City of Troutdale, Oregon

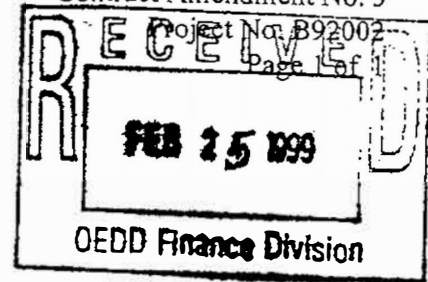
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CITY OF
Troutdale

FEBRUARY 23, 1999

Exhibit D
Contract Amendment No. 3



Ms. Yvonne Addington
Manager, Finance Team, OEDD
775 Summer Street, NE
Salem, OR 97310

**RE: Special Public Works Fund Project No. B92002,
City of Troutdale Wastewater Treatment Plant Expansion**

Dear Ms. Addington:

Thank you for your letter of February 18th responding to our request for changes in the City's loan agreement with the Oregon Economic Development Department for the subject project.

To comply with Section 2.02(d)(ii) of the Loan Agreement, we have sent a letter to the Trustee, Beth Moyer, as you suggested. A copy is attached for your information.

Also, we concur with your proposed language change in Section 3.09(b)(ii) of the Loan Agreement.

Thank you for your assistance in this matter. As soon as we hear from Ms. Moyer, we will let you know so that you can prepare the necessary amendment to the Loan Agreement.

Sincerely,

CITY OF TROUTDALE

James E. Galloway
Public Works Director

C:\PW\FEB99



CITY OF Troutdale

FEBRUARY 23, 1999

Ms. Beth Moyer
BNY Western Trust Company
Two Union Square
601 Union Street, Suite 1720
Seattle, WA 98101

**RE: Special Public Works Fund Project No. B92002,
City of Troutdale Wastewater Treatment Plant Expansion**

Dear Ms. Moyer:

In August of 1991, the City of Troutdale entered into a Loan Agreement with the State of Oregon, acting by and through its Economic Development Department, to provide funds for expansion of the City's wastewater treatment plant. The expansion was completed, and the City has met its payments and other obligations under the agreement.

Rapid growth in the City over the past several years has nearly exhausted the current capacity of the wastewater treatment plant, and the City Council determined that construction of a new and larger plant away from the downtown business area was preferable to simply expanding the existing plant. In November of 1998, voters approved a \$16 million general obligation bond to provide for construction of the new plant, followed by dismantling of the existing plant. For this reason, the City has requested permission from the State of Oregon under Section 2.02(d) of the Loan Agreement to dispose of the "Project" (portions of the existing wastewater treatment plant financed under the Loan Agreement) by dismantling it when the construction of the new plant is completed.

To receive this permission, the City must demonstrate to the satisfaction of the Trustee that such disposition will not adversely affect the rating of the State Bonds. In a letter dated February 18, 1999, Ms. Yvonne Addington, Finance Team Manager for the Oregon Economic Development Department, suggested that we request this in a letter to you, as Trustee. To assist in your evaluation of our request, the following information is provided:

- The voters approved a \$16 million general obligation bond to construct a 3 million gallon per day (MGD) wastewater treatment plant on November 3, 1998, with dismantling of the existing 1.6 MGD plant to occur subsequent to completion of that construction. The bonds were sold on January 21st, and the closing was held on February 3rd.

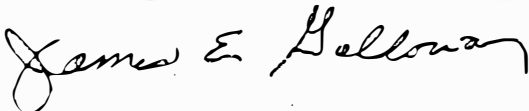
- The City has engaged the services of the engineering firm CH2M Hill to perform necessary predesign work and to obtain Department of Environmental Quality (DEQ) approval so that final design may begin.
- The City has entered into a Mutual Agreement and Order (MAO) with DEQ which requires the new plant to be in operation by January, 2002. To achieve this, we expect to complete final design and advertise for construction bids in the spring of 2000, with construction to start in the summer of 2000.
- Once the new plant is constructed and in operation, the existing plant will be dismantled and the City-owned site in the downtown business area made available for a more beneficial use.
- The new wastewater treatment plant construction is being financed with the proceeds of the City's general obligation bonds and not with the proceeds of revenue bonds.
- The only pledge made by the City of its sewer revenues is the City's pledge to the Oregon Economic Development Department pursuant to the Loan Agreement. Those revenues will continue to be received by the City, and the necessary sums will continue to be allocated for payments required by the Loan Agreement.

Based on the above, we believe that our request will not adversely affect the ratings of the State's Bonds and ask for your written concurrence to that effect. Upon receipt of your determination, we will forward it to Ms. Addington for preparation of the necessary amendment to the Loan Agreement.

Please contact me if you have any questions or need any further information.

Sincerely,

CITY OF TROUTDALE



James E. Galloway
Public Works Director

C:\PW\FEB99



February 18, 1999

James E. Galloway
Public Works Director
City of Troutdale
104 SE Kibling
Troutdale, Oregon 97060-2099

Re: Special Public Works Fund, Project No. B92002, City of Troutdale Wastewater
Treatment Plant Expansion

Dear Mr. Galloway,

We have reviewed your letter dated January 12, 1999 concerning the disposition of the City's existing sewage treatment plant. We understand that the City has no indebtedness that is secured by the revenues of its sewage system other than the Special Public Works Fund loan that we made to the city in 1991. Furthermore, we understand that the City's new sewage treatment plant is being financed with the proceeds of the City's general obligation bonds and not with the proceeds of revenue bonds.

To comply with Section 2.02(d)(ii) of the Loan Agreement entered into between the City and the Oregon Economic Development Department, the City needs to demonstrate to the satisfaction of the Trustee that the abandonment or disposition of its sewage treatment plant will not adversely affect the rating of the State's Bonds. We would suggest that you address a letter to our trustee, Beth Moyer with BNY Western Trust Company, that describes the construction of the City's new sewage treatment plant and the dismantling of the existing sewage treatment plant. The letter should explain that the only pledge made by the City of its sewer revenues is the City's pledge to the Oregon Economic Development Department pursuant to the Loan Agreement. The letter should also explain that the new sewage treatment plant is being financed with the proceeds of the City's general obligation bonds. Beth's address is shown below:

Beth Moyer
BNY Western Trust Company
Two Union Square
601 Union Street, Suite 1720
Seattle, WA 98101-2321



You have asked that Section 3.09(b)(ii) of the Loan Agreement be revised. We believe that the existing language can be replaced with the following language: "the net revenues of the City's sewer system deposited into the City's Sewer Fund."

Finally, we agree that the reference to "Exhibit B" in the definition of the term "Project" in the Loan Agreement should be revised to refer to "Exhibit A".

Assuming that BNY Western trust Company is satisfied that the dismantling of the existing sewage treatment plant will not adversely affect the rating of the State Bonds, we would agree to make the changes outlined above. We would prepare a form of amendment to the Loan Agreement for your review and comment. I assume that your city Council would need to adopt a resolution approving the amendment prior to your signing the amendment.

Sincerely,



Yvonne Addington,
Manager Finance Team