



Resolution 2006-018

A RESOLUTION OF THE CITY OF SHERWOOD AUTHORIZING A LOAN FROM THE SPECIAL PUBLIC WORKS FUND BY ENTERING INTO A LOAN CONTRACT WITH THE OREGON ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT AND DECLARING AN EMERGENCY

WHEREAS, The City Council (the "Governing Body") of the City of Sherwood (the "Municipality") finds:

A. The Municipality is a "municipality" within the meaning of Oregon Revised Statutes 285B.410(4).

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

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

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

E. The Municipality is required, as a prerequisite to the receipt of financial assistance from the Department, to enter into a Loan Agreement and a Financial Assistance Award Contract with the Department in substantially the form attached hereto as Exhibits "1" and "2."

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

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

NOW, THEREFORE, THE CITY RESOLVES AS FOLLOWS:

1. Loan Authorized. The Governing Body authorizes the City Manager to execute the Financial Assistance Award Contract, Loan Agreement, the Promissory Note attached as Exhibit "F" to the Loan Agreement (the "Financing Documents") and such other documents as may be required to obtain financial assistance including a loan from the Department on the condition that the principal amount of the loan from the Department to the Municipality is not in excess of \$3,500,000 and the interest rate is a percent deemed reasonable by the City Manager and in the best interest of the City of Sherwood. The proceeds of the loan from the Department shall be applied solely to the "Costs of the Project" as such term is defined in the Loan Agreement.

2. Security. Amounts payable by the Municipality shall be payable from the sources described in Section 2.07 of the Loan Agreement and the Oregon Revised Statutes Section 285B.443(2) which include:

- a. any sources of funds that are legally available to the Municipality,
- b. the revenues, if any, of the Project, including special assessment revenues, if any, and
- c. the Municipality's general fund including the general revenues of the Municipality, other funds which may be available for such purpose and a pledge of the Municipality's taxing power within the restrictions of Article XI, Section 11 and 11b of the Constitution of the State of Oregon. The obligation of the Municipality to make payments pursuant to the Loan Agreement is a full faith and credit obligation of the Municipality that is not subject to annual appropriation.

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

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

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

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

Duly passed by the City Council this 21st day of March 2006.


Keith S. Mays, Mayor

ATTEST:


Donna Martin, Interim City Recorder

INTERIM FINANCING LOAN AGREEMENT

between

STATE OF OREGON

acting by and through its

ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT

and

CITY OF SHERWOOD

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THIS INTERIM FINANCING LOAN AGREEMENT by and between the STATE OF OREGON, ACTING BY AND THROUGH ITS ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT (the "State"), and the Borrower (as defined below) shall become effective on the later of _____, _____, or the date this Loan Agreement has been fully executed by every party and, when required, approved by the Department of Justice ("Effective Date"). 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 projects; and

WHEREAS, the Borrower has applied to State for a loan to finance all or a portion of the Costs of the Project; and

WHEREAS, the State has reviewed the Borrower's application and determined that the Project is eligible for loan financing from the Special Public Works Fund and is feasible and merits funding; and

WHEREAS, the State is willing to loan Borrower, on a non-revolving basis, the maximum aggregate amount set forth in Exhibit D, hereto, to provide interim financing for a portion of the Costs of the Project; and

WHEREAS, Borrower wishes to borrow and accept from State a non-revolving loan in the maximum aggregate amount set forth in Exhibit D for the interim financing of a portion of the Costs of the Project.

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

**ARTICLE I
DEFINITIONS**

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

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

"Authorized Officer(s)" means, in the case of the Borrower, the person(s) whose name(s) and/or title(s) is set forth in Exhibit D hereto or such other person or persons authorized pursuant to a resolution, an order, ordinance or other official action of the governing body of the Borrower to act as an authorized officer(s) of the Borrower to perform any act or execute any document relating to the Loan or this Loan Agreement and whose name(s) and/or title(s) 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 Saturday, Sunday or legal holiday or a day on which banking institutions in Salem, Oregon are closed.

"Contract" means the financial assistance award contract for interim financing between the State and Borrower with reference number K06003, as amended from time to time.

"Costs of the Project" means those costs 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.

"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.

"Disbursement Request Form" means a requisition executed by the Borrower requesting a disbursement under this Loan Agreement in substantially the form of Exhibit E hereto.

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

"Loan" means the non-revolving loan to be made by the State to the Borrower to provide interim financing for a portion of the Costs of the Project pursuant to this Loan Agreement.

"Loan Agreement" means this interim financing loan agreement, including any exhibits, schedules or attachments hereto (which are by this reference incorporated herein), as it may be supplemented, modified or amended from time to time in accordance with the terms hereof.

"Loan Closing Date" means the date on which all conditions to the Loan closing have been satisfied and the Loan proceeds are available to disburse to the Borrower in accordance with Section 2.01(b) hereof.

"Loan Closing Deadline" means the date, as set forth in Exhibit D hereof, by which all conditions precedent to Loan closing must be satisfied.

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

"Lottery Bonds" means any bonds issued by the State of Oregon that are special obligations of the State of Oregon payable solely from unobligated net lottery proceeds, if any, together with any refunding bonds, used to finance or refinance the Project through the initial funding or refinancing of all or a portion of the Loan.

"Maturity Date" means the date by which the outstanding balance of the Loan must be repaid, as determined in accordance with Exhibit D of the Loan Agreement.

"Municipality" means any entity described in ORS 285B.410(7).

"Note" means that certain promissory note of the Borrower, substantially in the form of Exhibit F hereto, executed by the Borrower in favor of the State, as it may from time to time be amended, extended, renewed and/or restated.

"Project" means the project of the Borrower described in Exhibit B hereto.

"Project Completion Date" the date on which the Borrower completes construction of the Project as described in Section 3.02(d).

"Refunding Proceeds" means the proceeds of any subsequent short- or long-term financing issued to refund the Loan or to finance the Project.

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

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; Disbursements; Use of Proceeds.

(a) Loan. Subject to the terms and conditions hereof, in particular Sections 4.01 and 4.02 hereof, the State hereby agrees to make and disburse to the Borrower, and the Borrower agrees to borrow and accept from the State, a non-revolving Loan, in an aggregate principal amount not to exceed the lesser of (1) the maximum principal amount of the Loan set forth in Exhibit D hereto or (2) the Costs of the Project.

(b) Disbursements. Subject to Sections 4.01 and 4.02 hereof, the proceeds of the Loan shall be disbursed to the Borrower from time to time on an expense reimbursement or cost incurred basis upon receipt by the State of a Draw Certificate.

(c) Use of Proceeds. The Borrower shall use the proceeds of the Loan strictly in accordance with Section 3.02(a) hereof and subject to and in compliance with Exhibit B and Exhibit C hereof.

SECTION 2.02. Loan Payment. The Borrower agrees to repay the Loan and all amounts due under the Note or any of the Loan Documents in accordance with the terms thereof.

SECTION 2.03. Unconditional Obligations. The provisions of the 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 consideration, eviction or constructive eviction, the taking by eminent domain or destruction of or damage to the Project, 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, including any unpaid accrued interest, as required by any of the Loan Documents.

(b) Optional Prepayment Prior to the Maturity Date. The Borrower may, at any time and from time to time, prepay, without premium or penalty, all or any portion of the outstanding balance of the Loan on any Business Day upon ninety (90) Business Day's notice to the State, provided, however, that each Loan prepayment shall include payment of the accrued interest on the amount prepaid.

(c) General. Loan payments or prepayments shall be applied first to any expenses required in connection therewith, including but not limited to the expenses of the State, then to accrued interest (in the case of prepayment, on the amount prepaid) and finally to principal.

SECTION 2.05. Loan Agreement to Survive Lottery Bonds. The Borrower acknowledges that its duties, covenants, obligations and agreements hereunder shall survive the discharge of any bond indenture applicable to the Lottery Bonds and payment of the principal of, redemption premium, if any, and interest on the Lottery Bonds.

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 sources of repayment described in the Act and the Refunding Proceeds and other sources identified in Exhibit A hereto; provided however that nothing herein shall be deemed to prevent the Borrower from paying the amounts payable under this Agreement and the other Loan Documents from any other legally available source. 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 Agreement and other Loan Documents according to their respective terms. 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.

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 Project or any portions thereof or any other warranty or representation with respect thereto;

(b) in no event shall the State or its 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 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 (subject to ORS Chapter 180) defend, indemnify, save and hold harmless the State and its officers, employees and agents from and against any and all claims, suits, actions, proceedings, losses, 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.

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.

(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, 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.

(vi) Borrower's Contract and the Loan Agreement have been authorized by ORS 285B.437(1) and an ordinance of the Borrower which was adopted in accordance with applicable law and the Borrower's requirements for filing public notices and holding public meetings.

(b) Full Disclosure. There is no fact that the Borrower has not disclosed to the State in writing on the Borrower's application for the Loan or otherwise that materially adversely affects the properties, activities, prospects or condition (financial or otherwise) of the Borrower or the Project, or the ability of the Borrower to make all payments required by the Loan Documents 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 nor 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. 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.

(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 the Project, or the ability of the Borrower to make all payments required by the Loan Documents and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement and the other Loan Documents, that have not been disclosed in writing to the State in the Borrower's application for the Loan or otherwise.

(d) Compliance with Existing Agreements, Etc. The authorization, execution and delivery of this Loan Agreement and the other Loan Documents by the Borrower, the observation and performance by the Borrower of its duties, covenants, obligations and agreements thereunder and the consummation of the transactions provided for in this Loan Agreement and the other Loan Documents, the compliance by the Borrower with the provisions of this Loan Agreement and the other Loan Documents and the undertaking and completion of the Project will not result in any breach of any of the terms, conditions or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or asset of the Borrower pursuant to, any existing ordinance or resolution, trust agreement, indenture, mortgage, deed of trust, loan agreement or other instrument (other than any lien and charge of this Loan Agreement or any of the documents related hereto) to which the Borrower is a party or by which the Borrower, the Project 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, the Project 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 or any portion thereof, 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, the Project 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 the Project or the ability of the Borrower to make all payments required by the Loan Documents 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 the Project; 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 the Project.

(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 Project is owned by the Borrower and will be operated by the Borrower or by a person under a management contract or operating agreement with Borrower and shall remain in municipal ownership for at least five (5) years after the Loan has been repaid.

(i) Costs of the Project. The Borrower certifies that the Costs of the Project, as listed in Exhibit C and Exhibit D hereto, (i) are a reasonable and accurate estimation and based upon an engineer's feasibility report and engineer's estimate stamped by a registered professional engineer, 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, and (ii) equal or exceed the principal amount of the Loan shown on Exhibit D .

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

SECTION 3.02. Particular Covenants of the Borrower.

(a) Use of Proceeds. The Borrower will apply the proceeds of the Loan and interest earnings thereon to finance all or a portion of the Costs of the Project in accordance with Exhibit B and Exhibit C hereof. None of the proceeds of the Loan shall be used for (i) costs in excess of one hundred percent (100%) of the total Costs of the Project, (ii) costs not listed in the Project budget or which are not eligible under the Act, or (iii) assistance to facilities that are or will be privately owned. Borrower will apply the proceeds strictly in accordance with the Act and Oregon law.

(b) Source of Repayment. The Loan shall be paid from such sources of repayment described in Section 2.06 hereof and Exhibit A hereto to the Loan Agreement. 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 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 Therefore. 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 (10) 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 or architect 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. 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 any system which provides revenues for payment of amounts due under this Loan Agreement and the Loan Documents, except if (i) the State consents thereto in writing upon ninety (90) days' prior written notice to the State and (ii) Borrower assigns this Agreement and the other Loan Documents pursuant to Article V hereof. 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 on the Loan, as provided in Section 2.04 of this Agreement.

(f) [Reserved]

(g) Operation and Maintenance of Project. The Borrower covenants and agrees that it shall, in accordance with prudent ownership practice, (i) at all times operate the Project so as to preserve the long term public benefits of the Project, and (ii) maintain the Project in good repair, working order and operating condition, including from time to time making all necessary and proper repairs, renewals, replacements, additions, betterments and improvements as may be required.

(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 (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 at any reasonable time, and a copy of such annual audit(s) therefore, including all written comments and recommendations of such accountant, shall be furnished to the State within two hundred ten (210) days of the close of the fiscal year being so audited. The Borrower's financial management system must conform with the generally accepted accounting principles for state and municipal corporations established by the National Committee on Governmental Accounting as in effect from time to time.

(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.

(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 the Project, at least to the extent that similar insurance is usually carried by governmental units constructing, operating and maintaining similar facilities, 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 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.

(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 in accordance with Section 2.04.

(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 or the Project or in the ability of the Borrower to make all payments required by the Loan Documents 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 details satisfactory to the State:

(i) As soon as reasonably possible and in any event within two hundred ten (210) 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 so long as the Loan is outstanding.

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

(n) Proceeding Expeditiously. The Borrower shall proceed expeditiously with, or complete, the Project or any segment or phase of the Project in accordance with the plans and schedules approved by the State.

(o) 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.

(p) Further Assurances. The Borrower shall, at the request of the State, authorize, execute, acknowledge and deliver such further resolutions, conveyances, transfers, assurances, financing statements and other instruments as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights, security interests and agreements granted or intended to be granted by this Loan Agreement.

(q) Access for Disabled Persons. If the Borrower operates a commercial facility or public accommodations, as those terms are defined in the Americans with Disabilities Act of 1990, P.L. 101-336, the Borrower shall comply with the Americans with Disabilities Act and ORS 447.210-80.

ARTICLE IV CONDITIONS PRECEDENT

SECTION 4.01. Loan Closing. The State's obligations hereunder are subject to satisfaction of the following conditions precedent on or prior to the Loan Closing Deadline or such later date as the State may authorize in writing in the State's sole and absolute discretion.

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

(i) this Loan Agreement duly executed and delivered by an Authorized Officer of the Borrower;

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

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

(iv) copy of the ordinance, 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 Contract, certified by an Authorized Officer of the Borrower;

(v) an opinion of the Borrower's Counsel, acceptable to the State, substantially in the form set forth in Exhibit G; and

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

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

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

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

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

(b) any representations or warranties of the Borrower made in this Loan Agreement are not true and correct on the date of disbursement with the same effect as if made on such date;

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

(d) there is insufficient money available in the Special Public Works Fund to fund for the Project.

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

ARTICLE V
ASSIGNMENT

SECTION 5.01. [Reserved]

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 State's Counsel.

ARTICLE VI
DEFAULTS AND REMEDIES

SECTION 6.01. Time is of the essence; Event of Default. Time is of the essence. If any of the following events occurs, it is hereby defined as and declared to be and to constitute an "Event of Default:"

(a) Failure by the Borrower to pay, or cause to be paid, any amount required to be paid hereunder on the due date thereof; or

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

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

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

(e) Failure of the Borrower's governing body to appropriate sufficient funds to fully fund all of the Borrower's obligations to make payments required by the Loan Documents for any future fiscal period; or

(f) The occurrence of any event of default under Section 6 of the Contract or under any of the Loan Documents or any financing documents for any other loan or grant made by the State for the Project; or

(g) Failure by the Borrower to observe and perform any duty, covenant, obligation or agreement 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 (f) 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 its 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.

SECTION 6.02. Notice of Default. The Borrower shall give the State prompt telephonic notice of the occurrence of any Event of Default referred to in Section 6.01(d) hereof, and of the occurrence of any other event or condition that notice and/or lapse of time 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 payments under the Note 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 Project, (c) refusal to disburse any funds under this Loan Agreement or the Contract, (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's Fees and Other Expenses. To the fullest extent permitted by law, the Borrower shall, on demand, pay to the State the reasonable fees and expenses of attorneys, whether at trial or on appeal, and other reasonable expenses (including without limitation the reasonable allocated costs of the State's Counsel or any other Counsel appointed by the State and legal staff) incurred by the State in the collection of sums due hereunder or under any of the Loan Documents or in the enforcement of performance or observation of any other duties, covenants, obligations or agreements of the Borrower.

SECTION 6.05. Application of Moneys. Any moneys collected by the State 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. 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:

Economic and Community Development Department
Attention: Operations Manager, Community Development Division
775 Summer Street NE, Suite 200
Salem, OR 97301-1280

Any party 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. Applicable Law. This Loan Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, including the Act. Any claim, action, suit or proceeding (collectively, "Claim") between the State (and/or any agency or department of the State of Oregon) and the Borrower that arises from or relates to this Loan Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed

as a waiver by the State of Oregon of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court.

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 attached exhibits (which by this reference are 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 be binding unless in writing and signed by the party against who it is asserted and all necessary State approvals have been obtained. Such waiver or consent, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of the State to enforce any provision of this Loan Agreement shall not constitute a waiver by the State of that or any other provision.

IN WITNESS WHEREOF, the State and the Borrower have caused this Loan Agreement to be executed and delivered, effective as of the latest date of the signatories below. The Borrower, by the signature below of its Authorized Representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.



STATE OF OREGON

acting by and through its Economic and
Community Development Department



CITY OF SHERWOOD
(Borrower)

By: XXXXXXXXXXXXXXXXXXXXX
Laird Bryan, Operations Manager
Community Development Division

By: XXXXXXXXXXXXXXXXXXXXX
Ross E. Shultz, City Manager

Date: XXXXXXXXXXXXXXXXXXXXX

Date: XXXXXXXXXXXXXXXXXXXXX

APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:

XXXXXXXXXXXXXXXXXXXXX
Lynn Nagasako, Assistant Attorney General

Date: XXXXXXXXXXXXXXXXXXXXX

Exhibit A
SPECIAL CONDITIONS OF AWARD

Interim Financing

I. Full Faith and Credit Obligation

The Borrower hereby pledges its full faith and credit and taxing power within the limitations of Article XI of the Oregon Constitution to pay the Loan payments and other amounts due under the Loan Agreement. The Borrower shall pay the Loan payments from any and all legally available taxes, revenues and other funds of the Borrower.

II. Security - Refunding Proceeds

1. The principal of and interest on the Loan shall be payable from the Refunding Proceeds. The Borrower hereby grants to the State a security interest in and irrevocably pledges the Refunding Proceeds to pay all of the obligations owed by the Borrower to the State under the Loan Agreement.
2. The Refunding Proceeds pledged above pursuant to Section II.A. 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, to the fullest extent permitted by ORS 288.594. The Borrower hereby represents and warrants that the pledge of the Refunding Proceeds hereby made by the Borrower complies with, and shall be valid and binding from the date of this Loan Agreement pursuant to, ORS 288.594.

Permanent Financing

The loan agreement for permanent financing shall contain the following provisions:

I. Full Faith and Credit Obligation

The Borrower hereby pledges its full faith and credit and taxing power within the limitations of Article XI of the Oregon Constitution to pay the Loan payments and other amounts due under the Financing Agreement. The Borrower shall pay the Loan payments from any and all legally available taxes, revenues and other funds of the Borrower.

II. Incremental Property Tax Revenues of Urban Renewal Agency

1. The Loan shall be repaid from the ad valorem tax revenues from property within the Sherwood Urban Renewal Area (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 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 Sherwood Urban Renewal Agency (the "URA") pursuant to an intergovernmental agreement ("IGA") between the Borrower and the URA. The Borrower hereby grants to the State a security interest in and irrevocably pledges the Incremental Property Tax Revenues of the URA to pay all of the obligations owed by the Borrower to the State under the Loan Documents, and this security interest shall be senior and superior to any other security interest or lien on the Incremental Property Tax Revenues of the URA.
2. The Borrower shall not incur any obligations payable from or secured by a lien on and pledge of the Incremental Property Tax Revenues that is superior to or on a parity with the Loan without State's written consent.

3. Notwithstanding the requirement of paragraph 2 above, loans previously made and loans made in the future by State to the Borrower that are secured by the Incremental Property Tax Revenues shall have a lien on such Incremental Property Tax Revenues on a parity with the Loan; provided however that nothing in this paragraph 3 shall be construed to adversely affect the priority of any such lien(s) of the State as against the lien of any third party
4. The Incremental Property Tax Revenues pledged pursuant to paragraph 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 2 above, to the fullest extent permitted by ORS 288.594. 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 288.594.
5. The Borrower hereby represents and warrants that under the terms of the IGA the URA has pledged the Incremental Property Tax Revenues to the Borrower for payment of the Loan Payments and other obligations of the Financing Agreement and that the IGA is a valid and binding obligation of the URA and the Borrower, enforceable in accordance with its terms.
6. The Borrower hereby represents and warrants that the URA has covenanted in the IGA 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.
7. The Borrower hereby represents and warrants that the URA has covenanted in the IGA 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.

Exhibit B
PROJECT DESCRIPTION

Borrower shall design and reconstruct downtown streets into pedestrian-friendly woonerf (curbless-style) concrete, unit paver and granite streets with streetscape amenities, lighting, furnishings and plantings, a pedestrian and bicycle greenway (promenade) adjacent to the new Civic Building, related storm drainage and a regional water quality facility, water and sanitary sewer system upgrades, and undergrounding of utilities all located within two blocks in all directions of the new combined library/city hall complex in Old Town Sherwood.

**Oregon Economic & Community Development Department
Project Budget**

Interim Financing Loan Agreement Exhibit C
Page 1 of 2

Project Number: K06003
Project Name: Old Town Street Improvements

Recipient: City of Sherwood
Funding Pgm(s): Special Public Works Fund Interim Financing Loan, Community Facilities

| | Department Funds | | | | Non-Department Funds (Other/Matching) | | | All Funds |
|------------------------------|------------------|---------------------|-----------------|---------------|---------------------------------------|------------------|-------------|------------------------------|
| (A) | (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 |
| Streets/Bridges Construction | \$3,500,000 | | | \$3,500,000 | | | | |
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| Total | \$3,500,000 | | | \$3,500,000 | | | | |

| Total Project Budget | | |
|--|-----------------|----------------------|
| Funding Sources | Approved Budget | Expenditures To Date |
| Special Public Works Fund Interim Financing Loan, Community Facilities | \$3,500,000 | |
| Non-Department Funds (Other/Matching) | | |
| Total Project Costs | \$3,500,000 | |
| | | |

| Non-Department Funds (Other/Matching) Sources Used for all Expenditures | | |
|--|-----------------|----------------------|
| Funding Sources | Approved Budget | Expenditures To Date |
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| Total Non-Dept. Funds | | |

| Non-Department Funds (Other/Matching) IN-KIND | | |
|---|------------------------|-------------------------------|
| Source of In-Kind Contribution | Goods/Services Donated | Value of Contribution To Date |
| | | |
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| | | |
| In-Kind Contributions To Date | | |

**Oregon Economic & Community Development Department
Project Budget**

Project Number: K06003
Project Name: Old Town Street Improvements

Project Goals (report for every cash request)

| Proposed Work Plan | Estimated Completion Date | Results Achieved |
|--|---------------------------|------------------|
| 1 <u>Project Start - Design</u> | <u>May 1, 2004</u> | |
| 2 <u>Construction Started</u> | <u>Sep 1, 2005</u> | |
| Notice of Substantial Completion / Occupancy 3 <u>Permit Obtained</u> | <u>Jan 31, 2007</u> | |
| 4 <u>Construction 100%</u> | <u>Apr 30, 2007</u> | |
| 5 <u>Project Complete</u> | <u>Jun 30, 2007</u> | |
| 6 _____ | _____ | _____ |
| 7 _____ | _____ | _____ |
| 8 _____ | _____ | _____ |
| 9 _____ | _____ | _____ |
| 10 _____ | _____ | _____ |

Exhibit D
DESCRIPTION OF THE LOAN

1. Loan Closing Deadline: May 1, 2006
2. Name and Address of Borrower: City of Sherwood
22560 SW Pine Street
Sherwood, OR 97140
3. Costs of the Project: \$3,500,000
4. Estimated Project Completion Date: June 30, 2007
5. Maximum Aggregate Principal Amount of Loan: \$3,500,000
6. Interest Rate: Two and 61/100 percent (2.61%) per annum
7. Maturity Date: That date which is 2.5 years from the Loan Closing Date.
8. Authorized Officer(s) of Borrower: City Manager

Interim Financing Loan Agreement Exhibit E
Page 1 of 2

Recipient:
Funding Pgm(s):

Reporting Period: _____ to _____

| | |
|---|--------------|
| Certification: We certify that the data are correct and that the amount requested is not in excess of current needs. | |
| Authorized Signature & Title | Date |
| Authorized Signature & Title | Date |
| Contact Person | Phone Number |

| Non-Department Funds (Other/Matching) IN-KIND | | |
|---|------------------------|-------------------------------|
| Source of In-Kind Contribution | Goods/Services Donated | Value of Contribution To Date |
| | | |
| | | |
| In-Kind Contributions To Date | | |

Interim Financing Loan Agreement Exhibit E
Oregon Economic & Community Development Department
Disbursement Request

Page 2 of 2

Project Number:

Project Name:

Request Number: _____

Project Goals (report for every cash request)

Proposed Work Plan

**Estimated
Completion Date**

Results Achieved

1 _____

2 _____

3 _____

4 _____

5 _____

6 _____

7 _____

8 _____

9 _____

10 _____

Exhibit F
State of Oregon
Economic and Community Development Department
PROMISSORY NOTE

(Dated) XXXXXXXXXXXXXXXXXX, XXXX

Sherwood, OR

FOR VALUE RECEIVED, City of Sherwood, 22560 SW Pine Street, Sherwood, OR 97140 (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 ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT, at its principal office at 775 Summer Street NE, Suite 200, Salem, Oregon 97301-1280 (hereinafter "State"), the principal sum of three million five hundred thousand dollars (\$3,500,000), or so much thereof as is disbursed pursuant to the Loan Agreement (as defined below), plus interest at the rate of two and 61/100 percent (2.61%) per annum, from the date of disbursement 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 loan agreement dated as of XXXXXXXXXXXXXXXXXX, XXXX 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 Section 2.04(c) 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. The liability of all parties on this Note shall not be discharged by any action consented to above taken by any holder of this Note.

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

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

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

CITY OF SHERWOOD

By: XXXXXXXXXXXXXXXXXXXXXXX

Title: XXXXXXXXXXXXXXXXXXXXXXX

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

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

[DATED _____]

Oregon Economic and Community Development Department
755 Summer Street NE, Suite 200
Salem, Oregon 97301-1280

Ladies and Gentlemen:

[Insert "I" or "We"] have acted as counsel to City of Sherwood, of the State of Oregon (the "Municipality"), which has entered into the Loan Agreement (as hereinafter defined) with the Oregon Economic and Community Development Department (the "Department") pursuant to 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). Capitalized terms not otherwise defined herein shall have the meanings assigned to them by the Loan Agreement.

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. The Interim Financing Loan Agreement dated as of _____, 2006, by and between the Department and the Municipality including the Promissory Note dated _____, 2006, in the principal amount of \$ _____ executed by the Municipality (collectively, the "Loan Agreement").

B. The Financial Assistance Award Contract for Interim Financing number _____, dated _____ by and between the Department and the Municipality (the "Contract");

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(7), 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.

3. 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.

4. The [insert Ordinance or Resolution] (the [insert "Ordinance" or "Resolution"]) 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 [insert Ordinance or Resolution] was adopted at a meeting or meetings which were duly called with not less than fourteen (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 bankruptcy, insolvency, moratorium, reorganization, debt adjustment or other similar laws affecting creditors' rights generally 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,

STATE OF OREGON
SPECIAL PUBLIC WORKS FUND
FINANCIAL ASSISTANCE AWARD CONTRACT FOR INTERIM FINANCING

This Contract by and between the STATE OF OREGON, ACTING BY AND THROUGH ITS ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT ("State") and City of Sherwood ("Borrower") shall become effective on the later of _____, _____, or the date this Contract has been fully executed, by every party, and when required, approved by the Department of Justice ("Effective Date"). The reference number of this Contract is K06003. Capitalized terms used herein and not otherwise defined shall have the meanings assigned to them in Section 1 below.

RECITALS

WHEREAS, the award of financial assistance which is the subject of this Contract and the Loan Agreement is authorized by ORS 285B.410 through 285B.482; and

WHEREAS, a reasonable estimate of the Costs of the Project is three million five hundred thousand dollars (\$3,500,000); and

WHEREAS, the Borrower is authorized to enter into this Contract with the State under ORS 285B.437(1); and

WHEREAS, the State has reviewed the Borrower's application and determined the Project meets the eligibility requirements and merits funding; and

WHEREAS, the State is willing to provide to the Borrower, and Borrower wishes to borrow and accept from the State, a Loan of three million, five hundred thousand dollars (\$3,500,000) for the Project on the terms and conditions of this Contract and the 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, unless the context requires otherwise:

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

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

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

"Default" shall mean an event which with notice or lapse of time or both would become an Event of Default as set out in Section 6 hereof.

"Event of Default" shall mean any of the events described in Sections 6(A) through 6(D) of this Contract.

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

"Loan Agreement" or "Agreement" shall mean that certain interim financing loan agreement, substantially in the form of Exhibit 1 hereto, entered into between the State and the Borrower, as such agreement may from time to time be amended and/or restated.

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

"Project" shall have the meaning ascribed thereto in the Loan Agreement and described in Exhibit B of the Loan Agreement.

"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" or "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 and disburse to Borrower, and Borrower agrees to borrow and accept from State, a non-revolving loan in the maximum aggregate principal amount of three million five hundred thousand dollars (\$3,500,000) (the "Loan").
- B. Availability of Funds. The Loan set out in Section 2(A) above is subject to the availability of moneys in the Special Public Works Fund.
- C. Change in the Act. The State shall not be obligated to provide the Loan or make any disbursements under the Loan Agreement if, on or prior to the time the Borrower satisfies all conditions for a disbursement of the Loan proceeds under the Loan Agreement, there has been a change in the Act so that the Project is no longer eligible for the financial assistance authorized by this Contract.
- D. Disbursements. The Borrower must submit disbursement requests for the Loan on a State-approved disbursement request form.

SECTION 3 USE OF AWARD

The use of the 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 terms and conditions set out in Exhibit A to 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 three million five hundred thousand dollars (\$3,500,000).
- B. Other Funds. [Reserved]

- 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.

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 the following provisions, as applicable:
1. State procurement regulations found in the Oregon Public Contracting Code, ORS Chapters 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, 286, 287 and 288.
- B. 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 Economic and Community Development Department encourages Borrower and its contractors and recipients to follow good faith efforts in ORS 200.045, 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/>.
- C. Drawings. The Borrower shall obtain as-built drawings for all facilities constructed with the proceeds of the Loan. The Borrower shall obtain certification of completion per the as-built drawings from the Project engineer or architect, 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 Borrower's 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 public works system, if any, of which the Project is a part during the service life of the Project.

- E. Signs and Notifications. The Borrower shall display a sign, provided by the State, near the Project construction site stating that the Project is being funded by Lottery proceeds. The Borrower shall include the following statement, prominently placed, on all plans, reports, bid documents and advertisements relating to the Project:
- “This Project was funded in part with a financial award from the Special Public Works Fund, funded by the Oregon State Lottery and administered by the State of Oregon, Economic and Community Development Department.”
- F. Insurance. Except as may be provided in Exhibit A to the Loan Agreement, 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.
- G. Creation of Project Account. The Borrower shall establish and maintain a segregated Project account. The Loan proceeds (as and when the Loan proceeds are disbursed by the State to the Borrower) shall be deposited in the segregated Project 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.
- 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. 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 Project Completion Date. Data shall document specific requested information such as any new direct permanent or retained jobs resulting from the Project and other information to evaluate the success and economic impact of the Project. The preparation and filing of this requested data shall be at the Borrower's expense.
- J. 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 or any system, the revenues of which are pledged for payment of amounts due under this Agreement and the Loan Documents (as defined in the Loan Agreement), 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 if (i) the State consents thereto in writing upon ninety (90) days' prior written notice to the State and (ii) Borrower assigns the Loan Agreement and the other Loan Documents pursuant to Article V of the Loan Agreement. Except as may be provided in the Exhibit A to the Loan Agreement, proceeds of such sale, lease, exchange, transfer or other disposition which are not used to replace property that is part of the Project shall be paid to the State and shall be applied to prepay the outstanding balance of the Loan in accordance with Section 2.04 of the Loan Agreement.
- K. Condemnation Proceeds. Except as may be provided in Exhibit A of the Loan Agreement, in the event the Project, or any portion thereof is condemned, any condemnation proceeds shall be paid to the State and shall be applied to prepay the outstanding balance of the Loan in accordance with Section 2.04 of the Loan Agreement.

- L. Registered Engineer/Licensed Architect. Borrower shall demonstrate that any service provider retained for his/her professional expertise is certified, licensed or registered, as applicable in the State of Oregon, for his/her specialty.

SECTION 6 DEFAULT

Time is of the essence of this Contract. If any of the following Events of Default occurs and is continuing, namely:

- A. The Borrower fails to proceed expeditiously with, or to complete, the Project or any segment or phase of the Project in accordance with the plans and schedules approved by the State; or
- B. Any representation with respect to current or historical information made to the State herein or in any other pertinent documents, certificates and reports relied upon by the State in gauging the progress of the Project, compliance with the requirements of the Act and performance of duties by the Borrower is untrue in any material respect; or
- C. The Borrower fails, except as provided in, B or D of this Section, 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. The occurrence of an Event of Default under the Loan Agreement or any of the Loan Documents or any financing documents for any other loan or grant made by the State for the Project;

thereupon, and in each such case, the State, upon notice to the Borrower, may pursue any remedy legally available, including but not limited to 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 State's obligations under Contract and/or Loan Agreement, acceleration 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.

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



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



CITY OF SHERWOOD
(Borrower)

By: _____
Laird Bryan, Operations Manager
Community Development Division

By: _____
Ross E. Shultz, City Manager

Date: _____

Date: _____

APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:

/s/ Lynn Nagasako (as per email dated 02/06/2006)
Lynn Nagasako, Assistant Attorney General

Date: February 6, 2006

Exhibit 1 - Loan Agreement

Exhibit 2 - Environmental and Natural Resource Agencies