

## **AMENDMENT #1 TO LOAN AGREEMENT**

THIS FIRST AMENDMENT TO LOAN AGREEMENT (“Amendment”) is made and entered into as of the \_\_\_\_\_ day of June 2023, by and between the State of Oregon, acting by and through its Department of Transportation (“ODOT” or the “State”), and Sunset Empire Transportation District (the “Borrower”). The reference number for this Loan Agreement is OTIF-0073. Capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Loan Agreement (as defined below).

### **WITNESSETH**

**WHEREAS**, the State and the Borrower entered into Loan Agreement OTIF-0073 dated May 5, 2023, as amended from time to time, (the “Loan Agreement”), pursuant to which the State agreed to make a loan to Borrower in the principal amount of Five Hundred Five Thousand and No/100 Dollars (\$505,000.00) (the “Loan”) to finance Sunset Empire Transportation District Restoration of Limited Services (the “Project”);

**WHEREAS**, in connection with the Loan, the Borrower executed and delivered to the State a promissory note dated May 5, 2023 (as amended, extended, or renewed from time to time, the “Note”); and

**WHEREAS**, the State and the Borrower desire to modify certain terms and conditions of the Loan Agreement consistent with the changes to the Loan Amount, Project and Project schedule.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the State and the Borrower mutually agree as follows:

1. The definition of “Loan Repayment(s),” in Section 1.01 of the Loan Agreement is amended and restated to read as follows:

“Loan Repayment(s)” means the scheduled payment(s) of principal and interest as outlined in the Note, each required to be made by the Borrower pursuant to the provisions of the Note and this Loan Agreement that will be drawn from formula distribution amounts otherwise due the Borrower from the State Transportation Improvement Fund under ORS 184.758.

2. The definition of “Project Completion Deadline” shall be added in Section 1.01 of the Loan Agreement to read as follows:

“Project Completion Deadline” means July 31, 2023.

3. Section 2.01 of the Loan Agreement is amended and restated to read as follows:

**Section 2.01. Loan Amount.** On the Loan Closing Date the State hereby agrees to make to the Borrower, and the Borrower agrees to borrow and accept from the State, (i) an original Loan in the amount of Five Hundred Five Thousand and No/100 Dollars (\$505,000.00) and (ii) an increase in the Loan in the principal amount of up to Five Hundred Five Thousand and No/100 Dollars (\$505,000.00) for a maximum aggregate principal Loan amount up to One Million Ten Thousand and No/100 Dollars (\$1,010,000.00).

4. Section 2.10 of the Loan Agreement is amended and restated to read as follows:

**Section 2.10. Loan Fee.** The Borrower shall pay to the State a Loan fee at the time of each disbursement equal to one percent (1%) of the disbursement amount. This fee shall be in addition to any interest charged on the Loan. The Borrower authorizes the State to deduct the Loan fee with each disbursement from the Loan proceeds.

5. Section 2.12 is added to read as follows:

**Section 2.12. Termination of Availability.** The State shall have no obligation to make any disbursements to the Borrower under this Loan Agreement after the Project Completion Deadline.

6. Section 4.02(d) of the Loan Agreement shall be added to read as follows:

**Section 4.02. Conditions to Disbursement.**

(d) Form of Payment Requisition must include an itemized list of items which will be paid for with disbursed funds equal to requested disbursement. After disbursement of funds the Borrower shall provide documentation of actual expenditures paid for with disbursed funds.

7. Exhibit A to the Loan Agreement is amended and restated in the form of Revised Exhibit A attached hereto.

8. Exhibit B to the Loan Agreement is amended and restated in the form of Revised Exhibit B attached hereto.

9. Exhibit C to the Loan Agreement is amended and restated in the form of Revised Exhibit C attached hereto.

10. The Amortization Schedule shall be deleted and will be provided after final disbursement.

11. This Amendment may be signed in several counterparts. Each will be an original, but all of them together constitute the same instrument.

12. Except as specifically modified above, all other terms and conditions of the Loan Agreement and the Note remain unchanged and in full force and effect.

13. By its execution of this Amendment, the Borrower certifies to the State that the representations, warranties and certifications contained in the original Loan Agreement are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.

IN WITNESS WHEREOF, the State and Borrower have caused this Third Amendment to Loan Agreement to be executed and delivered as of the date set forth in the first paragraph above.

**STATE OF OREGON**, acting by and  
through its Department of Transportation

**SUNSET EMPIRE  
TRANSPORTATION DISTRICT**  
Borrower

By: \_\_\_\_\_  
Daniel Porter  
Budget, Economic and Debt  
Services Manager

By: \_\_\_\_\_  
Deborah Boothe-Schmidt  
Sunset Empire Transportation  
District Board Chair

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

OREGON DEPARTMENT OF  
JUSTICE

By: Sam Zeigler, Senior AAG

Date: June 6, 2023

## **Revised Exhibit A to Loan Agreement**

### **Project Description**

Borrower: Sunset Empire Transportation District

To restart transit services that were terminated on April 27, 2023, and continue transit services through July 31, 2023, especially for vulnerable populations.

## **Revised Exhibit B to Loan Agreement**

### **Form of Promissory Note**

#### **PROMISSORY NOTE**

Up to \$1,010,000

For value received, the Sunset Empire Transportation District (hereinafter "Borrower") unconditionally promises to pay to the State of Oregon, acting by and through its Department of Transportation (hereinafter "State"), or order, at 350 Capitol St. NE, Salem, OR 97301-3871 or such other place as the State may designate in writing, the principal sum of One Million Ten Thousand Dollars (\$1,010,000), or so much thereof as is disbursed and not repaid, plus interest from the date of this Note on the unpaid principal balance until paid. Any capitalized terms not defined in this Note have the meanings assigned to such terms in that certain loan agreement dated the same date as this Note between the State and Borrower (as amended from time to time the "Loan Agreement").

Interest shall accrue on the unpaid principal balance at the rate of three percent (3%) per annum and shall be computed on the basis of a 360-day year, consisting of twelve (12), thirty (30) day months.

Principal and interest shall be payable at the times and in the amounts specified in Exhibit A: Repayment Schedule (attached to this Note and by this reference made a part hereof), and the outstanding principal balance of the Note, together with accrued unpaid interest, shall be due and payable on the Maturity Date. Each payment made by the Borrower under this Note shall be applied first to the State's expenses (if any) and any fees due, then to interest due, and then to the principal of the Loan unless the Loan Agreement provides otherwise.

This Note is payable prior to its maturity except as provided for in Section 2.06 of the Loan Agreement.

This Note is given to avoid the execution by the Borrower of an individual note for each advance by the State to the Borrower. In consideration thereof, the Borrower agrees that the State's record entries of transactions pursuant to this Note, shall be conclusive evidence of borrowings and payments made pursuant to this Note, absent manifest error.

In the event that the Borrower receives written notification from the State that payments made pursuant to the Loan Agreement have been assigned, all payments hereunder shall be made directly to the assignee pursuant to such assignment.

If an Event of Default occurs, the outstanding balance under this Note, including principal, interest and other charges, if any, shall, at the option of the State, become

immediately due and payable. Presentment, demand, protest, and notice of dishonor, protest and nonpayment are waived by the Borrower.

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

The terms, provisions and covenants contained in this Note shall apply to, inure to the benefit of, and bind the parties hereto and their respective successors and assigns.

This Note shall be governed by and construed in accordance with the laws of the State of Oregon (without giving effect to its conflicts of law principles).

This Note is subject to the terms and conditions of the Loan Agreement. The indebtedness evidenced by this Note is secured by the collateral described in the Loan Agreement.

#### NOTICE TO BORROWER

**DO NOT SIGN THIS NOTE BEFORE YOU READ IT. FULL OR PARTIAL REPAYMENT BEFORE THE DATE PROVIDED FOR REPAYMENT IN THIS NOTE AND IN THE LOAN AGREEMENT MAY NOT BE PERMITTED, AND A PREMIUM FOR ANY SUCH PREPAYMENT MAY BE CHARGED AND COLLECTED.**

\_\_\_\_\_  
By: \_\_\_\_\_

Name & Title (print): \_\_\_\_\_

## **Revised Exhibit C to Loan Agreement**

### **Additional Covenants of Borrower**

No later than May 3, 2023, the Borrower shall:

- (a) Create a new bank account for tracking the receipt and use of the Loan proceeds;

No later than May 8, 2023, the Borrower shall:

- (a) Provide ODOT all requested documents to support the RLS compliance review scheduled for May 15-16, 2023.

Additionally, during the Loan Term, the Borrower shall provide ODOT the following:

- (a) Provide ODOT the Borrower's core service plan through July 31, 2023, which must include, at the minimum, the number of full-time equivalent employees, the number of revenue service hours and specific routes/services to be provided.
- (b) Copies of bi-weekly statements of every bank and LGIP accounts three business days after receipt.
- (c) Copies of the Borrower's monthly income statement, balance sheet and statement of cash flow 30 days after the end of each month.
- (d) A copy of the year-to-date general ledger detail report 30 days after the end of the month.
- (e) Copies of monthly Accounts Receivable Aging and Accounts Payable Aging delivered every 2 weeks.
- (f) A narrative report of the month's service levels and routes 15 days after the end of the month.
- (g) The Borrower's plan for service level and route plan for the upcoming month routes 15 days before the start of the new month.
- (h) Any additional documents requested by ODOT.

**Exhibit A to Promissory Note**

**Repayment Schedule**

Borrower: Sunset Empire Transportation District

<b>Payment Due Date:</b>	<b>Amount Due:</b>
Quarterly starting August 1, 2023, and the first day of each quarter thereafter	See chart below to determine Quarterly Payment
Maturity Date (August 1, 2027)	The remaining principal and interest due on the Loan

Quarterly Payment based on Final Loan Fee and Loan Principal

<b>Loan Fee and Loan Principal Amount</b>	<b>Payment Amount:</b>
Up to \$505,000	Up to \$31,750
\$505,001 to \$606,000	Up to \$38,175
\$606,001 to \$707,000	Up to \$44,494
\$707,001 to \$808,000	Up to \$50,815
\$808,001 to \$909,000	Up to \$57,140
\$909,001 to \$1,010,000	Up to \$63,370