



Elizabeth Comfort
Finance Director

Department of Finance

Public Services Building
2051 Kaen Road, Suite 490 | Oregon City, OR 97045

MEMORANDUM

TO: Clackamas County Board of County Commissioners (BCC)
FROM: Elizabeth Comfort, Director of Finance, Department of Finance
RE: Review of Willamette View Revenue Bond Amendment
DATE: March 19, 2024

REQUEST: Staff is requesting the Board review a First Amendment to a Loan Agreement. The Board Chair has authority to sign the amendment for the 2017 Senior Living Revenue Bonds for the Willamette View Project.

BACKGROUND: The Board Chair of the Board of County Commissioners for Clackamas County is also the Chair for the Hospital Facility Authority of Clackamas County (HFACC) Board. This board is currently inactive and has been since 2022. It becomes active as a community need arises to be considered for the County to assist as a conduit for tax exempt construction bonds in senior housing or hospital needs.

The Trustee and the Borrower (Keith Bodnar, Controller for Willamette View) of the issuance of Senior Living Revenue Bonds (Willamette View Project), Series 2017A&B contacted their bond counsel Hawkins Delafield & Wood LLP. In the debt service reserve requirement there is ambiguity related to the definition of "Reserve Fund Requirement" in the Loan Agreement which is causing the calculation of the requirement to include additional amounts that were not intended to be included and thus, a much larger requirement. There is no impact to the County's bonding authority and has no fiscal impact to the County. This is solely a HFACC issue.

"Reserve Fund Requirement" means, the least of the following: (i) 10% of the stated principal amount of the Series 2017A Bonds; (ii) 100% of the maximum annual principal and interest on the Series 2017A Bonds; **or** (iii) 125% of the average annual debt service on the Series 2017A Bonds; **or (iv) the initial amount deposited in the Reserve Fund on the Closing Date.**

Bond Counsel, Hawkins et al, with some of the deal participants, including the Trustee, the Borrower, and the Underwriter, have agreed upon a revised definition of Reserve Fund Requirement. Please see the attached amendment in Section 2.1.

Respectfully Submitted,

Elizabeth Comfort
Elizabeth Comfort
Director, Finance

Attachment:

First Amendment to Loan Agreement - Willamette View 2017 (March 2024)

FIRST AMENDMENT TO LOAN AGREEMENT

between

HOSPITAL FACILITY AUTHORITY OF CLACKAMAS COUNTY, OREGON

and

WILLAMETTE VIEW, INC.

Loan Agreement Originally Dated as of December 1, 2017
First Amendment to Loan Agreement Effective as of March 1, 2024

\$90,065,000
HOSPITAL FACILITY AUTHORITY OF CLACKAMAS COUNTY, OREGON
SENIOR LIVING REVENUE BONDS
(WILLAMETTE VIEW PROJECT)
SERIES 2017A AND SERIES 2017B

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FIRST AMENDMENT TO LOAN AGREEMENT

This FIRST AMENDMENT TO LOAN AGREEMENT (this “Amendment”) is dated and effective as of March 1, 2024 (the “Amendment Effective Date”), by and between the HOSPITAL FACILITY AUTHORITY OF CLACKAMAS COUNTY, OREGON, a public authority acting on behalf of the Clackamas County as an Oregon unit of local government, organized and existing under the laws of the State of Oregon (the “Issuer”), and WILLAMETTE VIEW, INC., a nonprofit corporation duly organized and existing under the laws of the State of Oregon (the “Corporation”),

WITNESSETH:

WHEREAS, the Issuer and Wells Fargo Bank, National Association, as Bond Trustee, previously entered into a Bond Indenture, dated as of December 1, 2017 (the “Bond Indenture”), pursuant to which the Issuer issued its Hospital Facility Authority of Clackamas County, Oregon Senior Living Revenue Bonds (Willamette View Project), Series 2017A (the “Series 2017A Bonds”) in the aggregate principal amount of \$75,065,000, and the Hospital Facility Authority of Clackamas County, Oregon Revenue Bonds (Willamette View Project), Series 2017B (the “Series 2017B Bonds”) and, together with the Series 2017A Bonds, the “Bonds”) in the aggregate principal amount of \$15,000,000; and

WHEREAS, the Issuer and the Corporation entered into a Loan Agreement, dated as of December 1, 2017 (the “Loan Agreement”), specifying the terms and conditions of a loan by the Issuer to the Corporation of the proceeds of the Bonds; and

WHEREAS, pursuant to Section 10.5 of the Bond Indenture and Section 11.5 of the Loan Agreement, the Issuer and the Bond Trustee shall, without the consent of or notice to the Bondholders, consent to any amendment, change or modification of the Loan Agreement as may be required for the purpose of curing any ambiguity or formal defect or omission, with the written consent of the Bond Trustee; and

WHEREAS, the parties to the Loan Agreement, desire to cure a defect in the Loan Agreement relating to the calculation of the Reserve Fund Requirement; and

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions. All terms defined in this Amendment shall have the meanings herein defined. All terms used in this Amendment which are defined in the Loan Agreement, the Bond Indenture or the Multi-Mode Annex shall have the meanings as defined in such document, unless expressly given a different meaning in this Amendment or unless the context or use indicates another or different meaning or intent.

ARTICLE II

AMENDMENTS

Section 2.1. Amended and Restated Definition. The following definition amends and restates the existing definition in Section 1.1 of the Loan Agreement:

“Reserve Fund Requirement” means, the least of the following: (i) 10% of the stated principal amount of the Series 2017A Bonds; (ii) 100% of the maximum annual principal and interest on the Series 2017A Bonds; (iii) 125% of the average annual debt service on the Series 2017A Bonds; or (iv) the initial amount deposited in the Reserve Fund on the Closing Date.

ARTICLE III

MISCELLANEOUS

Section 3.1. Force; Binding Effect. Except to the extent amended or supplemented hereby, the Loan Agreement shall remain in full force and effect in accordance with its original terms. This instrument shall inure to the benefit of and shall be binding upon the Issuer and the Corporation and their respective successors and assigns, subject to the limitations contained herein.

Section 3.2. Counterparts. This Amendment may be executed in several counterparts, each of which shall be an original and all of which shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Amendment by facsimile transmission or by email with a pdf copy or other replicating image attached, will be effective as delivery of a manually executed counterpart of this Amendment, and any printed or copied version of any signature page so delivered will have the same force and effect as an originally signed version of such signature page.

Section 3.3. Governing Law. This Agreement shall be governed by and construed in accordance with the laws and judicial decisions of the State of Oregon, without reference to choice of law principles, except as such laws may be preempted by any federal rules, regulations and laws applicable to the Issuer.

Section 3.4. Effective Date. This Amendment shall take effect on the Amendment Effective Date.

[SIGNATURE PAGE FOLLOWS]

