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THE PORT OF PORTLAND

ORDINANCE NO. 414-B

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AN ORDINANCE AMENDING ORDINANCE NO. 323, AS PREVIOUSLY AMENDED, RELATING TO THE PORT OF PORTLAND'S PORTLAND INTERNATIONAL AIRPORT REVENUE BONDS TO AUTHORIZE INTEREST RATE SWAPS.

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## ORDINANCE NO. 414-B

AN ORDINANCE AMENDING ORDINANCE NO. 323, AS PREVIOUSLY AMENDED, RELATING TO THE PORT OF PORTLAND'S PORTLAND INTERNATIONAL AIRPORT REVENUE BONDS TO AUTHORIZE INTEREST RATE SWAPS.

BE IT ENACTED BY THE PORT OF PORTLAND:

### Section 1. Purpose.

This Ordinance is enacted to amend and supplement Ordinance No. 323, as previously amended, relating to the Portland International Airport Revenue Bonds. This Ordinance authorizes interest rate swaps and makes other clarifying changes to the Ordinances.

### Section 2. Definitions.

The following defined terms are added to the definitions that are used in Ordinance No. 323, as amended:

(a) "Fund" means a fund, account or other accounting category which the Port uses to account for funds relating to the Airport. A "Fund" under this Subordinate Lien Bond ("SLB") Ordinance does not need to appear in the Port's budgets as a separate fund. The Port may commingle amounts in different Funds for investment purposes.

(b) "JLO Fund" means the Junior Lien Obligation Fund created by Section 6(a) of this Ordinance.

(c) "Junior Lien Obligations" means bonds or other obligations that have a lien on the Net Revenues that is subordinate to the lien of the Subordinate Lien Bonds and are payable from amounts deposited in the JLO Fund.

(d) "Other Swap Obligations" means any payments owed by the Port to a Qualified Swap Provider which are not Scheduled Swap Obligations, including, without limitation, termination payments, fees, charges or indemnifications.

(e) "Qualified Swap" means: (a) any financial arrangement with respect to Subordinate Lien Bonds which; (i) is entered into by the Port with an entity that is a Qualified Swap Provider at the time such arrangement is entered into; (ii) is a cap, floor or collar, forward rate, future rate, swap (such swap may be based on an amount equal either to the principal amount of such Subordinate Lien Bonds as may be designated or a notional principal amount relating to all or a portion of the principal amount of such SLB), asset, index, price or market-linked transaction or agreement, other exchange or rate protection transaction agreement, other similar transaction (however designated), or any combination thereof, or any option with respect to any of the foregoing; and (iii) has been designated as a Qualified Swap with respect to such

SLBs in a written determination of the Port filed with the SLB Trustee; and, (b) any letter of credit, line of credit, policy of insurance, surety bond, guarantee or similar instrument securing the obligations of the Port under any financial arrangement described in clause (a) above.

(f) "Qualified Swap Provider" means an entity whose senior unsecured long term obligations, financial program rating, counterparty risk rating or claims paying ability, or whose payment obligations under a Qualified Swap are guaranteed by an entity whose senior unsecured long term obligations, financial program rating, counterparty risk rating or claims paying ability, are rated at the time of the execution of such Qualified Swap at least as high as the third highest Rating Category by at least two Rating Agencies then maintaining a rating for the Qualified Swap Provider or its guarantor, provided that each such Qualified Swap Provider executes an agreement with the Port to deposit collateral with the Port, or in trust for the Port, with a trustee acceptable to the Port, for the benefit of the Port, in the event such ratings are not maintained.

(g) "Rating Agency" means each nationally recognized securities rating agency.

(h) "Rating Category" means a generic rating category used by any Rating Agency, without regard to any "+" or "-" or other qualifier.

(i) "Restated Ordinance No. 323" is used in this Ordinance for the limited purpose of clarifying the section numbers of Ordinance No. 323 that are being amended. The term "Restated Ordinance No. 323" refers to Port Ordinance No. 323 as restated and amended by the adoption of Port Ordinance No. 337A on October 14, 1987. The amendments to "Restated Ordinance No. 323" that are made by this Ordinance shall apply not only to Restated Ordinance No. 323, but to Ordinance No. 323 with all its subsequent amendments.

(j) "SLB Debt Service Requirement" means, as of any date of calculation, an amount equal to the sum of the following for any period and with respect to all or any portion of the Subordinate Lien Bonds: (1) interest scheduled to accrue during such period on Subordinate Lien Bonds, except to the extent that provision has been made in the proceedings to issue a series of Subordinate Lien Bonds for the payment of interest from Subordinate Lien Bond proceeds or earnings thereon, according to the schedule contained in the Capitalized Interest Certificate for the series of Subordinate Lien Bonds; plus (2) that portion of the principal amount of such Subordinate Lien Bonds scheduled to be payable during such period (either at maturity or by reason of scheduled mandatory redemptions, but after taking into account all prior optional and mandatory Subordinate Lien Bond redemptions) which would accrue if such principal amount were deemed to accrue daily in equal amounts during such period; less (3) earnings on the SLB Reserve Account for that period; and less, (4) any payments due to the Port under an agreement to enter into a Qualified Swap, if the payments are due before the Qualified Swap takes effect and the Port commits to use those payments to pay Subordinate Lien Bonds or Qualified Swaps.

Provided, however, that the following rules shall apply to the computation of SLB Debt Service Requirement for Short Term/Demand Obligations and for Subordinate Lien Bonds which bear interest at a floating or variable rate:

(A) For any series of Short Term/Demand Obligations: future SLB Debt Service Requirements shall be computed on the assumption that the principal amount of such series of

Short Term/Demand Obligations shall be refinanced in the first Fiscal Year for which interest on such Short Term/Demand Obligations has not been capitalized or otherwise funded or provided for, with a series of Bonds which shall be assumed to be amortized over a period not to exceed thirty (30) years from the date of issue in such manner that the maximum Debt Service Requirement in any twelve (12) month period shall not exceed 130% of the minimum Debt Service Requirement for any other twelve (12) month period, and shall be assumed to bear interest at a fixed interest rate calculated as described in (B) below.

(B) Short Term/Demand Obligations and any series of Subordinate Lien Bonds which bears interest at a variable or adjustable rate shall be assumed to bear interest as follows: (a) for any series of Subordinate Lien Bonds then Outstanding, at the greater of: (1) the average interest rate derived from the variable or adjustable interest rate borne by, such series of Subordinate Lien Bonds during a twelve (12) month period ending within thirty (30) days prior to the date of computation; or (2) the actual interest rate derived from such variable or adjustable interest rate formula or computation, or actual interest rate payable on such series of Subordinate Lien Bonds, on the date of such calculation; (b) for any series of Subordinate Lien Bonds then proposed to be issued, at an interest rate estimated by the Port's underwriter to be the average rate of interest such series of Subordinate Lien Bonds will bear during the period, or periods, for which SLB Debt Service Requirements are being calculated, plus one percent (1%); (c) for the principal amount of any series of Subordinate Lien Bonds in connection with which the Port has entered into a Qualified Swap that provides that the Port is to pay to the Qualified Swap Provider an amount determined based upon a fixed rate of interest on the notional amount of such Qualified Swap corresponding to the principal amount of such Subordinate Lien Bonds, at the fixed rate of interest to be paid by the Port in accordance with such Qualified Swap; and, (d) for any series of Subordinate Lien Bonds in connection with which the Port has entered into a Qualified Swap, such as an interest rate cap, that provides that the Qualified Swap Provider is to pay to the Port an amount determined based upon the amount by which the rate at which such Subordinated Lien Bonds bear interest or a floating rate index exceeds a stated rate of interest on all or any portion of such Subordinate Lien Bonds, at the lesser of: (1) the rate calculated in accordance with clause (a) above; or (2) the rate of interest in excess of which the Qualified Swap Provider is to make payment to the Port in accordance with such Qualified Swap.

Provided further, however, that if the Port has entered into a Qualified Swap in connection with any Subordinate Lien Bonds which bear interest at a fixed rate, and the Qualified Swap provides that the Port is to pay to the Qualified Swap Provider an amount determined based on a variable rate of interest on the notional amount of such Qualified Swap, corresponding to the principal amount of such Subordinate Lien Bonds, then those Subordinate Lien Bonds shall be assumed to bear interest at a variable rate of interest that is equal to the rate the Port is required to pay under the Qualified Swap. In addition, the SLB Debt Service Requirements shall be calculated on the assumption that no Subordinate Lien Bonds Outstanding at the date of calculation will cease to be Outstanding, except by reason of the payment of scheduled principal maturities or scheduled mandatory redemptions of such Bonds, except as provided above for Short Term/Demand Obligations.

(k) "Scheduled Swap Obligations" means, with respect to any Qualified Swap, the net regularly scheduled payments owed by the Port to the Qualified Swap Provider. The net regularly scheduled payments owed by the Port to the Qualified Swap Provider shall be calculated by subtracting the regularly scheduled payments owed to the Port by the Qualified

Swap Provider from the regularly scheduled payments owed by the Port to the Qualified Swap Provider. However, "Scheduled Swap Obligations" shall not include any termination payments, fees, charges or indemnifications.

(l) "Swap Obligations" means Scheduled Swap Obligations and Other Swap Obligations.

Section 3. Security.

Section 4 of Restated Ordinance No. 323, as amended, is further amended to read as follows:

Section 4. Security.

Principal, interest and premium, if any, on the Subordinate Lien Bonds, and any Scheduled Swap Obligations, shall be payable solely from the Net Revenues that are available for deposit in the General Account, and from moneys in the SLB Fund and SLB Construction Account, as provided in this SLB Ordinance. The Subordinate Lien Bonds and any Swap Obligations shall not, in any manner, or to any extent, be a general obligation of the Port, nor a charge upon any other revenues or property of the Port not specifically pledged thereto by this SLB Ordinance.

The covenants and agreements herein set forth to be performed by the Port shall be for the equal and proportionate benefit, security and protection of all owners of the Subordinate Lien Bonds and Qualified Swap Providers, without preference, priority, or distinction as to payment, security, or otherwise of any of the Subordinate Lien Bonds, or interest thereon, and any Scheduled Swap Obligations over any of the others for any reason or cause whatsoever, except as expressly provided in this SLB Ordinance, and all Subordinate Lien Bonds and Scheduled Swap Obligations shall rank *pari passu* and shall be secured equally and ratably without distinction or preference whatsoever.

Section 4. Covenants.

Section 5 of Restated Ordinance No. 323, as amended, is further amended to read as follows:

Section 5. Covenants.

The Port of Portland hereby covenants and agrees with the SLB Trustee, the owners of the Subordinate Lien Bonds, and Qualified Swap Providers, that so long as any Subordinate Lien Bonds are outstanding, or the Port is obligated to make payments under a Qualified Swap:

(a) The Port shall pay, when due, all principal, interest, and premium, if any, on the Subordinate Lien Bonds and any Scheduled Swap Obligations, but solely from the Net Revenues, as provided in the Airport Revenue Bond Ordinances.

(b) The Port shall pay, when due, any Other Swap Obligations, but solely from the Net Revenues that are available for deposit in the JLO Fund.

(c) The Port will, for the benefit of the owners of the Subordinate Lien Bonds and Qualified Swap Providers, keep all covenants made by it in Ordinance No. 155 for the benefit of the holders and owners of the Prior Lien Bonds, notwithstanding the discharge and payment of the Prior Lien Bonds.

(d) The Port shall not issue any obligations payable from the Revenues or moneys in the General Account which have a claim prior to the claim of the Subordinate Lien Bonds.

(e) The Port shall not issue obligations having a claim to payment from the Revenues or moneys in the General Account which are equal to, or on a parity with, the claim of the Subordinate Lien Bonds, except for Qualified Swaps and Additional Subordinate Lien Bonds.

(f) The Port shall impose and prescribe such schedule of rates, rentals, fees, and other charges for the use and services of the facilities and commodities furnished by the Airport, shall revise the same from time to time, whenever necessary, and shall collect the income, receipts, and other moneys derived therefrom, so that the Net Revenues in each Fiscal Year shall be at least equal to the sum of: (1) 130% of the Debt Service Requirement for such Fiscal Year for the Prior Lien Bonds as required by Section 16 of Ordinance No. 155; plus, (2) 130% of the SLB Debt Service Requirement for such Fiscal Year on all Subordinate Lien Bonds then outstanding. For purposes of the rate covenant set forth in the immediately preceding sentence, the term "SLB Debt Service Requirement" shall not include any Excess Principal (as hereinafter defined) coming due in any particular Fiscal Year. The Port hereby covenants and agrees that it shall impose and prescribe such schedule of rates, rentals, fees, and other charges for the use and services of the facilities and commodities furnished by the Airport, shall revise the same from time to time, whenever necessary, and shall collect the income, receipts and other moneys derived therefrom, so that the Net Revenues in each Fiscal Year shall be at least equal to the sum of: (i) the amounts described in the first sentence of this Section 5.f; plus (ii) 100% of the Excess Principal coming due in such Fiscal Year. As used herein, the term "Excess Principal" means the principal amount of any Outstanding Subordinate Lien Bonds which, in accordance with any reimbursement agreement, or other agreement pursuant to which any Credit Facility (as defined in Section 9 hereof) is given in connection with such Subordinate Lien Bonds, is due and payable by the Port in a particular Fiscal Year (whether by virtue of scheduled maturity, mandatory redemption or any similar method), but only to the extent the principal amount of such Subordinate Lien Bonds, which is so due and payable in such Fiscal Year, exceeds the principal amount which in the absence of the provisions of such reimbursement agreement, or other agreement referred to above, would otherwise be due and payable in such Fiscal Year (whether by scheduled maturity or mandatory redemption). The Port shall enact such ordinances and prescribe and enforce such rules and regulations, or impose such contractual obligations, for the payment of said rates, rentals, fees, and charges, including, without limitation, the imposition of penalties for defaults, to the end that the provisions of this paragraph shall be complied with. In addition, the Port covenants that it shall impose and prescribe such schedule of rates, rentals, fees, and other charges for the use and services of the

facilities and commodities furnished by the Airport, shall revise the same from time to time, whenever necessary, and shall collect the income, receipts, and other moneys derived therefrom, so that the Net Revenues, together with other amounts that are available to pay Other Swap Obligations, are sufficient to pay all Other Swap Obligations and any Junior Lien Obligations when due.

(g) Within one hundred twenty (120) days after the close of each Fiscal Year (the first such certificate to be filed with respect to the Fiscal Year in which the first Subordinate Lien Bonds are issued hereunder), the Port shall file with the SLB Trustee and the Airport Consultant, a signed copy of the annual report of the Accountant for the preceding Fiscal Year showing, among other things, for such year (1) Revenues and Net Revenues; (2) the Debt Service Requirement of the Prior Lien Bonds and the SLB Debt Service Requirement; and, (3) the aggregate amount of money which was deposited in the General Account and available for the payments into the SLB Fund due hereunder, and the ratio of such amount to the SLB Debt Service Requirement. In the event that any such report so filed shows that the Revenues and Net Revenues for said preceding Fiscal Year did not equal at least the amounts covenanted to be produced by, and required for the purposes specified in the preceding paragraph of this section for said Fiscal Year, or that the Revenues were not sufficient to restore any deficiency in the amounts then required by paragraph f of Section 6 hereof to be credited to the SLB Reserve Account, and to pay or discharge all other claims, charges and liens whatsoever against the Revenues when due and payable, then the Port shall promptly thereafter cause the Airport Consultant to file with the Port and the SLB Trustee, a certificate stating, if deemed necessary by the Trustee, specific changes in operating procedures which may be made, or suggested revisions in the schedule of rates, rentals, fees, and charges, and recommendations respecting any increases thereto, any other changes, or any combination of the foregoing, which will, in the aggregate, in the Trustee's opinion, result in Revenues and Net Revenues estimated as sufficient to make up any existing deficiency and to produce the amounts covenanted to be produced by the preceding paragraphs of this section. The Port shall send a copy of each such certificate to the SLB Trustee, each Qualified Swap Provider, and to any owner of Subordinate Lien Bonds filing with the Port a request for the same. Thereafter, if the Port, in its sole discretion, deems any changes in its operating fees and charges, any other changes, or any combination of the foregoing, are necessary to produce the Revenues and Net Revenues required to make up any deficiency and produce the amounts covenanted to be produced by the preceding paragraphs of this Section, it shall, as soon as possible, effect such changes in its operating procedures, or such revisions in such schedule of rates, rentals, fees, and charges, or effect such other charges, or take any combination of the foregoing actions, which, in its opinion and sole discretion, are necessary for such purposes.

Section 5. Bond Fund.

Section 6 of Restated Ordinance No. 323, as amended, is further amended to read as follows:



Section 6. Bond Fund.

(a) There is hereby created and established a special trust fund of the Port to be known and designated as "The Port of Portland Subordinate Lien Airport Revenue Bond Fund," which is referred to herein as the "SLB Fund."

(b) The SLB Fund shall be administered by the SLB Trustee in the same manner as other funds held by the SLB Trustee under this SLB Ordinance. The Port shall set aside and pay into the SLB Fund from the first moneys available in the General Account, to the extent necessary to provide for the punctual payment of: (i) the principal and interest and premium, if any, on the Senior Lien Bonds as and when the same become due, whether at maturity or by redemption or declaration as hereinafter provided or otherwise; (ii) any Scheduled Swap Obligations as and when the same become due; and, (iii) any Excess Principal as and when the same become due. The moneys in the SLB Fund shall be used solely for the payment of principal, interest, and premium, if any, due on the Senior Lien Bonds, Scheduled Swap Obligations, and Excess Principal as provided below.

(c) The SLB Trustee shall maintain a separate account in the SLB Fund to be known as the "SLB Interest Account." So long as the Port remains obligated to make payments on Senior Lien Bonds or Qualified Swaps:

(1) In the case of Senior Lien Bonds and any Qualified Swap for which interest or Scheduled Swap Obligations are due semi-annually, or less frequently, on the first business day of each month, commencing with the month which follows the month in which the first series of Senior Lien Bonds are issued under this SLB Ordinance, the Port shall pay to the SLB Trustee from moneys in the General Account for deposit in the SLB Interest Account: (i) an amount such that, if the same amount were so credited to this account in each succeeding month thereafter, prior to the next date upon which an installment of interest falls due on the Senior Lien Bonds, the aggregate of such amounts, plus other moneys previously deposited and available in the SLB Interest Account to pay interest on Senior Lien Bonds, or scheduled to be deposited therein pursuant to a Capitalized Interest Certificate, will equal the installment of interest falling due on the Senior Lien Bonds on such interest payment date; plus (ii) an amount such that, if the same amount were so credited to this account in each succeeding month thereafter, prior to the next date upon which a Scheduled Swap Obligation is due, the aggregate of such amounts, plus other moneys previously deposited and available in the SLB Interest Account and available to pay Scheduled Swap Obligations, will equal those Scheduled Swap Obligations on that payment date.

(2) In the case of all Senior Lien Bonds and any Qualified Swap for which interest or Scheduled Swap Obligations are due more frequently than semi-annually, on the business day immediately preceding each interest payment date for such Senior Lien Bonds and each payment date for that Scheduled Swap Obligation, commencing with the month which follows the month in which the first series of Senior Lien Bonds are issued under this SLB Ordinance, the Port shall pay to the SLB Trustee from moneys in the General

Account for deposit in the SLB Interest Account: (i) an amount that, together with any other moneys previously deposited and available in the SLB Interest Account to pay interest on Senior Lien Bonds, will equal the installment of interest falling due on the next succeeding interest payment date for those Senior Lien Bonds; plus (ii) an amount that, together with moneys previously deposited and available in the SLB Interest Account to pay Scheduled Swap Obligations, will equal the Scheduled Swap Obligations due on the next succeeding payment date for such Scheduled Swap Obligations.

(3) Accrued interest received on the sale of Senior Lien Bonds, payments received by the Port under an agreement to enter into a Qualified Swap, as described in clause (4) of the definition of "SLB Debt Service Requirement," and any regularly scheduled payment that is received by the Port (or the SLB Trustee on behalf of the Port) from a Qualified Swap Provider under a Qualified Swap that exceeds the amount paid by the Port, shall promptly be deposited in the SLB Interest Account.

(4) If, at any time, the amounts in the SLB Interest Account are not sufficient to pay all interest payments on Senior Lien Bonds and Scheduled Swap Obligations that are then due, the SLB Trustee shall apply amounts in the SLB Interest Account to pay, on a pro rata basis, interest on Senior Lien Bonds and any amounts due in respect of Scheduled Swap Obligations.

(d) The SLB Trustee shall maintain a separate account in the SLB Fund, to be known as the "SLB Serial Bond Principal Account." On the first business day of each month, so long as any Senior Lien Bonds are outstanding, commencing with the month which is twelve (12) months prior to the first principal payment of any Senior Lien Bond maturing serially, the Port shall pay to the SLB Trustee, from moneys in the General Account for deposit in the SLB Serial Bond Principal Account, an amount such that, if the same amount were so credited to this account in each succeeding month thereafter, prior to the next date upon which principal, if any, on the Senior Lien Bonds maturing serially becomes due and payable, the aggregate of the amounts on deposit in this account will equal the amount of serially maturing principal on such Senior Lien Bonds on such principal payment date.

(e) The SLB Trustee shall maintain a separate account in the SLB Fund, to be known as the "SLB Term Bond Principal Account." On the first business day of each month, so long as any Senior Lien Bonds are outstanding, commencing with the month which is twelve (12) months prior to the date on which Senior Lien Bonds are subject to mandatory redemption, the Port shall pay to the SLB Trustee, from moneys in the General Account for deposit in the SLB Term Bond Principal Account, an amount such that, if the same amount were so credited to this account in each succeeding month thereafter, prior to the next date upon which Subordinate Lien Term Bonds are subject to mandatory redemption (excluding any principal due as Excess Principal), the aggregate of such amounts will equal the amount of Term Bond principal due by mandatory redemption.

(f) The SLB Trustee shall maintain a separate account in the SLB Fund, to be known as the "SLB Reserve Account." The Port shall pay to the SLB Trustee, from Revenues in

the General Account or from Senior Lien Bond proceeds, for deposit in the SLB Reserve Account, moneys sufficient to fund the SLB Reserve Fund Requirement, in accordance with the schedule provided in each ordinance authorizing issuance of a series of Senior Lien Bonds. Except as provided below in this paragraph, moneys in the SLB Reserve Account shall be used only to pay principal of, interest, and any premium on, Senior Lien Bonds and Scheduled Swap Obligations, and only when moneys in the SLB Interest Account, SLB Serial Bond Principal Account, and SLB Term Bond Principal Account are insufficient for such purposes. In the event that the balance in the SLB Reserve Account is reduced below the SLB Reserve Requirement, then on the first business day of each month, the Port shall pay to the SLB Trustee from Revenues in the General Account for deposit in the SLB Reserve Account, an amount equal to twenty percent (20%) of the amounts required to be paid to the SLB Trustee on that day, pursuant to the preceding three paragraphs of this Section, until there is on deposit in the SLB Reserve Account an amount equal to the SLB Reserve Fund Requirement. If the amounts on deposit in the SLB Reserve Account exceed the SLB Reserve Fund Requirement, and there is no deficiency in any other account in the SLB Fund, the SLB Trustee shall, upon written request of the Port, disburse the excess to the Port for deposit in the General Account.

(g) Moneys in the SLB Fund shall be invested and reinvested, to the extent reasonable and practicable by the SLB Trustee, and at the direction of the Port, in Investment Securities which are legal investments for the Port under the laws of the State of Oregon. Such investments shall mature on, or prior to, the date on which moneys are required to be disbursed from the SLB Fund. All earnings on the SLB Fund which are subject to rebate to the federal government shall be accounted for separately, in accordance with instructions to the Trustee by the Port and shall be transferred at convenient intervals to the Port for deposit in the Rebate Account. All earnings on the SLB Fund not credited to the Rebate Account shall be credited to the SLB Reserve Account, unless and until there is on credit to said account, an amount equal to the SLB Reserve Requirement on all Senior Lien Bonds then outstanding, in which event such earnings shall be credited to the SLB Interest Account, the SLB Serial Bond Principal Account, the SLB Term Bond Principal Account, or any combination thereof as the Port may determine. The SLB Trustee shall notify the Port of the availability of earnings for credit to such accounts, so that the Port, when making the payments to the SLB Trustee required by this Section, may adjust its payments for the earnings credited to such accounts.

Section 6. The JLO Fund.

The following new section is added to Restated Ordinance No. 323, as amended:

Section 6A. The JLO Fund.

(a) There is hereby created and established a special trust fund of the Port to be known and designated as "The Port of Portland Airport Junior Lien Obligation Fund," which is referred to herein as the "JLO Fund."

(b) The JLO Fund shall be held and administered by the Port. The JLO Fund shall contain a Qualified Swap Termination Payment Fund and any other Funds the Port may create for the payment of Junior Lien Obligations. The Port shall set aside and pay into the JLO Fund from the first moneys available in the General Account after required payments to the SLB

Fund: (1) an amount sufficient, with other amounts available in the JLO Fund, to pay any Other Swap Obligations when due; and, (2) any amounts the Port subsequently agrees to deposit into the JLO Fund for the benefit of Junior Lien Obligations. Amounts required to pay Other Swap Obligations shall be credited to the Qualified Swap Termination Payment Fund. While the Port holds the JLO Fund, if the amount available for credit to the JLO Fund is not sufficient to make all the credits that are then required to be made to Funds in the JLO Fund, the Port shall distribute the available amounts *pro rata* among the Funds in the JLO Fund based on the amounts that are then required to be credited to the Funds in the JLO Fund.

(c) The Port hereby pledges the Net Revenues that are available for deposit into the JLO Fund under this Ordinance to pay Other Swap Obligations.

(d) On or before the date on which any of the following payments are due, and so long as the Port is obligated to make payments under a Qualified Swap or has Junior Lien Obligations outstanding, the Port shall deposit into the JLO Fund, for credit to the Qualified Swap Termination Payment Fund, moneys sufficient to: (i) pay any Other Swap Obligations that are then due; and, (ii) to collateralize any Qualified Swap in accordance with its terms. The Port may covenant to make additional deposits into other Funds in the JLO Fund to pay Junior Lien Obligations and fund reserves for Junior Lien Obligations.

(e) The Port reserves the right to issue Junior Lien Obligations and to pledge the amounts in the JLO Fund to pay Junior Lien Obligations and fund reserves for Junior Lien Obligations. The lien of the pledge that secures the Junior Lien Obligations may be on a parity with, or subordinate to, the lien of the pledge that secures the Other Swap Obligations. The Port shall, on a pro rata basis, apply amounts credited to the Qualified Swap Termination Payment Fund of the JLO Fund to: (i) pay any Other Swap Obligations; and (ii) transfer such amounts as collateral for the Port's obligations under any Qualified Swap in accordance with the terms of such Qualified Swap.

(f) The Port shall not grant any lien on amounts that are available for deposit in the JLO Fund that is superior to the lien that secures Other Swap Obligations.

(g) The Port may elect to transfer the JLO Fund, or any of its accounts, to a qualified Trustee, but only with the consent of the Qualified Swap Providers of any Qualified Swaps that are then in effect. If the Port so elects, the Trustee shall be obligated to apply the amounts in the JLO Fund as provided in this subsection, and the Port shall transfer to that Trustee the amounts that the Port is required to deposit into the JLO Fund.

(h) Any amounts that are transferred as collateral from the JLO Fund to a Qualified Swap Provider (or its custodian) pursuant to this section shall cease to be subject to the liens and pledges that secure Senior Lien Bonds and Junior Lien Obligations.

Section 7. Order of Payment; Priority of Claim.

Section 7 of Restated Ordinance No. 323, as amended, is further amended to read as follows:

All moneys to be paid to the SLB Trustee by the Port from the General Account in any month, under the provisions of this SLB Ordinance, shall be paid before any other amounts are paid in that month for any other purpose. In the event amounts in the General Account are insufficient to pay the amounts due hereunder on the date that such amounts are to be paid, all moneys then existing in the General Account, and all moneys subsequently available for deposit in the General Account, shall be immediately transferred to the SLB Trustee for deposit to the deficient accounts in the SLB Fund and no moneys from the General Account shall be disbursed for any other purpose until all payments then due hereunder have been made. If such an insufficiency occurs, the SLB Trustee shall deposit the moneys it receives to the following accounts, in the following order of priority:

FIRST: to the SLB Interest Account, until all required deposits to that account have been made;

SECOND: to the SLB Serial Bond Principal Account, until all required deposits to that account have been made;

THIRD: to the SLB Term Bond Principal Account, until all required deposits to that account have been made;

FOURTH: to the SLB Reserve Account, until all required deposits to that account have been made; and,

FIFTH: to the Port for deposit in the JLO Fund, until all required deposits to that fund have been made.

Section 8. SLB Construction Account.

Section 8 of Restated Ordinance No. 323, as amended, and all similar provisions of the Airport Revenue Bond Ordinances are amended to read as follows:

(a) There is hereby created a separate account in the Construction Fund which shall be designated as the "Subordinate Lien Revenue Bond Construction Account," which is referred to herein as the "SLB Construction Account." Moneys credited to the SLB Construction Account shall be accounted for separately from other moneys of the Port, and shall be applied solely for the purposes listed in Section 3 hereof, or the payment of Subordinate Lien Bonds and Scheduled Swap Obligations.

The Port shall transfer moneys in the SLB Construction Account to the SLB Trustee for deposit in the SLB Interest Account in accordance with the schedule contained in the Capitalized Interest Certificate. Other withdrawals of money on credit to the SLB Construction Account shall be made only in accordance with the applicable law and upon a written requisition for such payment signed by an officer or employee of the Port, in the same manner as provided for withdrawals of money from the Airport Construction Fund under Section 12 of Ordinance No. 155.

(b) There is hereby created in the SLB Construction Account, a separate subaccount to be known as "SLB Rebate Account," which is referred to herein as the "Rebate

Account.” All earnings on moneys from any funds and accounts established hereunder, or any other moneys under the control of the Port which constitute “gross proceeds” of Subordinate Lien Bonds under Section 103(c)(6) of the Internal Revenue Code, and which are subject to rebate to the federal government under such section, shall be credited to the Rebate Account when earned. Such earnings on funds and accounts held by the SLB Trustee shall be transferred to the Port, as directed by the Port. Moneys in the Rebate Account shall be invested, to the extent reasonably practicable, in Investment Securities specified by the Port which mature on or before the date on which a rebate payment is required to be made to the federal government. Earnings on the Rebate Account shall be credited to the Rebate Account. Moneys in the Rebate Account shall be used solely to pay rebates to the federal government. However, if the Port reasonably determines that moneys which have been credited to the Rebate Account are not required to be rebated to the federal government, such moneys may be transferred to the General Account.

(c) Moneys credited to the SLB Construction Account shall be invested and reinvested by the Port to the extent reasonably practicable in Investment Securities maturing in such amounts and at such times as anticipated by the Port so that moneys deposited in the SLB Construction Account which are subject to rebate, shall be credited to the Rebate Account. Other earnings on the SLB Construction Account shall be credited to the SLB Construction Account and used and applied as are other moneys credited to such fund.

(d) The annual audit to be made pursuant to Paragraph J of Section 17 of Ordinance No. 155 shall include the SLB Construction Account and the SLB Capitalized Interest Account, and shall show all receipts of funds and accounts, the investments held therein, and the disbursements and withdrawals therefrom.

Section 9. Pledge of Revenues and Other Moneys; Subordination.

Section 9 of Restated Ordinance No. 323, as amended, is further amended to read as follows:

Section 9. Pledge of Revenues and Other Moneys; Subordination.

(a) Subject to the limitations set forth below in this Section 9, the Port hereby pledges to the payment of all outstanding Subordinate Lien Bonds, heretofore or hereafter issued, and to the payment of all Scheduled Swap Obligations, the following:

- (1) All Revenues,
- (2) All moneys on deposit, from time to time, in the SLB Construction Account; and
- (3) All moneys on deposit, from time to time, in the SLB Fund.

(b) By virtue, of the issuance of any letter of credit, line of credit, standby purchase agreement, surety bond, or other credit enhancement device given as security for any Subordinate Lien Bonds (herein called a “Credit Facility”), and also by virtue of the acceptance by the issuer of any such Credit Facility (herein called a “Credit Facility Provider”) of any

Subordinate Lien Bond evidencing the Port's obligation to repay any amounts drawn or paid under such Credit Facility, together with interest thereon, each Credit Facility Provider shall thereby be deemed to have agreed that, so long as no Event of Default has occurred and is continuing, such Credit Facility Provider's right to receive payment of any Excess Principal (as defined in Section 5.f. hereof) owing to it in a particular Fiscal Year, shall be subordinated to the payment of all principal coming due on all other Subordinate Lien Bonds in such Fiscal Year, and shall be payable and secured as provided in this SLB Ordinance. All amounts of Excess Principal required to be paid to any Credit Facility Provider in any Fiscal Year shall be due and payable on July 1 of such Fiscal Year.

Section 10. SLB Ordinance to Constitute Contract, Qualified Swap Providers as Third Party Beneficiaries; Enforcement.

Section 13 of Restated Ordinance No. 323, as amended, is further amended to read as follows:

So long as any of the Subordinate Lien Bonds are outstanding, each of the obligations, duties, limitations, and restraints imposed upon the Port by this SLB Ordinance, shall be deemed to be a covenant between the Port and every Subordinate Lien Bondowner, and this SLB Ordinance and every provision and covenant hereof and the Provisions of ORS 778.005 to 778.260 shall constitute a contract with every Subordinate Lien Bondowner, and shall be enforceable by any Subordinate Lien Bondowner by mandamus or other appropriate action or proceeding, at law or in equity, in any court of competent jurisdiction, including, without limiting the generality of the foregoing, the bringing of a suit or suits to compel compliance with the provisions of this SLB Ordinance in the event the Port fails to set aside and pay the Revenues from the General Accounts into the SLB Fund as herein required. So long as the obligations of the Port to any Qualified Swap Provider have not been discharged and satisfied, such Qualified Swap Provider shall be a third party beneficiary of every provision and covenant hereof, and each such provision and covenant shall be enforceable by such Qualified Swap Provider by mandamus or other appropriate action or proceeding, at law or in equity, in any court of competent jurisdiction, including, without limiting the generality of the foregoing, the bringing of a suit or suits to compel compliance with the provisions of this SLB Ordinance in the event the Port fails to set aside and pay the Revenues into the SLB Fund and JLO Fund as herein required. However, this provision shall not be construed to give any Qualified Swap Provider the right to consent to, or approve of, any amendments to this Ordinance or the Airport Revenue Bond Ordinances unless a Qualified Swap Provider has expressly reserved that right in a Qualified Swap.

Section 11. Discharge of Liens and Pledges; Bonds No Longer Outstanding Hereunder.

The following paragraph is added to Section 17 of Restated Ordinance No. 323:

Notwithstanding anything herein to the contrary, the obligations of the Port under this SLB Ordinance and the liens, pledges, charges, trusts, assignments, covenants and agreements of the Port herein or therein made or provided for, shall not be discharged and satisfied until the Port has paid all amounts it is obligated to pay under any Qualified Swap.

Section 12. Authorization of Qualified Swaps.

The Board of Port Commissioners may authorize Qualified Swaps by resolution, and without amending or supplementing the terms of the Airport Revenue Bond Ordinances. The Port may enter into agreements with the Providers of Qualified Swaps regarding the interpretation and application of the Airport Revenue Bond Ordinances, including the amendments made by this Ordinance, and those agreements shall be binding on the Port, unless they are inconsistent with the express provisions of the Airport Revenue Bond Ordinances, as amended by this Ordinance.

Section 13. Effect of Qualified Swaps on Airline Agreements.

The adjustments to the "SLB Debt Service Requirement" that result from execution of a Qualified Swap shall be allocated to Airport cost centers in the same manner as debt service for the Subordinate Lien Bonds for which the Qualified Swap was executed or in accordance with the terms of any new or amended Airline Agreement, as negotiated between the parties in the future.

Section 14. Coordination of Amendments.

The Port has paid all of its Prior Lien Bonds and has covenanted not to issue any Prior Lien Bonds. The "Subordinate Lien Bonds" referred to in this Ordinance have a senior lien on the Net Revenues of the Airport, and are referred to in some Airport Bond Ordinances as "Senior Lien Bonds." The term "Subordinate Lien Bond" is used in this Ordinance only to conform with the terminology of Port Ordinances No. 323 and 337A. The amendments to the Airport Revenue Bonds ordinances that are contained in this Ordinance are intended only provide for the payment of Qualified Swaps from Revenues on a parity with outstanding Subordinate Lien Bonds, and shall not be construed to affect other substantive rights of the owners of Outstanding Subordinate Lien Bonds.

Section 15. Publication and Effectiveness of This Ordinance.

A concise summary of this SLB Ordinance, including the location within the Port where a complete copy of this SLB Ordinance may be obtained without charge, shall be published within five (5) days after passage, in a newspaper of general circulation within the municipal boundaries of the Port; and this SLB Ordinance shall become effective thirty (30) days after enacted.



PASSED AND ENACTED by the Board of Commissioners of The Port of  
Portland at a meeting held on March 10, 2004 and signed by its President on the same date.

THE PORT OF PORTLAND

By: 

\_\_\_\_\_  
President

Approved as to legal sufficiency:



\_\_\_\_\_  
Harvey W. Rogers, Bond Counsel