

BOND ORDINANCE  
KLAMATH TRIBAL CODE  
Title 5 Chapter 36

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**THE KLAMATH TRIBES**

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**36.01 Authority, Purpose and Delegation.**

(a) The authority for this Ordinance is found in the Tribal Constitution and By-Laws under Article V, Section I G.

(b) The purpose of this Ordinance is to establish procedures to enable the General Council, as the governing body of the Tribe, to issue bonds or incur other obligations from federal and non-federal sources under Article V, Section I D of the Constitution and By-Laws of the Tribes for public purposes ("Tribal Projects").

(c) The General Council may, by duly authorized resolution, delegate to the Executive Committee all powers and responsibilities of the General Council under this Ordinance.

**36.02 Definitions. Unless defined elsewhere in this Ordinance or the context clearly requires otherwise, the definitions in this Section apply throughout this Ordinance.**

(a) "Bond" means a Full Faith and Credit Bond, a Revenue Bond, or other Obligations. "Bond" includes any obligation, including but not limited to a bond, a lease-purchase obligation, a line of credit, or a bond anticipation Note, which is incurred or issued to finance a Tribal Project.

(b) "Credit Enhancement Device" means a letter of credit, bond insurance policy, surety bond or other device or facility used to enhance the creditworthiness or marketability of any Bonds.

(c) "Executive Committee" means the Executive Committee of the Tribes established pursuant to Article VI of the Constitution and By-Laws.

(d) "Full Faith and Credit Bond" means a bond specifically

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designated by the General Council or the Executive Committee as a full faith and credit obligation payable from taxes, if any, which may be levied, or from the general available revenues of the Tribes.

(e) "General Council" means the General Council of the Tribes established pursuant to Article I, Section I of the Constitution and By-Laws.

(f) "Note" means a note Obligation issued in anticipation of Bonds, Revenues, taxes, grants or other sources of repayment.

(g) "Obligation" means an agreement that evidences an indebtedness of the Tribes, other than a Full Faith and Credit Bond or a Revenue Bond, and includes, but is not limited to, conditional sales contracts, loan agreements, letters or lines of credit, lease obligations, and Notes.

(h) "Revenues" means, with respect to the issuance of Revenue Bonds, all revenues, fees, tolls, excise taxes, assessments, property taxes and all other taxes of whatever kind or nature, rates, charges, loan agreements, rentals and all other income and receipts of whatever kind or character derived by or to which a Tribal body is entitled from the operation, sale or use of facilities, projects, utilities or systems owned or operated by or on behalf of the Tribes or a Tribal Enterprise and other revenues legally available to be pledged to secure Revenue Bonds.

(i) "Revenue Bonds" means Bonds or revenue anticipation Notes issued for any public purpose, which are secured by Revenues pledged for such public purpose.

(j) "Tribal Enterprise" means an enterprise, corporation or other subordinate entity of the Tribes duly established pursuant to the Constitution and By-Laws.

(k) "Tribal Project" means any project or projects of the Tribes or any Tribal Enterprise to be financed in whole or in part with the proceeds of Bonds issued for a public purpose. Tribal Project shall also include the financing of any cash flow needs or deficits of the Tribes or a Tribal Enterprise.



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36.03 Interpretation of Constitution. The General Council is the ultimate arbiter of the meaning of the Constitution and By-Laws and other Tribal laws, and any meaning that the General Council may assign to a constitutional provision or to a Tribal law by written opinion shall be final and binding on the Tribe. When any party in entering into a contract or other transaction pertaining to the issuance of Bonds shall have relied on such meaning as expressed by ordinance or resolution of the General Council or the Executive Committee, such meaning becomes a part of such contract or transaction and shall not thereafter be revoked or modified to the prejudice of such party.

36.04 Authority to Grant a Limited Waiver of Sovereign Immunity for Certain Purposes. The General Council, on behalf of the Tribes, is hereby authorized to grant a limited waiver of the sovereign immunity of the Tribes for the purpose of providing for the sale, issuance and security for Bonds, but any such waiver may only be made by a duly authorized resolution.

36.05 authority to Issue Bonds. The General Council or the Executive Committee shall provide by resolution for the issuance of Bonds for the payment of all or any portion of the cost and expense of any Tribal Project. Said resolution will state the maximum aggregate principal amount of the Bond issue. The resolution shall describe the Tribal Project for which Bonds are to be issued. The resolution may delegate to the General Council, or to any one or more of its executive officers, authority to determine certain particular terms and conditions of any borrowing or issuance of Bonds for an approved Tribal Project, subject to any restrictions contained in such resolution.

36.06 Security. The General Council or the Executive Committee may pledge as security for Bonds or Credit Enhancement Devices authorized pursuant to this Ordinance, the Tribes' powers to take the following actions:

- (a) Cause appropriations or pledges from anticipated taxes, other Revenues, loan repayments, the proceeds of any Bonds or other permanent financing, or any combination thereof;
- (b) Segregate any pledged funds into separate accounts which may be held by the Tribes or any third party trustee designated

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by resolution of the General Council or Executive Committee;

(c) Enter into contracts to obtain Credit Enhancement Devices, or other financial commitments designated to provide additional security for Bonds authorized for Tribal Projects;

(d) Establish any reserves deemed necessary for the payment of the Bonds;

(e) Adopt resolutions and enter into agreements containing covenants and provisions for protection and security of the owners of Bonds, which shall constitute enforceable contracts with such owners;

(f) For Full Faith and Credit Bonds and any Credit Enhancement Devices securing such Full Faith and Credit Bonds, pledge, restrict and encumber the general revenues of the Tribes, including the Tribe's general revenue-raising and taxing powers, if any, to produce sufficient funds to pay debt service on the Full Faith and Credit Bonds and on any reimbursement obligation on the Credit Enhancement Devices all in accordance with their terms; and

(g) To the extent permitted by law, to enter into any financing leases or installment purchase agreements and to grant leasehold mortgages and security interests in any real property or personal property.

36.07 Amount, Terms, Conditions, Interest, etc. of Bonds. The Executive Committee may formally delegate to any one or more of its executive officers, its authority to determine the interest rate or rates applicable to any Bonds issued to finance a Tribal Project. The Executive Committee may also delegate to any one or more of its executive officers its authority to determine an amortization schedule for the Bonds, provided that the maximum term does not exceed 40 years. Except as provided in a resolution authorizing a particular issue of Bonds, the Chairman or Vice-Chairman may act on behalf of the General Council and the Executive Committee to perform any and all other necessary acts pertaining to the issuance of the Bonds, including, without limitation, the determination of any conditions of the Bond issue, Bond denominations, redemption rights, registration privileges, manner of execution, price, manner of sale, covenants



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and form, including registration of principal and interest, registration of principal only, or bearer.

**36.08 Payment of Costs of Issuance and Sale.** The proceeds of any Bonds issued may be used to pay incidental costs and costs related to the sale and issuance of the Bonds. Such costs may include, but are not limited to, payments for fiscal agent, paying agent, trustee, escrow agent, registrar fees, legal and accounting expenses, bond ratings, printing, engraving, advertising, credit enhancement fees, bond insurance premiums, underwriting costs and out-of-pocket expenditures of the Tribes relating to issuance of the Bonds. These costs shall also include the establishment and funding of reserve accounts and other accounts, any amount required for working capital, capitalized interest, necessary and related engineering, architectural, planning and inspection costs, and other similar activities or purposes.

**36.09 Personal Liability.** Neither the holder nor owner of any Bond shall have any claim (other than a writ of mandamus, injunction or other similar writ or proceeding) against any member of the General Council or any officer, employee, or agent of the Tribes, for personal, contractual or monetary liability on the Bond.

**36.10 Revenue Bonds.**

(a) The General Council or the Executive Committee shall provide by resolution for the issuance of Revenue Bonds for the payment of the whole or any portion of the cost and expense of any Tribal Project. Said resolution will determine the maximum amount of the Revenue Bond issue, which amount may equal, but may not exceed, the total amount specified in the tribal resolution authorizing the issuance of Revenue Bonds for the Tribal Project.

(b) The General Council or the Executive Committee may pledge for the payment of Revenue Bonds issued in connection with a Tribal Project all or any portion of (i) the Revenues of any revenue producing facility providing services related to the services financed by the Revenue Bonds; (ii) the Revenues of a public utility or system, or an addition or extension thereto; (iii) all or any portion of the Revenues of the Tribes; or (iv)

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any other legally available moneys.

(c) If the General Council or the Executive Committee determines that it is necessary to provide additional security for the Revenue Bonds, the General Council or the Executive Committee may, to the extent permitted by law, mortgage, grant security interests in or otherwise encumber facilities, projects, utilities or systems owned or operated by the Tribes. Such security may be given in favor of the holders of the Revenue Bonds, a trustee therefor or as security for its obligations arising under any Credit Enhancement Device. The General Council may obtain a Credit Enhancement Device for Revenue Bonds. The Tribes may loan the proceeds of any Revenue Bonds to any Tribal Enterprise on the terms and conditions specified in a resolution of the General Council or the Executive Committee.

(d) The substance of the limitations included in this subsection shall be plainly printed, written, engraved, or reproduced on: (i) each Revenue Bond that is a physical instrument; and (ii) each official statement or other offering document associated with the Revenue Bonds.

36.11 Dispute Resolution. In connection with authorizing a specific Bond issue, the General Council or the Executive Committee (by authorization of the terms and agreements pertaining to the Bond issue or otherwise) may provide for a dispute resolution system, including, among other things, for waiving the necessity of any proceedings before the General Council, Executive Committee or Tribal Courts, for other or greater waivers of sovereign immunity, for lesser or greater powers of the arbitrators than those stated by the rules of the American Arbitration Association, and for federal and state court jurisdiction.

36.12 Effective Date. This Ordinance shall be effective immediately upon approval by the appropriate governmental authority.

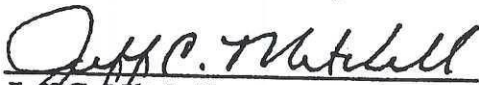


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**Certification of Adoption:**

Pursuant to action of the Klamath Tribes Executive Committee on the 15th day of August, 1996 the Klamath Tribes Bond Ordinance - Title 5 Chapter 36, was duly adopted; and was then ratified at a General Council Meeting of the Klamath Tribes where a quorum was present, by a unanimous voice vote on August 17, 1996.



**Jeff C. Mitchell**  
**Chairman**  
**The Klamath Tribes**



**Barbara J. Kirk**  
**Secretary**  
**The Klamath Tribes**





## SECTION 81 ACCOMMODATION APPROVAL AND DISCLAIMER

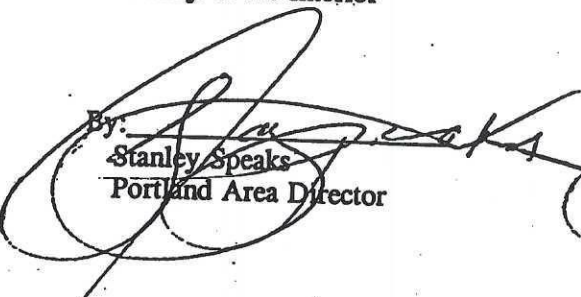
The Klamath Tribes (Klamath and Modoc Tribes and Yahooskin Band of Snake Indians) (the "Tribe") has submitted this Bond Ordinance enacted August 17, 1996, codified as Title 5 Chapter 36 of the Klamath Tribal Code (the "Bond Ordinance"), claimed to be an agreement, to the Department of the Interior for its review and has requested its approval pursuant to 25 U.S.C. § 81. The Department has reviewed this Bond Ordinance, determined that it does not constitute an agreement involving services to or encumber the Tribe's trust land or other trust assets and, therefore, that this agreement is not subject to the provisions of 25 U.S.C. § 81. As a result, this statute does not limit or impair the Tribe's capacity to make this Bond Ordinance or enter into this agreement without obtaining the approval of the Secretary of the Interior and the Commissioner of Indian Affairs.

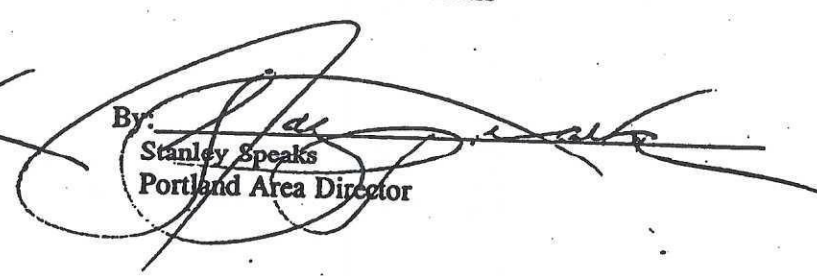
Nevertheless, the Tribe has requested that this Bond Ordinance be approved to avoid casting any doubt upon the Tribe's legitimate authority to validly make this Bond Ordinance or enter this agreement. The Secretary of the Interior and the Commissioner of Indian Affairs do not want their determination that this Bond Ordinance does not require their approval to subject the Tribe to an assertion that it is null and void under the provisions of 25 U.S.C. § 81 due to lack of approval. To avoid casting any doubt upon the validity of this Bond Ordinance due to its lack of approval, as an accommodation to the Tribe's request, this Bond Ordinance has been approved by the Secretary of the Interior and the Commissioner of Indian Affairs pursuant to 25 U.S.C. § 81.

The Secretary of the Interior and the Commissioner of Indian Affairs approval of this document does not and should not be construed or interpreted as indicating that it is an agreement which requires their approval to be valid or that the United States assumes or guarantees any of the Tribe's obligations under the Bond Ordinance or agreement.

Secretary of the Interior

Commissioner of Indian Affairs

By:   
Stanley Speaks  
Portland Area Director

By:   
Stanley Speaks  
Portland Area Director