

LOAN AGREEMENT BETWEEN THE COUNTY OF KALAMAZOO AND THE AUSTIN
LAKE GOVERNMENTAL LAKE BOARD

This Loan Agreement is made and entered into between the County of Kalamazoo (County), a Michigan Constitutional and Municipal Corporation, whose address is 201 West Kalamazoo Avenue, Kalamazoo, Michigan 49007, and the Austin Lake Governmental Lake Board.

INTRODUCTION

WHEREAS, Austin Lake is an inland lake located wholly within the City of Portage, Kalamazoo County, State of Michigan; and,

WHEREAS, pursuant to Part 309 of the Michigan Natural Resources and Environmental Protection Act, 1994 P.A. 451, as amended, MCL 324.30901 et seq., the Austin Lake Governmental Lake Board was established for the purpose of undertaking improvements to Austin Lake; and,

WHEREAS, the Austin Lake Governmental Lake Board has determined that construction and installation of an Aeration and Bioaugmentation System may alleviate the excessive organic muck accumulating in the South Cove area of Austin Lake; and,

Whereas, the County Board of Commissioners has determined that it is appropriate to establish a Revolving Fund to advance funding to the Austin Lake Governmental Lake Board for the Austin Lake Aeration and Bioaugmentation System in order to protect the health, safety and welfare of the public, to protect the natural resources of the State, and to protect the value of properties around Austin Lake; and,

WHEREAS, pursuant to Section 30922 of Part 309 of the Michigan Natural Resources and Environmental Protection Act , the Austin Lake Governmental Lake Board is authorized to borrow money and collect special assessments to defray the costs of any improvement made under Part 309; and,

WHEREAS, the Austin Lake Governmental Lake Board has requested a \$30,000 loan from the County to pay for the engineering/feasibility study, design and construction of the Austin Lake Aeration and Bioaugmentation System; and,

WHEREAS, the Kalamazoo County Board of Commissioners agrees to advance an amount not to exceed \$30,000 to the Austin Lake Governmental Lake Board upon the terms and conditions set forth in this Agreement.NOW, THEREFORE, in consideration of the mutual promises and representations set forth in this Loan Agreement, and for other good and valuable

consideration, the receipt and adequacy of which is hereby acknowledged, the County and the Austin Lake Governmental Lake Board agree as follows:

1. The County agrees to advance an amount not to exceed \$30,000 to the Austin Lake Governmental Lake Board in connection with the procurement of an engineering/feasibility study of, the creation of a special assessment district for, and the design and installation of, the Austin Lake Aeration and Bioaugmentation System.
2. The amount advanced by the County shall be applied to the allowable costs as authorized for the Austin Lake Aeration and Bioaugmentation System as approved by the Austin Lake Governmental Lake Board in accordance with Part 309 of the Michigan Natural Resources and Environmental Protection Act.
3. The Austin Lake Governmental Lake Board shall reimburse the County for all funds advanced including interest in the amount of 2.3 percent per annum, with the special assessments levied and collected from the properties within the special assessment district established and approved by the Austin Lake Governmental Lake Board in accordance with the procedures set forth in Part 309 of the Michigan Natural Resources and Environmental Protection Act.
4. The payment of Principal and Interest is due on July 15, 2012. The annual interest rate is 2.3% which is based on the current annual LIBOR rate as published in the Wall Street Journal plus 1.5% per annum compounded semiannually. There will be no penalty for early payment.
5. If any funds raised pursuant to the special assessment district are insufficient to meet the Austin Lake Governmental Lake Board's obligation under this Loan Agreement, the Austin Lake Governmental Lake Board shall proceed in accordance with Section 303919 (MCL 324.30919) to make additional special assessments in order to fulfill its obligations under this Loan Agreement.
6. If any provision of this Loan Agreement or the application to any person or circumstance is, to any extent, judicially determined to be invalid or unenforceable, the remainder of the Loan Agreement, or the application of the provision to persons or circumstances other than those as to which it is invalid or unenforceable, is not affected and is enforceable, provided that invalid provisions does not substantially alter the Loan Agreement or make execution impractical.

FOR AND IN CONSIDERATION of the mutual assurances, promises, acknowledgments, warrants, representations, and agreements set forth in this Loan Agreement, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the undersigned hereby execute this Loan Agreement on behalf of the County of Kalamazoo and the Austin Lake Governmental Lake Board, and by doing so legally obligate and bind the County of Kalamazoo and the Austin Lake Governmental Lake Board to the terms and conditions of this Loan Agreement.

KALAMAZOO COUNTY

**THE AUSTIN LAKE
GOVERNMENTAL LAKE BOARD**

By: _____

By: _____

David Buskirk,

Edward J. Sackley III,

Its: Chairperson

Its: Chairperson

Date: _____

Date: _____

By: _____

Timothy A. Snow,

Its: Clerk/Register of Deeds

Date: