CLEAN WATER STATE REVOLVING FUND
LOAN AGREEMENT
NO. R80214

BETWEEN

THE STATE OF OREGON
ACTING BY AND THROUGH ITS
DEPARTMENT OF ENVIRONMENTAL QUALITY

AND

CITY OF SALEM

TABLE OF CONTENTS

THIS LOAN AGREEMENT ("**Agreement**") is made and entered into as of the date ("**Effective Date**") it is fully executed by both parties (and in the case of the State, approved by the Attorney General's Office, if required) and is by and between the **State of Oregon, acting by and through its Department of Environmental Quality** ("**DEQ**"), and the **Borrower** (as defined below). Unless the context requires otherwise, capitalized terms not defined below shall have the meanings assigned to them by ARTICLE 9 of this Loan Agreement. The reference number for the Loan made pursuant to this Loan Agreement is Loan No. R80214.

DEQ agrees to make, and Borrower agrees to accept, the Loan on the terms and subject to the conditions set forth below.

ARTICLE 1: THE LOAN - SPECIFIC TERMS

DEQ agrees to make the Loan on the following terms and conditions:

(A) **BORROWER:** City of Salem

(B) **BORROWER'S ADDRESS:** 555 Liberty Street
Salem, OR 97301

(C) **LOAN AMOUNT:** $1,110,000

(D) **TYPE AND PURPOSE OF LOAN.** The Loan is a "Revenue Secured Loan" made by DEQ pursuant to OAR Section 340-054-0065(2) for the purpose of financing the Project.

(E) **PROJECT TITLE:** Ferry Street Sewer Pump Station

(F) **DESCRIPTION OF THE PROJECT:** This loan will be used for design phase of the project. This project is a replacement of a 1960s-era wastewater pump station serving a 69-acre basin in Salem's downtown core which is at the end of its useful life. The existing pump station is located in a median in an ODOT highway, is difficult to operate and maintain, requires supplemental manually operated pumping during peak flow events, presents safety risks for vehicles and City staff, and is unable to be retrofitted or significantly upgraded at its present location which presents an increasing risks for sanitary sewer overflows (SSOs) into basements, Pringle Creek, and the Willamette River. The new pump station will be relocated to an adjacent city-owned property, will be adequately sized to convey peak flows with full atomization, will be designed to current seismic code, and will include a permanent onsite emergency power generator. The new pump station will also include a dedicated emergency overflow pipe to Pringle Creek, ensuring that in the unlikely event of an SSO, overflows to basements in the basin and associated human health risks will be avoided. The additional capacity and resiliency of the new station will substantially reduce the risks of SSOs and associated public health and environmental impacts.

(G) INTEREST RATE: Two and 23/100 (2.23%) per annum. Calculation of interest is also discussed in ARTICLE 2(E) and in ARTICLE 2(F)(4) of this Agreement.

(H) REPAYMENT PERIOD: Ending no later than (a) twenty (20) years after the Completion Date or (b) twenty (20) years after the estimated Completion Date set forth in ARTICLE 3(A)(10), whichever date is earlier.

(I) TERMS OF REPAYMENT: An interest-only payment within six months after the estimated Project Completion Date set forth in ARTICLE 3(A)(10) and thereafter semi-annual payments of principal and interest in accordance with APPENDIX A and ARTICLE 2(F) of this Agreement.

(J) PLEDGE: The Borrower has issued and may in the future issue "Bonds" under the Master Water and Sewer System Revenue Bond Declaration dated October 16, 2012 (the "Master Declaration"). The Bonds, as defined in the Master Declaration, have a first lien on Net Revenues**.** The Borrower hereby grants DEQ a lien on and irrevocably pledges its Net Revenues to secure payment of and to pay the amounts due under this Loan Agreement. Pursuant to Section 8.2 of the Master Declaration, this pledge of and lien on the Net Revenues is subordinate to the pledge of and lien on Net Revenues that secure the Bonds. This Loan Agreement and any related obligations are Subordinate Obligations under the Master Declaration. The Net Revenues so pledged and hereafter received by the Borrower shall immediately be subject to the lien of such pledge without physical delivery or further act to the fullest extent permitted by ORS 287A.310. The Borrower represents and warrants that the pledge of Net Revenues hereby made by the Borrower complies with, and shall be valid and binding from the date of this Agreement pursuant to, ORS 287A.310. The Borrower covenants with DEQ and any assignee of this Agreement that except as otherwise expressly provided herein, the Borrower shall not issue any other obligations, except Bonds under the Master Declaration, which have a pledge or lien on the Net Revenues superior to or on a parity with the pledge herein granted without the written permission of DEQ. The lien of this pledge is on a parity with the liens securing all other CWSRF loans between DEQ and the Borrower; provided, however, that this provision shall not affect the priority that prior CWSRF loans are entitled to in relation to any loans between Borrower and any third parties.

(K) ANNUAL FEE: An annual fee of 0.5% of the Outstanding Loan Amount (as determined prior to the posting of the payment due on that date) is due during the Repayment Period commencing with the second payment date hereunder and annually thereafter.

(L) LOAN FORGIVENESS: If the Borrower completes the Project, and provided there is no default of any of the terms hereof, DEQ shall forgive fifty percent (50%) of the Loan or $555,000, whichever is less (the portion of the Loan that is forgiven being referred to as the "Forgivable Loan"), on the date the first repayment is due hereunder. The amount of the Loan forgiveness will be determined when the Final Loan Amount is calculated.

ARTICLE 2: GENERAL LOAN PROVISIONS

(A) AGREEMENT OF DEQ TO LOAN. DEQ agrees to loan the Borrower an amount not to exceed the Loan Amount, subject to the terms and conditions of this Loan Agreement, but solely from funds available to DEQ in the Water Pollution Control Revolving Fund for its Clean Water State Revolving Fund program. This Loan Agreement is given as evidence of a Loan to the Borrower made by DEQ pursuant to ORS Chapters 190, 286A, 287A, and 468, and OAR Chapter 340, all as amended from time to time, consistent with the express provisions hereof.

(B) AVAILABILITY OF FUNDS. DEQ's obligation to make the Loan described in this Agreement is subject to the availability of funds in the Water Pollution Control Revolving Fund for its CWSRF program, and DEQ shall have no liability to the Borrower or any other party if such funds are not available or are not available in amounts sufficient to fund the entire Loan described herein, as determined by DEQ in the reasonable exercise of its administrative discretion. Funds may not be available ahead of the estimated schedule of disbursements submitted by the Borrower, which is attached as APPENDIX B. This schedule may be revised from time to time by the parties without the necessity of an amendment by replacing the then current APPENDIX B with an updated APPENDIX B which is dated and signed by both parties. Furthermore, DEQ's obligation to make any disbursement hereunder shall terminate on December 31, 2028.

(C) DISBURSEMENT OF LOAN PROCEEDS.

(1) Project Account(s). Loan proceeds (as and when disbursed by DEQ to the Borrower) shall be deposited in a Project account(s). The Borrower shall maintain Project account(s) as segregated account(s). Funds in the Project account(s) shall only be used to pay for Project costs, and all earnings on the Project account(s) shall be credited to the account(s).

(2) Documentation of Expenditures. The Borrower shall provide DEQ with written evidence of materials and labor furnished to and performed upon the Project, including, without limitation, invoices, verified contractor's pay requests, receipts, and other evidence that DEQ may require in its sole discretion (collectively, "Cost Documentation"). DEQ will disburse funds to pay Project costs only after the Borrower has provided Cost Documentation satisfactory to DEQ that such Project costs have been incurred (whether or not already paid by Borrower) and qualify for reimbursement under this Agreement and CWSRF Program Rules.

(3) Adjustments and Corrections. DEQ may at any time review and audit requests for disbursement and make adjustments for, among other things, ineligible expenditures, mathematical errors, items not built or bought, unacceptable work and other discrepancies. Nothing in this Agreement requires DEQ to pay any amount for labor or materials unless DEQ is satisfied that the claim therefor is reasonable and that the Borrower actually expended and used such labor or materials in the Project. In addition, DEQ shall not be required to make any disbursement which would cause the total of all disbursements made hereunder (including the requested disbursement) to be greater than the total estimated cost of the work completed at the time of the disbursement, as determined by DEQ.

(4) Contract Retainage Disbursement. DEQ will not disburse Loan proceeds to cover contractor retainage unless the Borrower is disbursing retainage to an escrow account and provides proof of the deposit, or until the Borrower provides proof that it paid retained funds to the contractor.

(D) AGREEMENT OF BORROWER TO REPAY. The Borrower agrees to repay all amounts owed on this Loan as described in ARTICLE 1(I) and ARTICLE 2(F) in U.S. Dollars in immediately available funds at the place listed for DEQ in ARTICLE 10(A). In any case, the Borrower agrees to repay all amounts owed on this Loan within the Repayment Period.

(E) INTEREST. Interest will accrue at the rate specified in ARTICLE 1(G) from the date that a disbursement hereunder is mailed or delivered to the Borrower or deposited into an account of the Borrower. Interest will accrue using a 365/366 day year and actual days elapsed.

(F) LOAN REPAYMENT.

(1) Preliminary Repayment Schedule; Interim Payments. The attached APPENDIX A is a preliminary repayment schedule based on the estimated date of the first disbursement hereunder and Loan Amount. Until the final repayment schedule is effective, the Borrower shall make the payments set forth in the preliminary repayment schedule.

(2) Final Repayment Schedule. After the Borrower has submitted its final request for Loan proceeds and DEQ has made all required disbursements hereunder, DEQ will determine the Final Loan Amount and prepare a final payment schedule that provides for level semi-annual installment payments of principal and interest (commencing on the next semi-annual payment date), each in an amount sufficient to pay accrued interest to the date of payment and to pay so much of the principal balance as to fully amortize the then Outstanding Loan Amount over the remaining Repayment Period.

(3) Crediting of Scheduled Payments. A scheduled payment received before the scheduled repayment date will be applied to interest and principal on the scheduled repayment date, rather than on the day such payment is received. Scheduled payments will be applied first to fees due, if any, and then to interest, according to the applicable repayment schedule, and then to principal.

(4) Crediting of Unscheduled Payments. All unscheduled payments, including any prepayments and partial payments, will be applied first to fees due, if any, and then to accrued unpaid interest (which will be computed as otherwise provided in this Agreement, except that interest from the last payment date will be calculated using a 365/366 day year and actual days elapsed), and then to principal. In the case of a Loan prepayment that does not prepay all of the principal of the Loan, DEQ will determine, in its sole discretion, how it will apply such Loan prepayment to the Outstanding Loan Amount. After a partial payment, DEQ may, in its sole and absolute discretion, reamortize the Outstanding Loan Amount at the same interest rate for the same number of payments to decrease the Loan payment amount; provided, however, that nothing in this Agreement requires DEQ to accept any partial payment, except as otherwise expressly provided herein, or to reamortize the Outstanding Loan Amount if it accepts a partial payment.

(5) Final Payment. The Outstanding Loan Amount, all accrued and unpaid interest, and all unpaid fees and charges due hereunder are due and payable no later than (a) twenty (20) years after the Completion Date or (b) twenty (20) years after the estimated Completion Date set forth in ARTICLE 3(A)(10), whichever date is earlier.

(G) PREPAYMENT.

(1) Optional Prepayment. The Borrower may prepay any amount owed on this Loan without penalty on any business day upon 30 days prior written notice. Any prepayment made hereunder will be applied in accordance with ARTICLE 2(F)(4).

(2) Refinancing of Loan by the Borrower. If the Borrower refinances the portion of the Project financed by this Loan or obtains an additional grant or loan that is intended to finance the portion of the Project financed by this Loan, it will prepay the portion of the Loan being refinanced by the additional grant or loan. Any mandatory prepayment under this ARTICLE 2(G)(2) will be applied in accordance with ARTICLE 2(F)(4).

(3) Ineligible Uses of the Project. If the Borrower uses the Project for uses that are other than those described in ARTICLE 1(F) ("ineligible uses"), the Borrower shall, upon demand by DEQ, prepay an amount equal to the Outstanding Loan Amount multiplied by the percentage (as determined by DEQ) of ineligible use of the Project. Such prepayment shall be applied against the most remotely maturing principal installments and shall not postpone the due date of any payment(s) hereunder.

(H) LATE PAYMENT FEE. The Borrower agrees to pay immediately upon DEQ's demand a late fee equal to five percent (5%) of any payment (including any loan fee) that is not received by DEQ on or before the tenth (10^{th}) calendar day after such payment is due hereunder.

(I) TERMINATION OF LOAN AGREEMENT. Upon performance by the Borrower of all of its obligations under this Loan Agreement, including payment in full of the Final Loan Amount, all accrued interest and all fees, charges and other amounts due hereunder, this Loan Agreement will terminate, and DEQ will release its interest in any collateral given as security under this Loan Agreement.

ARTICLE 3: GENERAL REPRESENTATIONS, WARRANTIES AND COVENANTS

(A) REPRESENTATIONS AND WARRANTIES OF THE BORROWER. The Borrower represents and warrants to DEQ that:

(1) It is a duly formed and existing public agency (as defined in ORS 468.423(4)) and has full power and authority to enter into this Loan Agreement.

(2) This Agreement has been duly authorized and executed and delivered by an authorized officer of the Borrower and constitutes the legal, valid and binding obligation of the Borrower enforceable in accordance with its terms.

(3) All acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Agreement have existed, have happened, and have been performed in due time, form and manner as required by law.

(4) Neither the execution of this Loan Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with any of the terms and conditions of this Loan Agreement will violate any provision of law, or any order of any court or other agency of government, or any agreement or other instrument to which the Borrower is now a party or by which the Borrower or any of its properties or assets is bound. Nor will this Loan Agreement be in conflict with, result in a breach of, or constitute a default under, any such agreement or other instrument, or, except as provided hereunder, result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower.

(5) This Loan Agreement does not create any unconstitutional indebtedness. The Loan Amount together with all of the Borrower's other obligations does not, and will not, exceed any limits prescribed by the Constitution, any of the statutes of the State of Oregon, the Borrower's charter, or any other authority.

(6) The Project is a project which the Borrower may undertake pursuant to Oregon law and for which the Borrower is authorized by law to borrow money.

(7) The Borrower has full legal right and authority and all necessary licenses and permits required as of the date hereof to own, operate and maintain the Facility and the Project, other than licenses and permits relating to the Facility or the Project which the Borrower expects to and shall receive in the ordinary course of business, to carry on its activities relating thereto, to execute and deliver this Agreement, to undertake and complete the Project, and to carry out and consummate all transactions contemplated by this Agreement.

(8) The information contained herein which was provided by the Borrower is true and accurate in all respects, and there is no material adverse information relating to the Project or the Loan, known to the Borrower, that has not been disclosed in writing to DEQ.

(9) No litigation exists or has been threatened that would cast doubt on the enforceability of the Borrower's obligations under this Loan Agreement.

(10) The estimated Completion Date of the Project is December 31,2028. The Borrower agrees to complete the Project by the estimated Completion Date.

(11) The estimated total Costs of the Project are $5,292,350.

(12) The Borrower is in compliance with all laws, ordinances, and governmental rules and regulations to which it is subject, the failure to comply with which would materially adversely affect the ability of the Borrower to conduct its activities or undertake or complete the Project or the condition (financial or otherwise) of the Borrower or the Project.

(13) The Borrower will provide written notice to DEQ at least ten (10) business days prior to issuing any Additional Bonds (as defined in the Master Declaration), which DEQ acknowledge in writing.

(14) The Borrower will not issue or incur any Additional Subordinate Obligations (as defined in the Master Declaration) unless it obtains DEQ's prior written consent.

(15) The Borrower will not amend the Master Declaration in any way that may be reasonably interpreted to materially and adversely affect DEQ's rights as a holder of Subordinate Obligations under the Master Declaration or under the Loan.

(B) CONTINUING REPRESENTATIONS OF THE BORROWER. The representations of the Borrower contained herein shall be true on the closing date for the Loan and at all times during the term of this Agreement.

(C) REPRESENTATIONS AND WARRANTIES OF DEQ.

(1) DEQ represents and warrants that the Director has power under ORS Chapter 468 and OAR Chapter 340, Division 54, to enter into the transactions contemplated by this Loan Agreement and to carry out DEQ's obligations thereunder and that the Director is authorized to execute and deliver this Loan Agreement and to make the Loan as contemplated hereby.

(2) DEQ acknowledges that it has received and reviewed the Master Declaration, which, among other things, establishes the terms and conditions for the issuance by the City of Bend, Additional Bonds, Subordinate Obligation and Additional Subordinate Obligations, as such are defined thereunder.

ARTICLE 4: CONDITIONS TO LOAN

(A) CONDITIONS TO CLOSING. DEQ's obligations hereunder are subject to the condition that on or prior to June 30,2025, the Borrower will duly execute and deliver to DEQ the following items, each in form and substance satisfactory to DEQ and its counsel:

(1) this Agreement duly executed and delivered by an authorized officer of the Borrower;

(2) a copy of the ordinance, order or resolution of the governing body of the Borrower authorizing the execution and delivery of this Agreement, certified by an authorized officer of the Borrower;

(3) Certification Regarding Lobbying, substantially in the form of APPENDIX G, duly executed and delivered by an authorized officer of the Borrower;

(4) an opinion of the legal counsel to the Borrower to the effect that:

(a) The Borrower has the power and authority to execute and deliver and perform its obligations under this Loan Agreement;

(b) This Loan Agreement has been duly executed and acknowledged where necessary by the Borrower's authorized representative(s), all required approvals have been obtained, and all other necessary actions have been taken, so that this Loan Agreement is valid, binding, and enforceable against the Borrower in accordance with its terms, except as such enforcement is affected by bankruptcy, insolvency, moratorium, or other laws affecting creditors rights generally;

(c) To such counsel's knowledge, this Loan Agreement does not violate any other agreement, statute, court order, or law to which the Borrower is a party or by which it or any of its property or assets is bound; and

(d) The Gross Revenues from which the Net Revenues are derived and that are used as security for the Loan will not constitute taxes that are limited by Section 11b, Article XI of the Oregon Constitution; and

(5) such other documents, certificates, opinions and information as DEQ or its counsel may reasonably require.

(B) CONDITIONS TO DISBURSEMENTS. Notwithstanding anything in this Agreement to the contrary, DEQ shall have no obligation to make any disbursement to the Borrower under this Agreement unless:

(1) No Event of Default and no event, omission or failure of a condition which would constitute an Event of Default after notice or lapse of time or both has occurred and is continuing;

(2) All of the Borrower's representations and warranties in this Agreement are true and correct on the date of disbursement with the same effect as if made on such date; and

(3) The Borrower submits a disbursement request to DEQ that complies with the requirements of ARTICLE 2(C);

provided, however, DEQ shall be under no obligation to make any disbursement if:

(a) DEQ determines, in the reasonable exercise of its administrative discretion, there is insufficient money available in the CWSRF for the Project; or

(b) there has been a change in any applicable state or federal law, statute, rule or regulation so that the Project is no longer eligible for the Loan.

ARTICLE 5: COVENANTS OF BORROWER

(A) GENERAL COVENANTS OF THE BORROWER. Until the Loan is paid in full, the Borrower covenants with DEQ that:

(1) The Borrower shall use the Loan funds only for payment or reimbursement of the Costs of the Project in accordance with this Loan Agreement. The Borrower acknowledges and agrees that the Costs of the Project do NOT include any Lobbying costs or expenses incurred by Borrower or any person on behalf of Borrower and that Borrower will not request payment or reimbursement for Lobbying costs and expenses.

(2) If the Loan proceeds are insufficient to pay for the Costs of the Project in full, the Borrower shall pay from its own funds and without any right of reimbursement from DEQ all such Costs of the Project in excess of the Loan proceeds.

(3) The Borrower is and will be the owner of the Facility and the Project and shall defend them against the claims and demands of all other persons at any time claiming the same or any interest therein.

(4) The Borrower shall not sell, lease, transfer, or encumber or enter into any management agreement or special use agreement with respect to the Facility or any financial or fixed asset of the utility system that produces the Net Revenues without DEQ's prior written approval, which approval may be withheld for any reason. Upon sale, transfer or encumbrance of the Facility or the Project, in whole or in part, to a private person or entity, this Loan shall be immediately due and payable in full.

(5) Concurrent with the execution and delivery of this Loan Agreement, or as soon thereafter as practicable, the Borrower shall take all steps necessary to cause the Project to be completed in a timely manner in accordance with all applicable DEQ requirements.

(6) The Borrower shall take no action that would adversely affect the eligibility of the Project as a CWSRF project or cause a violation of any Loan covenant in this Agreement.

(7) The Borrower shall undertake the Project, request disbursements under this Loan Agreement, and use the Loan proceeds in full compliance with all applicable laws and regulations of the State of Oregon, including but not limited to ORS Chapter 468 and Oregon Administrative Rules Sections 340-054-0005 to 340-054-0065, as they may be amended from time to time, and all applicable federal authorities and laws and regulations of the United States, including but not limited to Title VI of the Clean Water Act as amended by the Water Quality Act of 1987, Public Law 100-4, the federal cross-cutters listed at APPENDIX D, the equal employment opportunity provisions in APPENDIX F, and the regulations of the U.S. Environmental Protection Agency, all as they may be amended from time to time.

(8) The Borrower shall keep the Facility in good repair and working order at all times and operate the Facility in an efficient and economical manner. The Borrower shall provide the necessary resources for adequate operation, maintenance and replacement of the Project and retain sufficient personnel to operate the Facility.

(9) Interest paid on this Loan Agreement is *not* excludable from gross income under Section 103(a) of the Internal Revenue Code of 1986, as amended (the "Code"). However, DEQ may have funded this Loan with the proceeds of State bonds that bear interest that is excludable from gross income under Section 103(a) of the Code. Section 141 of the Code requires that the State not allow

the proceeds of the State bonds to be used by private entities (including the federal government) in such a way that the State bonds would become "private activity bonds" as defined in Section 141 of the Code. To protect the State bonds the Borrower agrees that it shall not use the Loan proceeds or lease, transfer or otherwise permit the use of the Project by any private person or entity in any way that that would cause this Loan Agreement or the State bonds to be treated as "private activity bonds" under Section 141 of the Code and the regulations promulgated under that Section of the Code.

(B) DEBT SERVICE COVERAGE REQUIREMENT; WASTEWATER RATE COVENANT; REPORTING.

(1) Rate Covenant Requirements. The Borrower shall maintain wastewater rates and charge fees in connection with the operation of the Facility that are adequate to generate Net Revenues in each fiscal year sufficient to meet the Rate Covenant requirements of the Master Declaration, including taking any required action thereunder if Net Revenues fail to meet the Rate Covenant requirements in any fiscal year.

(2) For the purposes of this Loan Agreement, the Borrower's failure to adjust rates shall not, at the discretion of DEQ, constitute a default if the Borrower transfers to the fund that holds the Net Revenues unencumbered resources in an amount equal to the revenue deficiency to the Facility that produces the Net Revenues.

(3) Reporting Requirement. By March 31 of each year the Borrower shall provide DEQ with a report that demonstrates the Borrower's compliance with the requirements of this ARTICLE 5(B) for the prior year. If the audit report described in ARTICLE 5(F) identifies the Net Revenues and contains a calculation demonstrating the Borrower's satisfaction of the requirements of this ARTICLE 5(B), that audit will satisfy the requirements of this ARTICLE 5(B)(3).

(C) LOAN RESERVE REQUIREMENT; LOAN RESERVE ACCOUNT.

(1) Loan Reserve Requirement. The Loan reserve requirement equals one-half of the average annual debt service based on the final Payment Schedule. Until the Final Loan Amount is calculated, the Loan reserve requirement is $17,980. The Borrower shall deposit the Loan reserve requirement amount into the Loan Reserve Account no later than the date the first payment is due hereunder.

(2) Loan Reserve Account. The Borrower shall create a segregated Loan Reserve Account that shall be held in trust for the benefit of DEQ. The Borrower hereby grants DEQ a security interest in and irrevocably pledges amounts in the Loan Reserve Account to pay the amounts due under this Loan Agreement. The funds in Loan Reserve Account so pledged and hereafter received by the Borrower shall immediately be subject to the lien of such pledge without physical delivery or further act, and the lien of the pledge shall be superior to all other claims and liens whatsoever, to the fullest extent permitted by ORS 287A.310. The Borrower represents and warrants that the pledge of the Loan Reserve Account hereby made by the Borrower complies with, and shall be valid and binding from the date of this Agreement

pursuant to, ORS 287A.310. The Borrower shall use the funds in the Loan Reserve Account solely to pay amounts due hereunder until the principal, interest, fees, and any other amounts due hereunder have been fully paid.

(3) Additional Deposits. If the balance in the Loan Reserve Account falls below the Loan reserve requirement, the Borrower shall promptly deposit from the first Net Revenues available after payment of the amounts due hereunder (unless the Borrower has previously made such deposit from other money of the Borrower) an amount sufficient to restore the balance up to the Loan reserve requirement.

(D) INSURANCE. At its own expense, the Borrower shall, during the term of this Agreement, procure and maintain insurance coverage (including, but not limited to, hazard, flood and general liability insurance) adequate to protect DEQ's interest and in such amounts and against such risks as are usually insurable in connection with similar projects and as is usually carried by entities operating similar facilities. The insurance shall be with an entity which is acceptable to DEQ. The Borrower shall provide evidence of such insurance to DEQ. Self-insurance maintained pursuant to a recognized municipal program of self-insurance will satisfy this requirement.

(E) ***INDEMNIFICATION.*** *The Borrower shall, to the extent permitted by law and the Oregon Constitution, indemnify, save and hold the State, its officers, agents and employees harmless from and (subject to ORS Chapter 180) defend each of them against any and all claims, suits, actions, losses, damages, liabilities, cost and expenses of any nature whatsoever resulting from, arising out of or relating to the acts or omissions of the Borrower or its officers, employees, subcontractors or agents in regard to this Agreement or the Project.*

(F) THE BORROWER'S FINANCIAL RECORDS; FINANCIAL REPORTING REQUIREMENTS.

(1) Financial Records. The Borrower shall keep proper and complete books of record and account and maintain all fiscal records related to this Agreement, the Project, and the Facility in accordance with generally accepted accounting principles, generally accepted government accounting standards, the requirements of the Governmental Accounting Standards Board, and state minimum standards for audits of municipal corporations. The Borrower must maintain separate Project accounts in accordance with generally accepted government accounting standards promulgated by the Governmental Accounting Standards Board. The Borrower will permit DEQ and the Oregon Secretary of State and their representatives to inspect its properties, and all work done, labor performed and materials furnished in and about the Project, and DEQ, the Oregon Secretary of State and the federal government and their duly authorized representatives shall have access to the Borrower's fiscal records and other books, documents, papers, plans and writings that are pertinent to this Agreement to perform examinations and audits and make excerpts and transcripts and take copies.

(2) Record Retention Period. The Borrower shall retain and keep accessible files and records relating to the Project for at least six (6) years (or such longer period as may be required by applicable law) after Project completion as determined by DEQ and financial files and records until all amounts due under this Loan Agreement are fully repaid, or until the conclusion of any

audit, controversy, or litigation arising out of or related to this Agreement, whichever date is later.

(3) Accounting for Costs of the Project. Borrower shall provide to DEQ, as soon as possible, but in no event later than six (6) months following the Project Completion Date, a full and complete accounting of the Costs of the Project, including but not limited to documentation to support each cost element and a summary of the Costs of the Project and the sources of funding.

(4) Single Audit Requirements. The CWSRF Program receives capitalization grants through the Catalog of Federal Domestic Assistance ("CFDA") No. 66.458: Capitalization Grants for State Revolving Funds and is subject to the regulations of the U.S. Environmental Protection Agency ("EPA"). Borrower is a sub-recipient.

(a) Subrecipients expending federal funds in excess of $1,000,000 in the subrecipient's fiscal year are subject to audit conducted in accordance with the provisions of 2 CFR part 200, subpart F. The Borrower, if subject to this requirement, shall at its own expense submit to DEQ a copy of, or electronic link to, its annual audit subject to this requirement covering the funds expended under this Agreement and shall submit or cause to be submitted to DEQ the annual audit of any subrecipient(s), contractor(s), or subcontractor(s) of the Borrower responsible for the financial management of funds received under this Agreement.

(b) Audit costs for audits not required in accordance with 2 CFR part 200, subpart F are unallowable. If the Borrower did not expend $1,000,000 or more in Federal funds in its fiscal year, but contracted with a certified public accountant to perform an audit, costs for performance of that audit shall not be charged to the funds received under this Agreement.

(c) The Borrower shall save, protect and hold harmless DEQ from the cost of any audits or special investigations performed by the Federal awarding agency or any federal agency with respect to the funds expended under this Agreement. The Borrower acknowledges and agrees that any audit costs incurred by the Borrower as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between the Borrower and the State of Oregon.

(G) DBE GOOD FAITH EFFORT. Pursuant to the good faith efforts described in APPENDIX C, the Borrower shall make a good faith effort to promote fair share awards to Minority Business Enterprises ("MBE"), Women's Business Enterprises ("WBE"), and Small Businesses in Rural Areas ("SBRA") on all contracts and subcontracts awarded as part of the Project. The Borrower agrees to include, in its contract(s) with its prime contractor(s), the following language, which must not be altered in any way:

"The contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these

requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies."

The Borrower also agrees to include, in its contract(s) with its prime contractor(s), and shall cause each contract awarded by its prime contractor(s) to include, language to the following effect (the exact language may vary):

(1) A prime contractor must pay its subcontractor(s) no more than 30 days from the prime contractor's receipt of payment from the Borrower.

(2) The Borrower must be notified in writing by its prime contractor prior to any termination of a DBE subcontractor for convenience by the prime contractor.

(3) If a DBE subcontractor fails to complete work under the subcontract for any reason, the prime contractor must employ the Six Good Faith Efforts as described in 40 C.F.R. 33.301 if soliciting a replacement subcontractor.

(4) A prime contractor must employ the Six Good Faith Efforts even if the prime contractor has achieved its Fair Share Objectives under Subpart D of 40 C.F.R. Part 33.

(H) CONTRACT LANGUAGE. The Borrower shall include in all contracts (unless exempt) with its prime contractor(s) the language set forth in APPENDIX F. Further, the Borrower agrees to fully comply with Subpart C of 2 C.F.R. 180 and Subpart C of 2 C.F.R. 1532 regarding debarment and suspension and agrees to include or cause to be included in any contract at any tier the requirement that a contractor comply with Subpart C of 2 C.F.R. 180 and Subpart C of 2 C.F.R. 1532 if the contract is expected to equal or exceed $25,000.

(I) PROJECT ASSURANCES. Nothing in this Loan Agreement prohibits the Borrower from requiring more assurances, guarantees, indemnity or other contractual requirements from any party performing Project work.

ARTICLE 6: REPRESENTATIONS, WARRANTIES, COVENANTS AND CONDITIONS RELATING TO CONSTRUCTION PROJECTS ONLY

(A) THE BORROWER'S REPRESENTATION AND WARRANTY REGARDING COSTS ALREADY INCURRED.

(1) The Borrower represents and warrants to DEQ that, as of the date of this Loan Agreement, the Costs of the Project actually incurred by the Borrower do not exceed forty thousand dollars ($40,000.00).

(2) The Borrower acknowledges that DEQ is relying upon the Borrower's representation regarding the amount of Costs of the Project incurred by the Borrower for construction prior to the date of this Loan Agreement as set forth in ARTICLE 6(A)(1) above to determine what portion of the Loan qualifies as a "refinancing" under the EPA's Clean Water State Revolving Fund regulations, 40 C.F.R. Part 35, that may be disbursed on a reimbursement basis.

(B) CONDITION TO DISBURSEMENTS. DEQ's obligation to make disbursements hereunder is further conditioned on the following:

(1) The Borrower's plans, specifications and related documents for the Project shall be reviewed and approved by DEQ, as required by OAR Chapter 340, Division 054.

(2) The Borrower has submitted documentation satisfactory to DEQ that the disbursement is for work that complies with plans, specifications, change orders and addenda approved by DEQ, in accordance with OAR Chapter 340, Division 054.

(3) The Borrower has submitted a copy of the awarded contract and bid documents (including a tabulation of all bids received) to DEQ for the portion of the Project costs that will be funded with the disbursement.

(C) GENERAL PROVISIONS. The Borrower covenants with DEQ that:

(1) Construction Manual. Unless stated otherwise in this Agreement, the Borrower shall comply with the requirements set forth in the Manual as in effect from time to time. DEQ will provide the Borrower with a copy of the Manual upon request.

(2) Plans and Specifications. The Borrower shall obtain DEQ's review and approval of the Borrower's plans, specifications, and related documents for the Project, as required by OAR Chapter 340, Division 054, prior to any disbursement of Loan proceeds hereunder.

(3) Change Orders. The Borrower shall submit all change orders to DEQ. The Borrower must submit prior to its execution any change order that exceeds $100,000 or will alter Project performance. The Borrower shall not use any Loan proceeds to pay for costs of any change order that DEQ has not approved in writing. This ARTICLE 6(C)(3) shall not prevent the Borrower from using funds other than Loan proceeds to pay for a change order before DEQ approves it, but the Borrower bears the risk that DEQ will not approve the change order.

(4) Inspections; Reports. The Borrower shall provide inspection reports during the construction of the Project as required by DEQ to ensure that the Project complies with approved plans and specifications. Qualified inspectors shall conduct these inspections under the direction of a registered civil, mechanical or electrical engineer, whichever is appropriate. DEQ or its representative(s) may enter property owned or controlled by the Borrower to conduct interim inspections and require progress reports sufficient to determine compliance with approved plans and specifications and with the Loan Agreement, as appropriate.

(5) Asbestos and Other Hazardous Materials. The Borrower shall ensure that only persons trained and qualified for removal of asbestos or other Hazardous Materials will remove any asbestos or Hazardous Materials, respectively, which may be part of this Project.

(6) Operation and Maintenance Manual. The Borrower shall submit to DEQ a draft Facility operation and maintenance manual before the Project is fifty percent (50%) complete.

The Borrower shall submit to DEQ a final Facility operation and maintenance manual that meets DEQ's approval before the Project is ninety percent (90%) complete.

(7) Project Performance Certification. The Borrower shall submit to DEQ draft performance standards before the Project is fifty percent (50%) complete. The Borrower shall submit to DEQ final performance standards that meet DEQ's approval before the Project is ninety percent (90%) complete. The Borrower shall submit to DEQ the following done in accordance with the Manual: (i) no later than 10.5 months after the first day of Operation (as that term is defined in OAR 340-054-0010(26)) ("Initiation of Operation"), a performance evaluation report based on the approved performance standards; (ii) within one year after the Project's Initiation of Operation, Project performance certification statement; and (iii) within two (2) months of submission of such Project performance certification statement, a corrective action plan for any Project deficiencies noted in said statement.

(8) Alterations After Completion. The Borrower shall not materially alter the design or structural character of the Project after completing the Project without DEQ's written approval.

(9) Project Initiation of Operations.

(a) The Borrower shall notify DEQ of the Initiation of Operation no more than thirty (30) days after the actual Project Completion Date.

(b) If the Project is completed, or is completed except for minor items, and the Project is operable, but DEQ has not received a notice of Initiation of Operation from the Borrower, DEQ may assign an Initiation of Operation date.

(D) PROVISION APPLICABLE TO CONTRACTS AND SUBCONTRACTS AWARDED FOR THE PROJECT

(1) Prevailing Wage Requirements

(a) Borrower shall comply with state prevailing wage law as set forth in ORS 279C.800 through 279C.870, and the administrative rules promulgated thereunder (OAR Chapter 839, Division 25) (collectively, state "PWR"). This includes but is not limited to imposing an obligation that when PWR applies to the Project, contractors and subcontractors on the Project must pay the prevailing rate of wage for workers in each trade or occupation in each locality as determined by the Commissioner of the Bureau of Labor and Industries ("BOLI") under ORS 279C.815.

(b) When the federal Davis-Bacon Act applies to the Project, contractors and subcontractors on the Project must pay the prevailing rate of wage as determined by the United States Secretary of Labor under the Davis-Bacon Act (40 U.S.C. 3141 *et seq*.). The Borrower agrees that it will insert into any contract in excess of $2,000 for construction, and will cause its subcontractors to insert in any sub-contract in excess of

$2,000 for construction, the Davis-Bacon language set forth in Part 1 of APPENDIX E and Part 2 of APPENDIX E as applicable.

(c) Notwithstanding (a) and (b) above, when both PWR and the federal Davis-Bacon Act apply to the Project, contractors and subcontractors on the Project must pay a rate of wage that meets or exceeds the greater of the rate provided in (a) or (b) above.

(d) When PWR applies, Borrower and its contractors and subcontractors shall not contract with any contractor on BOLI's current List of Contractors Ineligible to Receive Public Works Contracts.

(e) When PWR applies, Borrower shall be responsible for both providing the notice to the BOLI Commissioner required by ORS 279C.835 and the payment of any prevailing wage fee(s) required under ORS 279C.825 and BOLI's rules, including OAR 839-025-0200 to OAR 839-025-0230. For avoidance of any doubt, Borrower contractually agrees to pay applicable prevailing wage fees for the Project rather than DEQ, the public agency providing Financing Proceeds under this Loan Agreement.

(f) Pursuant to ORS 279C.817, Borrower and any contractors or subcontractors may request that the BOLI Commissioner make a determination about whether the Project is a public works on which payment of the prevailing rate of wage is required under ORS 279C.840 (i.e. whether PWR applies).

These laws, rules, regulations and orders are incorporated by reference in this Contract to the extent required by law.

(2) Retainage. The Borrower shall require a five percent (5%) retainage in all of its contracts related to the Project for an amount greater than One Hundred Thousand Dollars ($100,000).

(E) AMERICAN IRON AND STEEL

The Borrower shall:

(1) Comply with all federal requirements applicable to the Loan (including those imposed by the Consolidated Appropriations Act, 2014, P.L. 113-76 ("CAA"), and related CWSRF Policy Guidelines) which the Borrower understands includes, among other, requirements that all of the iron and steel products used in the Project are to be produced in the United States ("American Iron and Steel Requirement") unless (i) the Borrower has requested and obtained a waiver from the EPA pertaining to the Project or (ii) DEQ has otherwise advised the Borrower in writing that the American Iron and Steel Requirement is not applicable to the Project.

(2) Comply with all record keeping and reporting requirements under the Clean Water Act, 33 U.S.C. 1251 et seq. (1972) ("Clean Water Act"), including any reports required by a Federal agency or DEQ such as performance indicators of program deliverables, information on costs and Project progress. The Borrower understands that (i) each contract and subcontract related to the Project is subject to audit by appropriate federal and state entities and (ii) failure to comply with the Clean Water Act and this Agreement may be a default hereunder that results in a repayment of the Loan in advance of the maturity thereof and/or other remedial actions.

(3) Include in all contracts for the Project the language set forth in APPENDIX H. All contracts and subcontracts of Borrower for the Project must have a provision requiring compliance with the American Iron and Steel Requirement. APPENDIX H is an example provided by the EPA of what could be included in all contracts in projects that use CWSRF funds. Neither the EPA nor DEQ makes any claims regarding the legality of this clause with respect to state or local law.

(4) Requirement. All of the iron and steel products used in the Project must be produced in the United States if the Project is for the construction, alteration, maintenance, or repair of a "treatment works" as defined in the federal Water Pollution Control Act, 33 U.S.C. §1381 et seq.

(5) Definition. "Iron and steel products" means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

(6) Applicability. As to loan agreements fully executed on or after October 1, 2014, the requirement set forth in ARTICLE 6(E)(1) above does not apply if the engineering plans and specifications for the Project were approved by DEQ prior to June 10, 2014.

(7) Waiver. The requirement set forth in ARTICLE 6(E)(1) above does not apply if: (a) application would be inconsistent with the public interest; (2) iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than *25* percent. Borrower may apply for a waiver of the requirement set forth in ARTICLE 6(E)(1) above by sending a waiver request directly to EPA with a copy to DEQ or by sending its waiver request to DEQ who will then forward it on to EPA.

ARTICLE 7: DISCLAIMERS BY DEQ; LIMITATION OF DEQ'S LIABILITY

(A) DISCLAIMER OF ANY WARRANTY. DEQ EXPRESSLY DISCLAIMS ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, REGARDING THE PROJECT, THE QUALITY OF MATERIALS SUPPLIED TO AND THAT BECOME A PART OF THE PROJECT, THE QUALITY OF THE WORKMANSHIP

PERFORMED UPON THE PROJECT, OR THE EXTENT AND STAGE OF COMPLETION OF THE PROJECT. No such warranty or guarantee shall be implied by virtue of any inspection or disbursement made by DEQ. Any inspection done by DEQ shall be for its sole benefit.

(B) DISCLAIMER OF LIABILITY OF DEQ. DEQ EXPRESSLY DISCLAIMS LIABILITY OF ANY KIND OR CHARACTER WHATSOEVER FOR PAYMENT OF LABOR OR MATERIALS OR OTHERWISE IN CONNECTION WITH THE COMPLETION OF THE PROJECT OR CONTRACTS ENTERED INTO BY THE BORROWER WITH THIRD PARTIES FOR THE COMPLETION OF THE PROJECT. All Project costs of labor, materials and construction, including any indirect costs, shall be the responsibility of and shall be paid by the Borrower.

(C) NONLIABILITY OF STATE.

(1) The State and its officers, agents and employees shall not be liable to the Borrower or to any other party for any death, injury, damage, or loss that may result to any person or property by or from any cause whatsoever, arising out of any defects in the plans, design drawings and specifications for the Project, any agreements or documents between the Borrower and third parties related to the Project or any activities related to the Project. DEQ shall not be responsible for verifying cost-effectiveness of the Project, doing cost comparisons or reviewing or monitoring compliance by the Borrower or any other party with state procurement laws and regulations.

(2) The Borrower hereby expressly releases and discharges DEQ, its officers, agents and employees from all liabilities, obligations and claims arising out of the Project work or under the Loan, subject only to exceptions previously agreed upon in writing by the parties.

(3) Any findings by DEQ concerning the Project and any inspections or analyses of the Project by DEQ are for determining eligibility for the Loan and disbursement of Loan proceeds only. Such findings do not constitute an endorsement of the feasibility of the Project or its components or an assurance of any kind for any other purpose.

(4) Review and approval of Facilities plans, design drawings and specifications or other documents by or for DEQ does not relieve the Borrower of its responsibility to properly plan, design, build and effectively operate and maintain the Facility as required by law, regulations, permits and good management practices.

ARTICLE 8: DEFAULT AND REMEDIES

(A) EVENTS OF DEFAULT. The occurrence of one or more of the following events constitutes an event of default ("Event of Default"), whether occurring voluntarily or involuntarily, by operation of law or pursuant to any order of any court or governmental agency:

(1) The Borrower fails to make any Loan payment within thirty (30) days after the payment is scheduled to be made according to the repayment schedule;

(2) Any representation or warranty made by the Borrower hereunder was untrue in any material respect as of the date it was made;

(3) The Borrower becomes insolvent or admits in writing an inability to pay its debts as they mature or applies for, consents to, or acquiesces in the appointment of a trustee or receiver for the Borrower or a substantial part of its property; or in the absence of such application, consent, or acquiescence, a trustee or receiver is appointed for the Borrower or a substantial part of its property and is not discharged within sixty (60) days; or any bankruptcy, reorganization, debt arrangement or moratorium or any dissolution or liquidation proceeding is instituted by or against the Borrower and, if instituted against the Borrower, is consented to or acquiesced in by the Borrower or is not dismissed within twenty (20) days;

(4) As a result of any changes in the United States Constitution or the Oregon Constitution or as a result of any legislative, judicial, or administrative action, any part of this Loan Agreement becomes void, unenforceable or impossible to perform in accordance with the intent and purposes of the parties hereto or is declared unlawful;

(5) The Borrower defaults in the performance or observance of any covenants or agreements contained in any loan documents between itself and any lender or lenders, and the default remains uncured upon the expiration of any cure period provided by said loan documents; or

(6) A "land use decision" (as that term is defined by ORS 197.015), a LUCS (as that term is defined under Oregon Administrative Rules Chapter 340, Division 18) or any other permit or approval of any kind that is necessary for the Borrower to either complete the Project or operate the Project is denied, revoked, rescinded or otherwise terminated at any time during the Repayment Period identified in Article 1(H) (in each case, a "Permit Revocation"); or

(7) The Borrower fails to cure non-compliance in any material respect with any other covenant, condition, or agreement of the Borrower hereunder, other than as set forth in (1) through (5) above within a period of thirty (30) days after DEQ provides notice of the noncompliance.

(B) REMEDIES. If DEQ determines that an Event of Default has occurred, DEQ may, without further notice:

(1) Declare the Outstanding Loan Amount plus any unpaid accrued interest, fees and any other amounts due hereunder immediately due and payable;

(2) Cease making disbursement of Loan proceeds or make some disbursements of Loan proceeds and withhold or refuse to make other disbursements;

(3) Appoint a receiver, at the Borrower's expense, to operate the Facility that produces the Net Revenues and collect the Gross Revenues;

(4) Set and collect utility rates and charges;

(5) Pay, compromise or settle any liens on the Facility or the Project or pay other sums required to be paid by the Borrower in connection with the Project, at DEQ's discretion, using the Loan proceeds and such additional money as may be required. If DEQ pays any encumbrance, lien, claim, or demand, it shall be subrogated, to the extent of the amount of such payment, to all the rights, powers, privileges, and remedies of the holder of the encumbrance, lien, claim, or demand, as the case may be. Any such subrogation rights shall be additional cumulative security for the amounts due under this Loan Agreement;

(6) Direct the State Treasurer to withhold any amounts otherwise due to the Borrower from the State of Oregon and, to the extent permitted by law, direct that such funds be applied to the amounts due DEQ under this Loan Agreement and be deposited into the CWSRF; and

(7) Pursue any other legal or equitable remedy it may have.

ARTICLE 9: DEFINITIONS

(A) **"BORROWER"** means the public agency or agencies (as defined in ORS 468.423(4)) shown as the "Borrower" in Article 1(A) of this Agreement.

(B) **"COMPLETION DATE"** means the date on which the Project is completed. If the Project is a planning project, the Completion Date is the date on which DEQ accepts the planning project. If the Project is a design project, the Completion Date is the date on which the design project is ready for the contractor bid process. If the Project is a construction project, the Completion Date is the date on which the construction project is substantially complete and ready for Initiation of Operation.

(C) **"COSTS OF THE PROJECT"** means expenditures approved by DEQ that are necessary to complete the Project in compliance with DEQ's requirements and may include but are not limited to the following items:

(1) Cost of labor and materials and all costs the Borrower is required to pay under the terms of any contract for the design, acquisition, construction or installation of the Project;

(2) Engineering fees for the design and construction of the Project.

(3) The costs of surety bonds and insurance of all kinds that may be required or necessary during the course of completion of the Project;

(4) The legal, financing and administrative costs of obtaining the Loan and completing the Project; and

(5) Any other costs approved in writing by DEQ.

(D) **"CWSRF PROGRAM" or "CWSRF"** means the Clean Water State Revolving Fund and the Clean Water State Revolving Fund Loan Program, a fund and loan program administered by DEQ under ORS 468.423 to 468.440.

(E) **"DEQ"** means the Oregon Department of Environmental Quality.

(F) **"DIRECTOR"** means the Director of DEQ or the Director's authorized representative.

(G) **"FACILITY"** means all property owned or used by the Borrower to provide wastewater collection, treatment and disposal services, of which the Project is a part.

(H) **"FINAL LOAN AMOUNT"** means the total of all Loan proceeds disbursed to the Borrower under the Loan Agreement, determined on the date on which the Borrower indicates that no further Loan funds will be requested, all eligible expenditures have been reimbursed from the Loan proceeds, or all Loan proceeds have been disbursed hereunder, whichever occurs first.

(I) **"Gross Revenues"** shall have the meaning given that term in the Master Declaration,

(J) **"HAZARDOUS MATERIALS"** means and includes flammable explosives, radioactive materials, asbestos and substances defined as hazardous materials, hazardous substances or hazardous wastes in the Comprehensive Environmental Response, Compensation, and Liability Act, as amended by the Superfund Amendments and Reauthorization Act (42 U.S.C. Section 9601, et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Section 1801, et seq.) and the Resource Conservation and Recovery Act (42 U.S.C. Section 6901, et seq.), and regulations promulgated thereunder.

(K) **"LOAN"** means the loan made pursuant to this Loan Agreement.

(L) **"LOAN AGREEMENT"** or **"AGREEMENT"** means this loan agreement and its exhibits, appendices, schedules and attachments (which are by this reference incorporated herein), and any amendments thereto.

(M) **"LOAN AMOUNT"** means the maximum amount DEQ agrees to loan the Borrower hereunder.

(N) **"LOAN RESERVE ACCOUNT"** means the account described in ARTICLE 5(c)(2).

(O) **"LOBBYING"** means influencing or attempting to influence a member, officer or employee of a governmental agency or legislature in connection with the awarding of a government contract, the making of a government grant or loan or the entering into of a cooperative agreement with such governmental entity or the extension, continuation, renewal, amendment or modification of any of the above.

(P) **"MANUAL"** means the CWSRF Manual for Construction Projects.

(P) **"MASTER DECLARATION"** means the Borrower's Master Sewer Revenue Bond Declaration, dated October 16th, 2012 , as supplemented from time to time.

(Q) **"NET REVENUES"** shall have the meaning given that term in the Master Declaration. "Operating Expenses" shall have the meaning given that term in the Master Declaration.

(S) **"OUTSTANDING LOAN AMOUNT"** means, as of any date, the sum of all disbursements to the Borrower hereunder less the sum of all Loan principal payments received by DEQ.

(T) **"PROJECT"** means the facilities, activities or documents described in ARTICLE 1(E) and (F).

(U) **"REPAYMENT PERIOD"** means the repayment period ending on the date specified in ARTICLE 1(H) which date shall not in any event be later than thirty (30) years after the Completion Date.

(V) **"STATE"** means the State of Oregon.

ARTICLE 10: MISCELLANEOUS

(A) NOTICES. All notices, payments, statements, demands, requests or other communications under this Loan Agreement by either party to the other shall be in writing and shall be sufficiently given and served upon the other party if delivered by personal delivery, by certified mail, return receipt requested, or by facsimile transmission, and, if to the Borrower, delivered, addressed or transmitted to the location or number listed in ARTICLE 1(B), and if to DEQ,
delivered, addressed or transmitted to:

Clean Water State Revolving Fund Loan Program
Water Quality Division
Department of Environmental Quality
700 NE Multnomah St., #600
Portland, Oregon 97235
Fax (503) 229-6037

or to such other addresses or numbers as the parties may from time to time designate. Any notice or other communication so addressed and mailed shall be deemed to be given five (5) days after mailing. Any notice or other communication delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. To be effective against DEQ, such facsimile transmission must be confirmed by telephone notice to DEQ's CWSRF Program Coordinator. Any notice or other communication by personal delivery shall be deemed to be given when actually delivered.

(B) WAIVERS AND RESERVATION OF RIGHTS.

(1) DEQ's waiver of any breach by the Borrower of any term, covenant or condition of this Loan Agreement shall not operate as a waiver of any subsequent breach of the same or breach of any other term, covenant, or condition of this Loan Agreement. DEQ may pursue any of its remedies hereunder concurrently or consecutively without being deemed to have waived its right to pursue any other remedy.

(2) Nothing in this Loan Agreement affects DEQ's right to take remedial action, including, but not limited to, administrative enforcement action and action for breach of contract against the Borrower, if the Borrower fails to carry out its obligations under this Loan Agreement.

(C) TIME IS OF THE ESSENCE. The Borrower agrees that time is of the essence under this Loan Agreement.

(D) RELATIONSHIP OF PARTIES. The parties agree and acknowledge that their relationship is that of independent contracting parties, and neither party hereto shall be deemed an agent, partner, joint venturer or related entity of the other by reason of this Loan Agreement.

(E) NO THIRD PARTY BENEFICIARIES. DEQ and the Borrower are the only parties to this Loan Agreement and are the only parties entitled to enforce the terms of this Loan Agreement. Nothing in this Loan Agreement gives, is intended to give, or shall be construed to give or provide

any benefit or right not held by or made generally available to the public, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Loan Agreement. Any inspections, audits, reports or other assurances done or obtained, or approvals or consents given, by DEQ are for its benefit only for the purposes of administering this Loan and the CWSRF Program.

(F) ASSIGNMENT. DEQ shall have the right to transfer the Loan or any part thereof, or assign any or all of its rights under this Loan Agreement, at any time after execution of this Loan Agreement upon written notice to the Borrower. Provisions of this Loan Agreement shall inure to the benefit of DEQ's successors and assigns. This Loan Agreement or any interest therein may be assigned or transferred by the Borrower only with DEQ's prior written approval (which consent may be withheld for any reason), and any assignment or transfer by the Borrower in contravention of this ARTICLE 10(F) shall be null and void.

(G) DEQ NOT REQUIRED TO ACT. Nothing contained in this Loan Agreement requires DEQ to incur any expense or to take any action hereunder in regards to the Project.

(H) FURTHER ASSURANCES. The Borrower and DEQ agree to execute and deliver any written instruments necessary to carry out any agreement, term, condition or assurance in this Loan Agreement whenever a party makes a reasonable request to the other party for such instruments.

(I) VALIDITY AND SEVERABILITY; SURVIVAL. If any part, term, or provision of this Loan Agreement or of any other Loan document shall be held by a court of competent jurisdiction to be void, voidable, or unenforceable by either party, the validity of the remaining portions, terms and provisions shall not be affected, and all such remaining portions, terms and provisions shall remain in full force and effect. Any provision of this Agreement which by its nature or terms is intended to survive termination, including but not limited to ARTICLE 5(E), shall survive termination of this Agreement.

(J) NO CONSTRUCTION AGAINST DRAFTER. Both parties acknowledge that they are each represented by and have sought the advice of counsel in connection with this Loan Agreement and the transactions contemplated hereby and have read and understand the terms of this Loan Agreement. The terms of this Loan Agreement shall not be construed against either party as the drafter hereof.

(K) HEADINGS. All headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Loan Agreement.

(L) ATTORNEYS' FEES AND EXPENSES. In any action or suit to enforce any right or remedy under this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs, to the extent permitted by law.

(M) CHOICE OF LAW; DESIGNATION OF FORUM; FEDERAL FORUM.

(1) The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Agreement, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

(2) Any party bringing a legal action or proceeding against any other party arising out of

or relating to this Agreement shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County (unless Oregon law requires that it be brought and conducted in another county). Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

(3) Notwithstanding ARTICLE 10(M)(2), if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This ARTICLE 10(M)(3) applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This ARTICLE 10(M)(3) is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

(N) COUNTERPARTS. This Loan Agreement may be executed in any number of counterparts, each of which is deemed to be an original, but all together constitute but one and the same instrument.

(O) ENTIRE AGREEMENT; AMENDMENTS. This Loan Agreement, including all appendices and attachments that are by this reference incorporated herein, constitutes the entire agreement between the Borrower and DEQ on the subject matter hereof, and it shall be binding on the parties thereto when executed by all the parties and when all approvals required to be obtained by DEQ have been obtained. This Loan Agreement, including all related Loan documents and instruments, may not be amended, changed, modified, or altered without the written consent of the parties.

CITY OF SALEM

By: _____ _____
Authorized Officer Date

Typed Name: _____
Title: _____

STATE OF OREGON ACTING BY AND THROUGH ITS DEPARTMENT OF ENVIRONMENTAL QUALITY

By: _____ _____
Jennifer Wigal, Administrator Date
Water Quality Division

APPENDIX A: *PRELIMINARY* REPAYMENT SCHEDULE

OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY

CLEAN WATER STATE REVOLVING FUND LOAN PROGRAM

REPAYMENT SCHEDULE

BORROWER:	City of Salem	INTEREST RATE:	2.23%
SRF LOAN NO.:	R80214	TERM IN YEARS:	20
LOAN AMOUNT:	$ 1,110,000	PAYMENT AMOUNT:	$ 17,626
		ANNUAL FEE:	0.50%

Due		PAYMENT				Principal
Date	Pmt#	Principal	Interest	Fees	Total	Balance
		PF Applied				555,000
6/1/2029	1	0	31,753	0	31,753	555,000
12/1/2029	2	11,438	6,188	2,775	20,401	543,562
6/1/2030	3	11,565	6,061	0	17,626	531,997
12/1/2030	4	11,694	5,932	2,660	20,286	520,303
6/1/2031	5	11,825	5,801	0	17,626	508,478
12/1/2031	6	11,956	5,670	2,542	20,168	496,522
6/1/2032	7	12,090	5,536	0	17,626	484,432
12/1/2032	8	12,225	5,401	2,422	20,048	472,207
6/1/2033	9	12,361	5,265	0	17,626	459,846
12/1/2033	10	12,499	5,127	2,299	19,925	447,347
6/1/2034	11	12,638	4,988	0	17,626	434,709
12/1/2034	12	12,779	4,847	2,174	19,800	421,930
6/1/2035	13	12,921	4,705	0	17,626	409,009
12/1/2035	14	13,066	4,560	2,045	19,671	395,943
6/1/2036	15	13,211	4,415	0	17,626	382,732
12/1/2036	16	13,359	4,267	1,914	19,540	369,373
6/1/2037	17	13,507	4,119	0	17,626	355,866
12/1/2037	18	13,658	3,968	1,779	19,405	342,208
6/1/2038	19	13,810	3,816	0	17,626	328,398
12/1/2038	20	13,964	3,662	1,642	19,268	314,434
6/1/2039	21	14,120	3,506	0	17,626	300,314
12/1/2039	22	14,277	3,349	1,502	19,128	286,037
6/1/2040	23	14,437	3,189	0	17,626	271,600
12/1/2040	24	14,598	3,028	1,358	18,984	257,002
6/1/2041	25	14,760	2,866	0	17,626	242,242
12/1/2041	26	14,925	2,701	1,211	18,837	227,317
6/1/2042	27	15,091	2,535	0	17,626	212,226
12/1/2042	28	15,260	2,366	1,061	18,687	196,966
6/1/2043	29	15,430	2,196	0	17,626	181,536
12/1/2043	30	15,602	2,024	908	18,534	165,934
6/1/2044	31	15,776	1,850	0	17,626	150,158
12/1/2044	32	15,952	1,674	751	18,377	134,206
6/1/2045	33	16,130	1,496	0	17,626	118,076
12/1/2045	34	16,309	1,317	590	18,216	101,767
6/1/2046	35	16,491	1,135	0	17,626	85,276
12/1/2046	36	16,675	951	426	18,052	68,601
6/1/2047	37	16,861	765	0	17,626	51,740
12/1/2047	38	17,049	577	259	17,885	34,691
6/1/2048	39	17,239	387	0	17,626	17,452
12/1/2048	40	17,452	195	87	17,734	0
TOTALS		555,000	164,188	30,405	749,593	

REQUIRED LOAN RESERVE: $ 17,980

APPENDIX B: *ESTIMATED* CWSRF LOAN DISBURSEMENT SCHEDULE

Loan funds are expected to be available based on the following Project schedule:

Borrower:		City of Salem					
Loan #:		R80214					
Int. Rate:		2.23%					
1st Pmt:		6/1/2029					
Disb.	**Paid/**	**Gross Disb.**	**Principal Forg.**	**Net Amount**	**Disb.**	**Total #**	**Interest**
Number	**Estimate**	**Amount**	**Applied**	**Disbursed**	**Date**	**of Days**	**Amount**
1	Estimate	$ 111,000	$ 55,500	$ 55,500	7/1/2025	1,431	4,848.88
2	Estimate	$ 111,000	$ 55,500	$ 55,500	9/1/2025	1,369	4,638.64
3	Estimate	$ 111,000	$ 55,500	$ 55,500	1/1/2026	1,247	4,224.96
4	Estimate	$ 111,000	$ 55,500	$ 55,500	5/1/2026	1,127	3,818.07
5	Estimate	$ 111,000	$ 55,500	$ 55,500	9/1/2026	1,004	3,400.99
6	Estimate	$ 111,000	$ 55,500	$ 55,500	1/1/2027	882	2,987.31
7	Estimate	$ 111,000	$ 55,500	$ 55,500	5/1/2027	762	2,580.42
8	Estimate	$ 111,000	$ 55,500	$ 55,500	9/1/2027	639	2,163.34
9	Estimate	$ 111,000	$ 55,500	$ 55,500	1/1/2028	517	1,749.67
10	Estimate	$ 111,000	$ 55,500	$ 55,500	5/1/2028	396	1,340.50
TOTAL:		**$ 1,110,000**	**$ 555,000**	**$ 555,000**			**31,752.80**

APPENDIX C: DBE GOOD FAITH EFFORTS

At a minimum the Borrower or its prime contractor must take six affirmative steps (which apply to any procurement of construction, supplies, equipment or services) to demonstrate good faith effort to utilize minority (MBE), women-owned (WBE) and small (SBE) businesses. The six steps are:

1) To include qualified small, minority and women's businesses on solicitation lists;

2) To assure that small, minority and women's businesses are solicited whenever they are potential sources;

3) To divide total requirements, whenever economically feasible, into smaller tasks or quantities to permit maximum participation by small, minority or women's businesses;

4) To establish delivery schedules whenever the requirements of the work permit, which will encourage participation by small, minority and women's businesses;

5) To use the services and assistance of the Small Business Administration (http://pro-net.sba.gov) and the Office of Minority Business Enterprise of the U.S. Department of Commerce (http://www.mbda.gov) to identify appropriate small, minority and women businesses; and

6) To require subcontractors to take all of the affirmative action steps described above and set forth in 40 CFR 35.3145(d) in any contract awards or procurements.

The Borrower shall, and shall cause its contractors to, document compliance with the above requirements on forms found at Tab 6 of the Manual for Construction Projects.

Additional resources available to recipients and contractors include the following:

EPA Office of Small and Disadvantaged Business Utilization:
Phone: 206 – 553 – 2931
Web Site: www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu

Oregon Certification Office for Business Inclusion and Diversity
775 Summer Street N.E., Room 200
Salem, OR 97301-1280

Phone: 503 – 986 – 0123
Web Site: www.oregon.gov/biz/programs/cobid/pages/default.aspx

APPENDIX D: APPLICABLE FEDERAL AUTHORITIES AND LAWS ("CROSS-CUTTERS")

ENVIRONMENTAL LEGISLATION:

Archaeological and Historic Preservation Act of 1974, PL 93-291.
Clean Air Act, 42 U.S.C. 7506(c).
Coastal Barrier Resources Act, 16 U.S.C. 3501, et seq.
Coastal Zone Management Act of 1972, PL 92-583, as amended.
Endangered Species Act 16 U.S.C. 1531, et seq.
Executive Order 11593, Protection and Enhancement of the Cultural Environment.
Executive Order 11988, Floodplain Management.
Executive Order 11990, Protection of Wetlands.
Farmland Protection Policy Act, 7 U.S.C. 4201, et seq.
Fish and Wildlife Coordination Act, PL 85-624, as amended.
National Historic Preservation Act of 1966, PL 89-665,as amended.
Safe Drinking Water Act, Section 1424(e), PL 92-523, as amended.
Wild and Scenic Rivers Act, PL 90-542, as amended.
Federal Water Pollution Control Act Amendments of 1972, PL 92-500.
Migratory Bird Conservation Act, 16 U.S.C. 715, et seq.
Magnuson-Stevens Act – Essential Fish Habitat, 16 U.S.C. 1851, et seq.

ECONOMIC LEGISLATION:

Demonstration Cities and Metropolitan Development Act of 1966, PL 89-754, as amended.
Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, including
Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants or Loans.

SOCIAL LEGISLATION:

The Age Discrimination Act of 1975, Pub. L. No. 94-135, 89 Stat. 713, 42 U.S.C. §6102 (1994).
Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 252, 42 U.S.C. §2000d (1988).
Section 13 of PL 92-500; Prohibition against Sex Discrimination under the Federal Water Pollution Control Act.
Rehabilitation Act of 1973, Pub. L. No. 93-1123, 87 Stat. 355, 29 U.S.C. §794 (1988), including Executive Orders 11914 and 11250).
Executive Order 12898, Environmental Justice in Minority Populations
Exec. Order No. 11,246, 30 F.R. 12319 (1965), *as amended by* Exec. Order No. 11,375, 32 F.R. 14303 (1967), *reprinted in* 42 U.S.C. §2000e (1994), and its regulations at 41 C.F.R. §§60-1.1 to 60-999.1.

MISCELLANEOUS AUTHORITY:

Uniform Relocation and Real Property Acquisition Policies Act of 1970, PL 92-646.
Executive Order 12549 and 40 CFR Part 32, Debarment and Suspension.
Disclosure of Lobbying Activities, Section 1352, Title 31, U.S. Code.

APPENDIX E: DAVIS-BACON PROVISION

Part 1

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Subrecipients may obtain wage determinations from the U.S. Department of Labor's web site, www.dol.gov.

(ii)(A) The subrecipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the subrecipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the subrecipient (s) to the State award official. The State award official will transmit the request, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the subrecipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The subrecipient(s), shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may,

after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the subrecipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the subrecipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at https://www.dol.gov/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the subrecipient(s) for transmission to the State or EPA if requested by EPA , the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the subrecipient(s).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees--

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to

the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may by appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and Subrecipient(s), State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

Part 2

Contract Provision for Contracts in Excess of $100,000.

(a) Contract Work Hours and Safety Standards Act. The subrecipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (a)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a)(1) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The subrecipient upon the request of the EPA Award Official or an authorized representative of the Department of Labor, shall withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (a)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a)(1) through (4) of this section.

(b) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Subrecipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls

and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Subrecipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Oregon Department of Environmental Quality and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

5. Compliance Verification

(a) The subrecipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The subrecipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The subrecipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. Subrecipients must conduct more frequent interviews if the initial interviews or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. Subrecipients shall immediately conduct necessary interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence.

(c) The subrecipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The subrecipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable, the subrecipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. Subrecipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the subrecipient shall verify evidence of fringe benefit plans and payments thereunder by contractors and subcontractors who claim credit for fringe benefit contributions.

(d) The subrecipient shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Subrecipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at https://www.dol.gov/whd/local/.

APPENDIX F
EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this contract the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies

invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however*, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX G: CERTIFICATION REGARDING LOBBYING
(Contracts in Excess of $100,000.00)

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Borrower, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signed _____

Title _____

Date _____

Recipient _____

APPENDIX H: AMERICAN IRON AND STEEL ("AIS") REQUIREMENT

The Contractor acknowledges to and for the benefit of the City of Salem ("Purchaser") and the State of Oregon, acting by and through the Department of Environmental Quality Clean Water State Revolving Fund (the "State") that it understands the goods and services under this Agreement are being funded with monies made available by the Clean Water State Revolving Fund that have statutory requirements commonly known as "American Iron and Steel;" that requires all of the iron and steel products used in the project to be produced in the United States ("American Iron and Steel Requirement") including iron and steel products provided by the Contactor pursuant to this Agreement. The Contractor hereby represents and warrants to and for the benefit of the Purchaser and the State that (a) the Contractor has reviewed and understands the American Iron and Steel Requirement, (b) all of the iron and steel products used in the project will be and/or have been produced in the United States in a manner that complies with the American Iron and Steel Requirement, unless a waiver of the requirement is approved, and (c) the Contractor will provide any further verified information certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the American Iron and Steel Requirement, as may be requested by the Purchaser or the State. Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Purchaser or State to recover as damages against the
Contractor any loss, expense, or cost (including without limitation attorney's fees) incurred by the Purchaser or State resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the State or any damages owed to the State by the Purchaser). While the Contractor has no direct contractual privity with the
State, as a lender to the Purchaser for the funding of its project, the Purchaser and the Contractor agree that the State is a third-party beneficiary and neither this paragraph (nor any other provision of this Agreement necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the State.

APPENDIX I: MASTER BOND DECLARATION

MASTER WATER AND SEWER SYSTEM REVENUE BOND DECLARATION

City of Salem, Oregon

Water and Sewer System Revenue Refunding Bonds

Series 2012

Executed by a City Official of the City of Salem, Oregon

As of the 16th day of October, 2012

195512.10 036301 RSIND

TABLE OF CONTENTS

MASTER WATER AND SEWER SYSTEM BOND DECLARATION

THIS MASTER WATER AND SEWER SYSTEM BOND DECLARATION is executed as of October 16, 2012, by a City Official of the City of Salem, Oregon pursuant to the authority granted to that City Official by Resolution No. 2012-63 adopted by the City Council on September 10, 2012 and Resolution No. 2012-93 adopted by the City Council on October 8, 2012, to establish the terms under which the City's Water and Sewer System Revenue Refunding Bonds, Series 2012 and future Parity Bonds may be issued.

Section 1. Findings.

The City has issued multiple series of water and sewer revenue bonds pursuant to City Resolution No. 2005-11, as amended, and its predecessors (the "2005 Master Resolution"). Current interest rates are lower than the rates borne by many of the outstanding bonds that were issued under the 2005 Master Resolution, and refunding those bonds will produce substantial debt service savings.

Market conditions have changed since 2005, and it would benefit the City to replace the 2005 Master Resolution with a master water and sewer revenue bond document that conforms to current market conditions.

If the City refunds and defeases all of the currently outstanding bonds that were issued under the 2005 Master Resolution, the City may replace the 2005 Master Resolution with a new master water and sewer revenue bond document.

The City has refunded and defeased all its currently outstanding bonds that were issued under the 2005 Master Resolution, and has issued its 2012 Bonds under this Master Water and Sewer Revenue Bond Declaration. This Master Water and Sewer Revenue Bond Declaration replaces the 2005 Master Resolution and provides the terms under which the City may issue obligations in the future that are secured by the revenues of the City's water and sewer system.

Section 2. Definitions.

Unless the context clearly requires otherwise, capitalized terms that are used in this Master Declaration and are defined in this Section 2 shall have the meanings defined for those terms in this Section 2.

"Adjusted Net Revenues" means the Net Revenues, adjusted for purposes of Section 7.1.C(ii) as provided in Section 7.3.

"Annual Bond Debt Service" means in any Fiscal Year amount of principal and interest required to be paid in that Fiscal Year on all Outstanding Bonds, calculated as follows:

(a) Interest which is to be paid from Bond Proceeds shall be subtracted;

(b) Bonds which are subject to scheduled, mandatory redemption or tender shall be deemed to mature on the dates and in the amounts which are subject to mandatory redemption or tender;

(c) Bonds which are subject to contingent redemption or tender shall be treated as maturing on their stated maturity dates; and,

(d) Each Balloon Payment shall be assumed to be paid according to its Balloon Debt Service Requirement.

"Auditor" means a person authorized by the State Board of Accountancy to conduct municipal audits pursuant to ORS 297.670.

"Balloon Debt Service Requirement" means the Committed Debt Service Requirement for a Balloon Payment or, if the City has not entered into a firm commitment to sell Bonds or other obligations to refund that Balloon Payment, the Estimated Debt Service Requirement for that Balloon Payment.

"Balloon Payment" means any principal payment for a Series of Bonds which comprises more than twenty-five percent of the original principal amount of that Series, but only if that principal payment is designated as a Balloon Payment in the closing documents for the Series.

"Base Period" means the alternative selected by the City from the following two options: (a) any twelve consecutive months selected by the City or Qualified Consultant out of the most recent eighteen months preceding the delivery of a Series of Parity Bonds; or (b) the most recently completed fiscal year for which audited financial statements are available.

"Bond" or "Bonds" means the Series 2012 Bonds and any other Parity Bonds.

"Bond Counsel" means a law firm having knowledge and expertise in the field of municipal law and whose opinions are generally accepted by purchasers of municipal bonds.

"Bond Reserve Account" means the Bond Reserve Account in the Water and Sewer Fund described in Section 5.3 of this Master Declaration.

"Business Day" means any day except a Saturday, a Sunday, a legal holiday, a day on which the offices of banks in Oregon or New York are authorized or required by law or executive order to remain closed, or a day on which the New York Stock Exchange is closed.

"City" means the City of Salem in Marion County, Oregon, a municipal corporation of the State of Oregon.

"City Council" means the City Council of the City, or its successors.

"City Official" means the City Manager, the Administrative Services Director, or a person designated by either the City Manager or the Administrative Services Director to act on behalf of the City under this Master Declaration.

"Closing" means the date on which a Series of Bonds is delivered in exchange for payment.

"Code" means the Internal Revenue Code of 1986, as amended, including the rules and regulations promulgated thereunder.

"Committed Debt Service Requirement" means the schedule of principal and interest payments for a Series of Bonds or other obligations which refund a Balloon Payment, as shown in the documents evidencing the City's firm commitment to sell that Series. A "firm commitment to sell" means a bond purchase agreement or similar document which obligates the City to sell, and obligates a purchaser to purchase, the Series of refunding Bonds or other obligations, subject only to the conditions which customarily are included in such documents.

"Credit Facility" means a letter of credit, a municipal bond insurance policy, standby bond purchase agreement or other credit enhancement device which is obtained by the City to secure payment in full of Bonds, and which is issued or provided by a Credit Provider whose long term debt obligations or claims paying ability (as appropriate) are rated, at the time the Credit Facility is issued, in one of the three highest rating categories by a Rating Agency which rated the Bonds secured by the Credit Facility. Under rating systems in effect on the date of this Master Declaration, a rating in one of the three highest rating categories by a Rating Agency would be a rating of "A" or better.

"Credit Provider" means the person or entity that is obligated to make or guarantee payments under a Credit Facility.

"Debt Service Account" means the Debt Service Account described in Section 5.2 of this Master Declaration.

"DTC" means The Depository Trust Company or any other qualified securities depository designated by the City as its successor.

"Estimated Debt Service Requirement" means the schedule of principal and interest payments for a hypothetical Series of Bonds that refunds a Balloon Payment, that is prepared by the City Official and that meets the requirements of Section 6.4.

"Event of Default" means any event specified in 11.2 of this Master Declaration.

"Fiscal Year" means the period beginning on July 1 of each year and ending on the next succeeding June 30, or as otherwise defined by State law.

"Fitch" means Fitch Investors Service, Inc., its successors and assigns.

"Fund" refers to any fund, account, or other accounting concept that permits the City to account accurately for amounts that are credited to it under this Master Declaration. A "Fund" in this Master Declaration does not need to appear as a "fund" in the City's budget.

"Government Obligations" means (a) direct, noncallable obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury and principal-only and interest-only strips that are issued by the U.S. Treasury); or (b) noncallable obligations the principal of and interest on which are unconditionally guaranteed by the United States of America.

"Gross Revenues" means all fees and charges and other revenues that are properly accrued under generally accepted accounting principles as revenues of the System, including revenues from

product sales, and interest earnings on Gross Revenues in the Water and Sewer Fund. Deposits to the Rate Stabilization Account shall reduce Gross Revenues as provided in Section 5.5.A. Gross Revenues shall include any withdrawals from the Rate Stabilization Account as provided in Section 5.5.B, and any federal interest subsidies the City receives for the Series 2012 Bonds or any Parity Bonds. However, the term "Gross Revenues" shall not include:

(a) The interest income or other earnings derived from the investment of any escrow fund established for the defeasance or refunding of outstanding indebtedness of the City;

(b) Any gifts, grants, donations or other moneys received by the City from any State or Federal Agency or other person if such moneys are restricted by law or the grantor to uses inconsistent with the payment of Bonds;

(c) The proceeds of any borrowing;

(d) The proceeds of any liability or other insurance (excluding business interruption insurance or other insurance of like nature insuring against the loss of revenues);

(e) The proceeds of any casualty insurance which the City intends to utilize for repair or replacement of the System;

(f) The proceeds derived from the sales of assets pursuant to Section 10.9 of this Master Declaration;

(g) Any ad valorem or other taxes imposed by the City (except charges or payments for System services which become "taxes" within the meaning of Article XI, Section 11b of the Oregon Constitution only because they are imposed on property or property owners);

(h) Any income, fees, charges, receipts, profits or other moneys derived by the City from its ownership or operation of any Separate Utility System;

(i) Installment loan contract payments received by the City for line and branch charges, connection fees, or local improvement district assessments that have been pledged as security for a borrowing other than a Bond; or

(j) Systems Development Charges.

"Interest Payment Date" means any date on which Bond interest is scheduled to be paid, and any date on which Bonds are called for redemption.

"Master Declaration" means this Master Water and Sewer System Revenue Bond Declaration, including any amendments made pursuant to Section 12.

"Maximum Annual Bond Debt Service" means the greatest amount of Annual Bond Debt Service that is due in any Fiscal Year, beginning with the Fiscal Year for which the calculation is made, and ending with the last Fiscal Year in which Outstanding Bonds are scheduled to be paid.

"Moody's" means Moody's Investors Service, a corporation organized and existing under the laws of the State of Delaware, its successors and their assigns.

"Net Revenues" means the Gross Revenues less the Operating Expenses.

"Operating Expenses" means all costs which are properly treated as expenses of operating and maintaining the System under generally accepted accounting principles. However, Operating Expenses do not include:

(a) Any rebates or penalties paid from Gross Revenues under Section 148 of the Code;

(b) Payments of judgments against the City and payments for the settlement of litigation;

(c) Depreciation and amortization of property values or losses and other non-cash expenses;

(d) All amounts eligible to be treated for accounting purposes as payments for capital expenditures;

(e) Interest and other debt service payments, paying agent fees, broker-dealer fees and similar charges for the maintenance of borrowings;

(f) The expenses of owning, operating or maintaining any Separate Utility System;

(g) Expenditures made from any liability insurance proceeds;

(h) Expenditures made from any casualty insurance proceeds used to pay for costs of repairing or replacing portions of the System;

(i) Expenditures made from grant monies regardless of whether such grant funds are dedicated to a specific purpose or available for the general operation, maintenance and repair or replacement of the System;

(j) Extraordinary non-recurring expenses of the System; or

(k) Expenditures allocable to any other funding source which does not constitute Gross Revenues of the System.

"ORS" means the Oregon Revised Statutes.

"Outstanding" refers to all Bonds except Bonds that have been defeased pursuant to Section 13 of this Master Declaration, and Bonds which have matured and not been presented for payment (provided sufficient funds to pay those Bonds have been transferred to their paying agent).

"Owner" means a registered owner of a Bond.

"Parity Bond" means any obligation that is secured by the Net Revenues on an equal basis with the Bonds and is issued in accordance with Section 7.

"Payment Date" means a Principal Payment Date or an Interest Payment Date.

"Permitted Investments" means any investments which the City is permitted to make under the laws of the State.

"Principal Payment Date" means any date on which any Bonds are scheduled to be retired, whether by virtue of their maturity or by mandatory sinking fund redemption prior to maturity, and the redemption date of any Bonds which have been called for redemption.

"Qualified Consultant" means an independent engineer, an independent auditor, an independent financial advisor, or similar independent professional consultant of recognized standing and having experience and expertise in the area for which such person or firm is retained by the City for purposes of performing activities specified in this Master Declaration or any Supplemental Declaration.

"Rate Stabilization Account" means the Rate Stabilization Account established in the Water and Sewer Fund pursuant to Section 5.5.

"Rating Agency" means Fitch, Moody's, S&P, or any other nationally recognized financial rating Agency which has rated Outstanding Bonds or a Credit Facility at the request of the City.

"Reserve Credit Facility" means any arrangement in which the City pays a fee in exchange for an agreement of a third party to advance money to the City in the future that the City will use in lieu of using cash or Permitted Investments credited to a subaccount in the Reserve Account. "Reserve Credit Facility" does not include guaranteed investment contracts, master repurchase agreements and similar Permitted Investments.

"Reserve Requirement" means a set of rules for funding a subaccount in the Bond Reserve Account. Each Reserve Requirement shall indicate the amount that is required to be credited to the subaccount, the dates by which that amount must be credited to the subaccount, and the requirements for restoring amounts to the subaccount if amounts are withdrawn to pay Bonds that are secured by the subaccount. There is no subaccount in the Bond Reserve Account for the Series 2012 Bonds, and no Reserve Requirement associated with the Series 2012 Bonds.

"S&P" means Standard & Poor's Corporation, a corporation organized and existing under the laws of the State of New York, its successors and their assigns.

"Separate Utility System" means any utility property which is declared by the City to constitute a system which is distinct from the System in accordance with Section 9.

"Series" refers to all Bonds authorized by a single ordinance or declaration and delivered in exchange for payment on the same date, regardless of variations in maturity, interest rate or other provisions, unless the closing documents for the Series provide otherwise.

"Series 2012 Bonds" means the Series 2012A Bond and the Series 2012B Bond.

"Series 2012A Bond" means the City's Water and Sewer System Revenue Refunding Bond, Series 2012A (Tax-Exempt) issued pursuant to Section 14 of this Master Declaration.

"Series 2012B Bond" means the City's Water and Sewer System Revenue Refunding Bond, Series 2012B (Taxable) issued pursuant to Section 15 of this Master Declaration.

"State" means the State of Oregon.

"Subordinate Obligations" means obligations having a lien on the Net Revenues which is subordinate to the lien of the Bonds. Restrictions on Subordinate Obligations are described in Section 8. On the date of this Master Declaration, the City has one Subordinate Obligation outstanding: a loan agreement with the State of Oregon Economic and Community Development Department Water Fund in the original principal amount of $5,875,000 and dated April, 2009.

"Subordinate Obligations Account" means the Subordinate Obligations Account of the Water and Sewer Fund which is described in Section 5.4.

"Supplemental Declaration" means any declaration, resolution or other document which supplements or amends this Master Declaration, entered into by the City in compliance with Section 12.

"System" means all utility property now or hereafter used by the City to supply water and treat wastewater and stormwater within or without the City limits.

"Tax Maximum" means, for any Series of Bonds, the lesser of: the greatest amount of principal, interest and premium, if any, required to be paid in any Fiscal Year on such Series; 125% of average amount of principal, interest and premium, if any, required to be paid on such Series during all Fiscal Years in which such Series will be Outstanding, calculated as of the date of issuance of such Series; or, ten percent of the proceeds of such Series, as "proceeds" is defined for purposes of Section 148(d) of the Code.

"Valuation Date" means the date or dates on which a subaccount of the Bond Reserve Account shall be valued as prescribed in the Supplemental Declaration authorizing the establishment of such subaccount.

"Water and Sewer Fund" means the collection of funds and accounts used by the City to hold the Gross Revenues and the proceeds of Bonds.

Section 3. Rules of Construction.

In determining the meaning of the provisions of this Master Declaration, the following rules shall apply unless the context clearly requires application of a different meaning:

A. References to section numbers shall be construed as references to sections of this Master Declaration.

B. References to one gender shall include all genders.

C. References to the singular include the plural, and references to the plural include the singular.

Section 4. Deposit, Pledge and Use of Gross Revenues.

4.1. All Gross Revenues shall be deposited to and maintained in the Water and Sewer Fund, and shall be used only as described in this Section as long as any Bonds remain Outstanding. The City shall apply Gross Revenues in the Water and Sewer Fund on or before the following dates for the following purposes in the following order of priority:

A. At any time to pay Operating Expenses which are then due;

B. At least one Business Day prior to each Payment Date, to transfer Net Revenues to the Debt Service Account in an amount sufficient (with amounts available in the Debt Service Account) to pay in full all Bond principal, interest and premium, if any, which is due to be paid on that Payment Date;

C. On the Closing date for a Series of Bonds and on the first day of each month following a Valuation Date for any subaccount in the Bond Reserve Account on which the balance in any subaccount of the Bond Reserve Account is determined to be less than the applicable Reserve Requirement, to transfer Net Revenues to the Bond Reserve Account in the amounts required by the provisions creating the subaccounts in the Bond Reserve Account until the balances in all subaccounts of the Bond Reserve Account are equal to their Reserve Requirement;

D. On the day on which any rebates or penalties for Bonds are due to be paid to the United States pursuant to Section 148 of the Code, an amount of Net Revenues that is sufficient, with other available funds, to pay the amounts due to the United States;

E. On the dates specified in any proceedings authorizing Subordinate Obligations, the City shall transfer to the Subordinate Obligations Account the Net Revenues required by those proceedings; and,

F. Not later than each date on which debt service payments are due on the City's Full Faith and Credit Obligations, Series 2009, the City shall transfer Net Revenues to the paying agent for those obligations in amounts sufficient to pay that debt service;

G. On any date, the City may transfer Net Revenues to the Rate Stabilization Account or spend Net Revenues for any other lawful purpose relating to the System, but only if all deposits and payments that are required to be made on or before that date and that have a higher priority under this Section have been made.

4.2. The City hereby pledges the Net Revenues to the payment of principal of, premium (if any) and interest on all Bonds. Pursuant to ORS 287A.310, the pledge made by the City shall be valid and binding from the Closing of the 2012 Bonds. The Net Revenues so pledged and hereafter received by the City shall immediately be subject to the lien of such pledge without any physical delivery or further act. The lien of the pledge shall be superior to all other claims and liens except liens and claims for the payment of Operating Expenses. The City covenants and agrees to take such action as is necessary from time to time to perfect or otherwise preserve the priority of the pledge.

4.3. If Bonds issued after the Series 2012 Bonds are secured by a subaccount in the Bond Reserve Account, and the rules for funding that subaccount allow that subaccount to be funded with Reserve Credit Facilities, the City may pledge the Net Revenues available for transfer to that subaccount to pay amounts due under those Reserve Credit Facilities.

Section 5. Bond Funds and Accounts.

5.1. So long as Bonds are Outstanding, the City shall maintain the Debt Service Account and the Bond Reserve Account as discrete accounts in the Water and Sewer Fund.

5.2. **Debt Service Account**. The City shall hold the Debt Service Account. Until all Bonds are paid or defeased, amounts in the Debt Service Account shall be used only to pay Bonds. Amounts in the Debt Service Account shall be invested only in Permitted Investments that mature no later than the payment dates to which funds in the debt

service account are attributable. Earnings on the Debt Service Account shall be credited to the Debt Service Account.

5.3. **Bond Reserve Account.**

A. The Bond Reserve Account shall be held by the City and the City may create subaccounts in the Bond Reserve Account to secure Bonds. When each subaccount is created, the City shall determine whether the subaccount will secure one or more Series of Bonds. If the City creates a subaccount in the Bond Reserve Account, the City shall, when it issues the first Series of Bonds that is secured by that subaccount: a) establish the Reserve Requirement for that subaccount; b) pledge amounts credited to that subaccount to pay the Bonds that are secured by that subaccount; and c) determine if the Reserve Requirement for that subaccount may be funded with a Reserve Credit Facility, the requirements for such Reserve Credit Facility, and the valuation and replenishment provisions related to such Reserve Credit Facility.

B. No subaccount is being created in the Bond Reserve Account to secure the Series 2012 Bonds.

C. The City shall not create any subaccounts in the Bond Reserve Account for any purpose except securing Bonds in accordance with this Master Declaration.

5.4. **Subordinate Obligations Account**. The City shall create and maintain the Subordinate Obligations Account in the Water and Sewer Fund as long as Subordinate Obligations are Outstanding. The Subordinate Obligations Account may be divided into subaccounts, and the City may establish priorities for funding the subaccounts in the Subordinate Obligations Subaccount. Net Revenues shall be deposited into the Subordinate Obligations Account only as permitted by Section 4.1.E. Earnings on the Subordinate Obligations Account shall be credited as provided in the proceedings authorizing the Subordinate Obligations.

5.5. **Rate Stabilization Account**. The City hereby creates the Rate Stabilization Account in the Water and Sewer Fund and will maintain that account as long as Bonds are Outstanding. Net Revenues may be transferred to the Rate Stabilization Account at the option of the City as permitted by Section 4.1.F. Money in the Rate Stabilization Account may be withdrawn at any time and used for any purpose for which the Gross Revenues may be used.

A. Except as provided in the next sentence, deposits to the Rate Stabilization Account decrease Gross Revenues in the Fiscal Year for which the deposit is made. Before the closing date of the 2012 Bonds the City will deposit $6,900,000 in the Rate Stabilization Account, and that deposit shall not affect the calculation of Gross Revenues.

B. Withdrawals from the Rate Stabilization Account increase Gross Revenues in the Fiscal Year for which the withdrawal is made.

C. The City may adjust deposits to and withdrawals from the Rate Stabilization Account for a Fiscal Year at any time prior to the date on which the audit for that Fiscal Year is finalized.

D. Earnings on the Rate Stabilization Account shall be credited to the Water and Sewer Fund.

Section 6. Rate Covenant; Calculations Relating to Balloon Indebtedness.

6.1. The City covenants for the benefit of the Owners that it will establish and maintain rates and charges in connection with the operation of the System which are sufficient to permit the City to make all payments and transfers described in Section 4.1.A through 4.1.F.

6.2. The City covenants for the benefit of the Owners of all Bonds that it shall charge rates and fees in connection with the operation of the System which, when combined with other Gross Revenues are adequate to generate Net Revenues each Fiscal Year at least equal to one hundred twenty-five percent (125.00%) of Annual Bond Debt Service due in that Fiscal Year.

6.3. Not later than six months after the end of each Fiscal Year, the City shall prepare a report that demonstrates whether the City has complied with Section 6.2 during that Fiscal Year and shall file that report in the City records. If the report demonstrates that the City has not complied with Section 6.2 during that Fiscal Year, it shall not constitute a default under this Master Declaration if, within thirty (30) days after the report is filed, the City files a certificate of a City Official that specifies the actions that the City has taken and will take within the next ninety (90) days to permit the City to comply with Section 6.2 for the remainder of the Fiscal Year in which the report is filed, and for the succeeding Fiscal Year, and the City takes the actions specified by the City Official, or actions having a comparable effect.

6.4. The Estimated Debt Service Requirement for Balloon Indebtedness shall be calculated in accordance with this Section 6.4.

A. For the Rate Covenants: For each Balloon Payment that is Outstanding on May 1 of any Fiscal Year, the City Official shall prepare a schedule of principal and interest payments for a hypothetical Series of Bonds that refunds that Balloon Payment in accordance with Section 6.4.D. The City Official shall prepare that schedule as of that first day of May, and that schedule shall be used to determine compliance with the rate covenant in Section 6.2 for the following Fiscal Year.

B. For Parity Bonds: Whenever a Balloon Payment will be Outstanding on the date a Series of Parity Bonds is issued, the City Official shall prepare a schedule of principal and interest payments for a hypothetical Series of Bonds that refunds each Outstanding Balloon Payment in accordance with Section 6.4.D. The City Official shall prepare that schedule as of the date the Parity Bonds are sold, and that schedule shall be used to determine compliance with the tests for Parity Bonds in Section 7.1.

C. For the Reserve Requirement: Whenever a Series of Bonds that contains a Balloon Payment is issued, the City Official shall prepare a schedule of principal and interest payments for a hypothetical Series of Bonds that refunds each Balloon Payment in that Series in accordance with Section 6.4.D. The City Official shall prepare that schedule as of the date the Series is sold, and that schedule shall be combined with the schedule for payment of any debt service on Bonds that are secured by the same subaccount, and that combined schedule shall be used to determine the Reserve Requirement as long as that Series is Outstanding.

D. Each hypothetical Series of refunding Bonds shall be assumed to be paid in equal annual installments of principal plus interest sufficient to amortize the principal amount of the Balloon Payment over the term selected by the City Official; however, the City Official shall not select a term that exceeds the lesser of 30 years from the date the Balloon Payment is originally scheduled to be paid or, if less, the City's estimate of the remaining weighted average useful life (expressed in years and rounded to the next highest integer) of the assets which are financed with the Balloon Payment. The annual installments shall be assumed to be due on the anniversaries of the date the Balloon Payment is originally scheduled to be paid, with the first installment due on the date the Balloon Payment is scheduled to be paid. The hypothetical Series of refunding Bonds shall be assumed to bear interest at the Bond Buyer Revenue Bond Index for a thirty year maturity, or if not available, such other comparable index then available, that a Series of Bonds would bear if it is amortized as provided in this Section 6.4.D and is sold at the time the applicable schedule described in Section 6.4.A, Section 6.4.B or Section 6.4.C is prepared.

Section 7. Parity Bonds.

7.1. The City may issue Parity Bonds to provide funds for any purpose relating to the System, but only if:

A. No Event of Default under this Master Declaration or any Supplemental Declaration has occurred and is continuing;

B. At the time of the issuance of the Parity Bonds there is no deficiency in the Debt Service Account, and all required deposits to all subaccounts in the Bond Reserve Account have been made;

C. There shall have been filed with the City either:

(i) A certificate of the City Official stating that the Net Revenues (adjusted as provided in Section 7.2) for the Base Period were not less than one hundred twenty-five percent (125.00%) of Maximum Annual Bond Debt Service on all then Outstanding Bonds, calculated as of the date the Parity Bonds are issued and with the proposed Parity Bonds treated as Outstanding; or

(ii) A certificate or opinion of a Qualified Consultant:

(a) Stating the amount of the Adjusted Net Revenues for each of the five Fiscal Years after the last Fiscal Year for which interest on the Parity

Bonds is, or is expected to be, capitalized, or, if interest will not be capitalized, or if any principal is scheduled for such years in which interest is capitalized for said Parity Bonds, for each of the five Fiscal Years after the proposed Parity Bonds are issued; and,

(b) Concluding that the respective amounts of Adjusted Net Revenues in each of the first four Fiscal Years described in Section 7.1.C(ii)(a) are at least equal to one hundred twenty-five percent (125.00%) of the Annual Bond Debt Service for each of those respective Fiscal Years on all Outstanding Bonds, with the proposed Parity Bonds treated as Outstanding; and,

(c) Concluding that the amount of Adjusted Net Revenues in the fifth Fiscal Year described in Section 7.1.C(ii)(a) is at least equal to one hundred twenty-five percent (125.00%) of the Maximum Annual Bond Debt Service, calculated for the period beginning with that fifth Fiscal Year on all then Outstanding Bonds, with the proposed Parity Bonds treated as Outstanding.

7.2. The City may adjust Net Revenues for purposes of Section 7.1.C(i) by adding any Net Revenues the City Official calculates the City would have had during the Base Period because of increases in System rates, fees and charges which have been adopted by the City and are in effect on or before the date the Parity Bonds are issued. The City shall adjust Net Revenues for the Base Period for purposes of Section 7.1.C(i) by eliminating the effect of any withdrawals from or deposits to the Rate Stabilization Account.

7.3. The Qualified Consultant shall calculate Adjusted Net Revenues for purposes of Section 7.1.C(ii) as provided in this Section 7.3:

A. The City shall provide the Qualified Consultant with the following information:

(i) The Base Period, the Net Revenues for the Base Period and the amounts of any withdrawals from or deposits to the Rate Stabilization Account for Fiscal Years that are included in the Base Period;

(ii) Information regarding any System utility properties that are being acquired with Parity Bonds and that have an earnings record;

(iii) Any changes in rates and charges which have been adopted by the City since the beginning of the Base Period and the dates on which they are scheduled to take effect;

(iv) Any changes in customers since the beginning of the Base Period; and,

(v) A description of any extensions or additions to the System that were in the process of construction at the beginning of the Base Period or commenced construction after the beginning of the Base Period, the expected date of completion of those extensions or additions, the estimated operating and capital costs of those extensions or additions, and any other changes to the Gross

Revenues or Operating Expenses that the City reasonably expects to result from the completion and operation of those extensions or additions.

B. Using the information provided by the City pursuant to Section 7.3.A and any additional information the Qualified Consultant determines is necessary, the Qualified Consultant shall adjust the Net Revenues for the Base Period to eliminate the effect of any withdrawals from or deposits to the Rate Stabilization Account, and may adjust the Net Revenues for the period certified in Section 7.1.C(ii):

(i) To reflect any changes that the Qualified Consultant projects will result from the acquisition of System utility properties that are being financed with the Parity Bonds and that have an earnings record;

(ii) To reflect any changes in rates and charges which have been adopted by the City and which are scheduled to take effect during the period described in Section 7.1.C(ii)(a), or which increase rates and charges for inflation at a level which the Qualified Consultant determines is reasonable;

(iii) To reflect any changes in customers of the System that occurred after the beginning of the Base Period and prior to the date of the Qualified Consultant's certificate; and

(iv) To reflect any changes to Net Revenues not included in the preceding paragraphs that are projected to result from the completion and operation of additions and extensions to the System that were under construction at the beginning of the Base Period, or commenced construction after the beginning of the Base Period.

7.4. The City may issue Parity Bonds to refund Outstanding Bonds without complying with Section 7.1 if the refunded Bonds are defeased on the date of delivery of the refunding Parity Bonds and if the Annual Bond Debt Service on the refunding Parity Bonds does not exceed the Annual Bond Debt Service on the refunded Bonds in any Fiscal Year by more than $5,000.

7.5. All Parity Bonds issued in accordance with this Section 7 shall have a lien on the Net Revenues which is equal to the lien of all other Outstanding Bonds.

7.6. A Supplemental Declaration describing a Series of Parity Bonds may provide that the Series will be paid through a paying agent, and may specify the type of authentication, registration, transfer, redemption and other administrative provisions that apply to that Series.

Section 8. Subordinate Obligations.

The City may issue Subordinate Obligations only if:

8.1. The Subordinate Obligations are payable solely from amounts permitted to be deposited in the Subordinate Obligations Account pursuant to Section 4.1.E;

8.2. The Subordinate Obligations state clearly that they are secured by a lien on or pledge of the Net Revenues which is subordinate to the lien on, and pledge of, the Net Revenues for the Bonds.

Section 9. Separate Utility System.

The City may declare property which the City owns and is part of the System (but has a value of less than five percent of the System at the time of the declaration), and property which the City has not yet acquired but would otherwise become part of the System, to be part of a Separate Utility System. The City may pay costs of acquiring, operating and maintaining Separate Utility Systems from Net Revenues, but only if there is no deficit in the Debt Service Account or the Bond Reserve Account. The City may issue obligations which are secured by the revenues produced by the Separate Utility System, and may pledge the Separate Utility System revenues to pay those obligations. In addition, the City may issue Subordinate Obligations to pay for costs of a Separate Utility System, and may pledge the revenues of the Separate Utility System to pay the Subordinate Obligations. Notwithstanding the foregoing, no obligations shall be issued pursuant to this Section for a Separate Utility and no property shall be declared a Separate Utility System unless the City certifies that (i) no Event of Default under this Master Declaration or any Supplemental Declaration has occurred and is continuing, and (ii) such contemplated action will not, in the reasonable judgment of the City, materially adversely affect the City's ability to comply with Sections 6.1 and 6.2 of this Master Declaration.

Section 10. General Covenants.

The City hereby covenants and agrees with the Owners of all Outstanding Bonds as follows:

10.1. The City shall promptly cause the principal, premium, if any, and interest on the Bonds to be paid as they become due in accordance with the provisions of this Master Declaration and any Supplemental Declaration.

10.2. The City shall maintain complete books and records relating to the operation of the System and all City funds and accounts in accordance with generally accepted accounting principles, shall cause such books and records to be audited annually at the end of each Fiscal Year, and shall have an audit report prepared by the Auditor and made available for the inspection of Owners.

10.3. The City shall not issue obligations which have a lien on the Net Revenues that is superior to the lien of the Bonds except for obligations to pay Operating Expenses.

10.4. The City shall promptly deposit the Gross Revenues and other amounts described in this Master Declaration into the funds and accounts specified in this Master Declaration.

10.5. The City shall work in good faith to cause the System to be operated at all times in a safe, sound, efficient and economic manner in compliance with all health, safety and environmental laws, regulatory body rules, regulatory body orders and court orders applicable to the City's operation and ownership of the System.

10.6. The City shall maintain the System in good repair, working order and condition.

10.7. The City shall not enter into any new agreements or arrangements or make any new offers to provide System products or services at a discount from published rate schedules or provide free System products or services except: a) in case of emergencies, b) use by the City for municipal purposes, or c) where in the reasonable judgment of the City such action does not materially reduce the Gross Revenues received by the City.

10.8. The City shall at all times maintain with responsible insurers all such insurance on the System as is customarily maintained with respect to works and properties of like character against accident to, loss of or damage to such works or properties.

A. The net proceeds of insurance against accident to or material destruction of the System shall be used to repair or rebuild the damaged or destroyed System, and to the extent not so applied, will be applied to the payment or redemption of the Bonds.

B. The insurance described in Section 10.8 shall be in the form of policies or contracts for insurance with insurers of good standing and shall be payable to the City, or in the form of self insurance by the City. The City shall establish such fund or funds or reserves which it deems are necessary to provide for its share of any such self insurance.

10.9. The City shall not, nor shall it permit others to, sell, mortgage, lease or otherwise dispose of or encumber all or any portion of the System except:

A. The City may dispose of all or substantially all of the System, only if the City pays all Bonds or defeases them pursuant to Section 13.

B. Except as provided in Section 10.9.C, the City will not dispose of any part of the System in excess of 5% of the value of the System in service unless prior to such disposition either:

(i) There has been filed with the City a certificate of a Qualified Consultant stating that such disposition will not impair the ability of the City to comply with the rate covenants contained in Sections 6.1 and 6.2 of this Master Declaration; or

(ii) Provision is made for the payment, redemption or other defeasance of a principal amount of Bonds equal to the greater of the following amounts:

(a) An amount which will be in the same proportion to the net principal amount of Bonds then Outstanding (defined as the total principal amount of Bonds then Outstanding less the amount of cash and investments in the Debt Service Account, the Bond Reserve Account, and the Subordinate Obligations Account) that the Gross Revenues attributable to the part of the System sold or disposed of for the 12 preceding months bears to the total Gross Revenues for such period; or

(b) An amount which will be in the same proportion to the net principal amount of Bonds then Outstanding that the book value of the part of the System sold or disposed of bears to the book value of the System immediately prior to such sale or disposition.

C. The City may dispose of any portion of the System that has become unserviceable, inadequate, obsolete, or unfit to be used or no longer necessary for use in the operation of the System.

D. If the ownership of all or part of the System is transferred from the City through the operation of law, (other than laws of the City or condemnation proceedings instituted by the City), the City shall to the extent authorized by law, reconstruct or replace such transferred portion using any proceeds of the transfer unless the City reasonably determines that such reconstruction or replacement is not in the best interest of the City and the Owners, in which case any proceeds shall be used for the payment, redemption or defeasance of the Bonds.

Section 11. Events of Default and Remedies.

11.1. **Continuous Operation Essential**. The City Council of the City hereby find and determine that the continuous operation of the System and the collection, deposit and disbursement of the Net Revenues in the manner provided in this Master Declaration and in any Supplemental Declaration are essential to the payment and security of the Bonds, and the failure or refusal of the City to perform the covenants and obligations contained in this Master Declaration or any such Supplemental Declaration will endanger the necessary continuous operation of the System and the application of the Net Revenues to the operation of the System and the payment of the Bonds.

11.2. **Events of Default**. The following shall constitute "Events of Default":

A. If the City shall fail to pay any Bond principal or interest when due, either at maturity, at redemption or otherwise.

B. Except as provided in Section 11.3, if the City shall default in the observance and performance of any other of its covenants, conditions and agreements in this Master Declaration and the default continues for ninety (90) days after the City receives a written notice, specifying the Event of Default and demanding the cure of such default, from a Credit Provider or from the Owners of not less than 25% in aggregate principal amount of the Bonds Outstanding.

C. If the City shall sell, transfer, assign or convey any properties constituting the System in violation of Section 10.9.

D. If an order, judgment or decree shall be entered by any court of competent jurisdiction:

(i) Appointing a receiver, trustee or liquidator for the City or the whole or any part of the System;

(ii) Approving a petition filed against the City seeking the bankruptcy, arrangement or reorganization of the City under any applicable law of the United States or the State; or

(iii) Assuming custody or control of the City or of the whole or any part of the System under the provisions of any other law for the relief or aid of debtors and such order, judgment or decree shall not be vacated or set aside or stayed (or, in case custody or control is assumed by said order, such custody or control shall not be otherwise terminated) within sixty (60) days from the date of the entry of such order, judgment or decree.

E. If the City shall:

(i) Admit in writing its inability to pay its debts generally as they become due;

(ii) File a petition in bankruptcy or seeking a composition of indebtedness under any state or federal bankruptcy or insolvency law;

(iii) Consent to the appointment of a receiver of the whole or any part of the System; or

(iv) Consent to the assumption by any court of competent jurisdiction under the provisions of any other law for the relief or aid of debtors of custody or control of the City or of the whole or any part of the System.

11.3. **Exception**. It shall not constitute an Event of Default under 11.2.B if the default cannot practicably be remedied within the ninety (90) days after the City receives notice of the default, so long as the City promptly commences reasonable action to remedy the default after the notice is received, and diligently continues reasonable action to remedy the default until the default is remedied; provided in no event shall the period for remedy exceed 180 days.

11.4. **Remedies**. If an Event of Default occurs, any Owner may exercise any remedy available at law or in equity. However, the Bonds shall not be subject to acceleration.

A. Books of City Open to Inspection.

(i) The City covenants that if an Event of Default shall have happened and shall not have been remedied, the books of record and account of the City and all other records relating to the System shall at all reasonable times be subject to the inspection and use of any persons holding at least twenty percent (20%) of the principal amount of Outstanding Bonds and their respective agents and attorneys.

(ii) The City covenants that if the Event of Default shall happen and shall not have been remedied, the City will continue to account, as a trustee of an express trust, for all Net Revenues and other moneys, securities and funds pledged under this Master Declaration.

B. **Appointment of Trustee**. Whenever any Event of Default exists, Owners representing 51 percent or more of the Outstanding Bonds may appoint a commercial bank with a reported capital and surplus in excess of $50 million as trustee (the "Trustee") to represent the interests of the Owners.

11.5. **Trustee Duties Upon Default.**

A. Upon the occurrence of an Event of Default the Trustee may pursue any other available remedy at law or in equity to enforce the payment of the principal of, premium, if any, and interest on the outstanding Bonds, and to enforce any rights of the Trustee under or with respect to the Master Declaration.

B. In addition, upon the occurrence of an Event of Default, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Owners under the Master Declaration, the Trustee will be entitled, as a matter of right to the fullest extent permitted by Oregon law, to the appointment of a receiver or receivers of the Net Revenues and other amounts pledged under the Master Declaration, pending such proceedings, with such powers as the court making such appointment may confer.

C. If an Event of Default has occurred and be continuing and if requested so to do by the Owners of at least 25% in aggregate principal amount of Outstanding Bonds and indemnified as provided in the Master Declaration, the Trustee will be obligated to exercise any of the rights and powers conferred by this Master Declaration, as the Trustee, being advised by counsel, deems most expedient in the interest of the Owners.

D. If a Trustee has been appointed pursuant to 11.4.B, no Owner of any Bond shall have the right to institute any suit, action or proceeding at law or in equity, for any remedy under the Master Declaration, unless:

(i) such Owner has previously given to the Trustee written notice of the occurrence of an Event of Default;

(ii) the Owners of a majority in aggregate principal amount of all the Bonds then Outstanding have requested the Trustee in writing to exercise its powers under the Master Declaration;

(iii) said Owners have tendered to the Trustee indemnity reasonably acceptable to the Trustee against the costs, expenses and liabilities to be incurred in compliance with such request; and

(iv) the Trustee has refused or failed to comply with such request for a period of 60 days after such written request has been received by the Trustee and said tender of indemnity is made to the Trustee.

E. If the Trustee takes any judicial or other action in an Event of Default the Trustee has full power in its direction with respect to any continuance, discontinuance, withdrawal, compromise, settlement or other disposition of such action, unless opposed by the written request of the Owners of a majority in aggregate principal amount of the Outstanding Bonds. The Trustee is appointed attorney in fact of the Owners for the purpose of bringing any suit action or proceedings in an Event of Default.

F. Waivers of Event of Default.

(i) No delay or omission of any Owner or of the Trustee to exercise any right or power arising upon the happening of an Event of Default shall impair any right or power or shall be construed to be a waiver of any such Event of Default or to be an acquiescence therein; and every power and remedy given by this Section 11 to the Owners and to the Trustee may be exercised from time to time and as often as may be deemed expedient by the Owners and/or the Trustee as applicable.

(ii) The owners of not less than fifty percent (50%) in principal amount of the affected Bonds that are at the time Outstanding, or their attorneys in fact duly authorized, or the Trustee may, on behalf of the Owners of all of affected Bonds, waive any past default under this Master Declaration with respect to such Bonds and its consequences, except a default in the payment of the principal of, premium, if any, or interest on any of the Bonds. No such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

(iii) If a default occurs under Section 6.2 and that default has not become an Event of Default due to actions taken by the City pursuant to Section 6.3, that default under Section 6.2 shall be deemed waived.

11.6. **Remedies Granted in Master Declaration Not Exclusive.**

No remedy by the terms of this Master Declaration conferred upon or reserved to the Owners is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Master Declaration or existing at law or in equity or by statute on or after the date of adoption of this Master Declaration.

Section 12. Amendment of Master Declaration.

12.1. This Master Declaration may be amended by Supplemental Declaration without the consent of any Owners for any one or more of the following purposes:

A. To cure any ambiguity or formal defect or omission in this Master Declaration;

B. To add to the covenants and agreements of the City in this Master Declaration, other covenants and agreements to be observed by the City which are not contrary to or inconsistent with this Master Declaration as theretofore in effect;

C. To authorize issuance of Bonds or Subordinate Obligations as permitted by this Master Declaration;

D. To modify, amend or supplement this Master Declaration or any Supplemental Declaration to qualify this Master Declaration under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect or to permit the qualification of any Bonds for sale under the securities laws of any of the states of the United States of America;

E. To confirm, as further assurance, any security interest or pledge created under this Master Declaration or any Supplemental Declaration;

F. To make any change which, in the reasonable judgment of the City, does not materially and adversely affect the rights of the owners of any Outstanding Bonds;

G. So long as a Credit Facility (other than a Reserve Credit Facility) is in full force and effect with respect to the Bonds affected by such Supplemental Declaration, to make any other change which is consented to in writing by the issuer of such Credit Facility other than any change which:

(i) Would result in a downgrading or withdrawal of the rating then assigned to the affected Bonds by the Rating Agencies;

(ii) Changes the maturity (except as permitted herein), the Interest Payment Dates, interest rates, redemption and purchase provisions, and provisions regarding notices of redemption and purchase applicable to the affected Bonds or diminishes the security afforded by such Credit Facility;

(iii) Materially and adversely affects the rights and security afforded to the Owners of any Outstanding Bonds not secured by such Credit Facility; or

H. To modify any of the provisions of this Master Declaration or any Supplemental Declaration in any other respect whatever, as long as the modification shall take effect only after all affected Outstanding Bonds cease to be Outstanding.

12.2. This Master Declaration may be amended for any other purpose only upon consent of Owners of not less than fifty one percent (51%) in aggregate principal amount of the Bonds Outstanding; provided, however, that no amendment shall be valid without the consent of Owners of 100 percent (100%) of the aggregate principal amount of the Bonds Outstanding which:

A. Extends the maturity of any Bond, reduces the rate of interest upon any Bond, extends the time of payment of interest on any Bond, reduces the amount of principal payable on any Bond, or reduces any premium payable on any Bond, without the consent of the affected Owner; or

B. Reduces the percent of Owners required to approve Supplemental Declarations.

12.3. For purposes of Section 12.2, and subject to Section 12.4, the initial purchaser of a series of Bonds may be treated as the Owner of that Series at the time that series of Bonds is delivered in exchange for payment.

12.4. Except as otherwise expressly provided in Section 12.5, Section 12.6 or a Supplemental Declaration, as long as a Credit Facility securing all or a portion of any Outstanding Bonds is in effect, the issuer of such Credit Facility shall be deemed to be the Owner of the Bonds secured by such Credit Facility for the purpose of the execution and delivery of a Supplemental Declaration or of any amendment, change or modification of this

Master Declaration or the initiation by Owners of any action which under this Master Declaration requires the written approval or consent of or can be initiated by the Owners of at least a majority in principal amount of the affected Bonds at the time Outstanding; and following an Event of Default for all other purposes;

12.5. The issuer of a Credit Facility shall not be deemed to be an Owner for purposes of any amendment, change or modification of this Master Declaration which:

A. Would result in a downgrading or withdrawal of the rating then assigned to the affected Bonds by the Rating Agencies; or

B. Changes the maturity (except as expressly permitted herein), the Interest Payment Dates, interest rates, redemption and purchase provisions, and provisions regarding notices of redemption and purchase applicable to the affected Bonds or diminishes the security afforded by such Credit Facility; or

C. Reduces the percentage or otherwise affects the classes of affected Bonds, the consent of the Owners of which is required to effect any such modification or amendment.

12.6. No issuer of a Credit Facility shall be entitled to act as an Owner during any period in which:

A. The issuer's Credit Facility is not be in full force and effect;

B. The issuer of a Credit Facility shall have filed a petition or otherwise sought relief under any federal or state bankruptcy or similar law;

C. The issuer of the Credit Facility shall, for any reason, have failed or refused to honor a proper demand for payment under such Credit Facility; or

D. An order or decree shall have been entered, with the consent or acquiescence of the issuer of a Credit Facility, appointing a receiver or receivers or the assets of the issuer of a Credit Facility, or if such order or decree having been entered without the consent or acquiescence of the issuer of a Credit Facility, shall not have been vacated or discharged or stayed within ninety (90) days after the entry thereof.

12.7. For purposes of determining the percentage of Owners consenting to, waiving or otherwise acting with respect to any matter that may arise under this Master Declaration, the Owners of Bonds which pay interest only at maturity, and mature more than one year after they are issued shall be treated as Owners of Bonds in an aggregate principal amount equal to the accreted value of such Bonds as of the date the notice is sent requesting consent, waiver or other action as provided herein.

Section 13. Defeasance.

13.1. The City shall be obligated to pay Bonds which are defeased pursuant to this Section solely from the money and Government Obligations deposited with the escrow agent or trustee, and the City shall have no further obligation to pay the defeased Bonds from any

source except the amounts deposited in the escrow. Bonds shall be deemed defeased if the City:

A. irrevocably deposits money or noncallable Government Obligations in escrow with an independent trustee or escrow agent which are calculated to be sufficient without reinvestment for the payment of Bonds which are to be defeased;

B. files with the escrow agent or trustee an opinion from an independent, certified public accountant to the effect that the money and the principal and interest to be received from the Government Obligations are calculated to be sufficient, without further reinvestment, to pay the defeased Bonds when due; and

C. files with the escrow agent or trustee an opinion of nationally recognized bond counsel that the proposed defeasance will not cause interest on the defeased Bonds to be includable in gross income under the Code.

Section 14. The Series 2012A Bond.

14.1. Pursuant to the authority of Resolution No. 2012-63 adopted by the City Council on September 10, 2012, Resolution No. 2012-93 adopted by the City Council on October 8, 2012, and this Master Declaration, the City has issued its Water and Sewer System Revenue Refunding Bond, Series 2012A, in the principal amount of $63,360,000. The Series 2012A Bond shall be a Bond as defined in this Master Declaration. The Series 2012A Bond shall bear interest payable on June 1 and December 1 of each year at the following rates, commencing December 1, 2012, and shall mature on June 1, 2025 and shall be subject to payment in installments as follows:

Payment Date	Principal	Interest Rate	Interest
12/1/2012			175,824.01
6/1/2013	2,938,000.00	2.22%	703,296.00
12/1/2013			670,684.20
6/1/2014			670,684.20
12/1/2014			670,684.20
6/1/2015			670,684.20
12/1/2015			670,684.20
6/1/2016			670,684.20
12/1/2016			670,684.20
6/1/2017	11,442,000.00	2.22%	670,684.20
12/1/2017			543,678.00
6/1/2018	10,235,000.00	2.22%	543,678.00
12/1/2018			430,069.50
6/1/2019	9,083,000.00	2.22%	430,069.50
12/1/2019			329,248.20
6/1/2020	8,351,000.00	2.22%	329,248.20
12/1/2020			236,552.10
6/1/2021	5,323,000.00	2.22%	236,552.10
12/1/2021			177,466.80
6/1/2022	5,423,000.00	2.22%	177,466.80
12/1/2022			117,271.50
6/1/2023	5,543,000.00	2.22%	117,271.50
12/1/2023			55,744.20
6/1/2024	3,927,000.00	2.22%	55,744.20
12/1/2024			12,154.50
6/1/2025	1,095,000.00	2.22%	12,154.50

14.2. The Series 2012A Bond is sold to Banc of America Public Capital Corp pursuant to a bond purchase agreement dated October 16, 2012.

14.3. The Series 2012A Bond is subject to prepayment at the option of the City at any time after December 1, 2018, as a whole or in part, at a price of par, plus accrued interest, if any, to the date of prepayment.

14.4. The Series 2012A Bond shall be a special obligation of the City, and shall be payable solely from the Net Revenues and amounts required to be deposited in the Debt Service Account as required and as provided by this Master Declaration. The Series 2012A Bond is not a general obligation of the City and is payable solely from the amounts described in the previous sentence.

14.5. The Series 2012A Bond shall be in the form agreed to by the City Official and shall be signed with the manual signature of the City Official.

14.6. The Series 2012A Bond proceeds shall be applied to refund the following outstanding revenue borrowings of the City:

Name of Series	Issue Date	Outstanding Principal Amount	First Redemption Date
Water and Sewer Revenue Bonds, Series 2003	April 10, 2003	$15,960,000	June 1, 2013
Water and Sewer Revenue Bonds, Series 2005	April 12, 2005	$17,695,000	June 1, 2015
DEQ Loan Agreement No. R80210	October 1, 2002	$3,203,031	October 17, 2012
DEQ Loan Agreement No. R80211	July 1, 2005	$8,232,231	October 17, 2012
DEQ Loan Agreement No. R80212	February 27, 2006	$7,179,275	October 17, 2012
DEQ Loan Agreement No. R80213	December 21, 2006	$8,155,892	October 17, 2012

Section 15. The Series 2012B Bond.

15.1. Pursuant to the authority of Resolution No. 2012-63 adopted by the City Council on September 10, 2012, Resolution No. 2012-93 adopted by the City Council on October 8, 2012, and this Master Declaration, the City has issued its Water and Sewer System Revenue Refunding Bond, Series 2012B, in the aggregate principal amount of $49,361,000. The Series 2012B Bond shall be a Bond as defined in this Master Declaration. The Series 2012B Bond shall bear interest payable on June 1 and December 1 of each year at the following rates, commencing December 1, 2012, and shall mature on June 1, 2016 and shall be subject to payment in installments as follows:

Payment Date	Principal	Interest Rate	Interest
12/1/2012			59,850.21
6/1/2013	11,541,000.00	0.97%	239,400.85
12/1/2013			183,427.00
6/1/2014	14,255,000.00	0.97%	183,427.00
12/1/2014			114,290.25
6/1/2015	12,239,000.00	0.97%	114,290.25
12/1/2015			54,931.10
6/1/2016	11,326,000.00	0.97%	54,931.10

15.2. The Series 2012B Bond is sold to Bank of America, N.A. pursuant to a bond purchase agreement dated October 16, 2012.

15.3. The Series 2012B Bond is subject to prepayment with a prepayment fee as described in the Series 2012B Bond.

15.4. The Series 2012B Bond shall be a special obligation of the City, and shall be payable solely from the Net Revenues and amounts required to be deposited in the Debt Service Account as provided by this Master Declaration. The Series 2012B Bond is not a general obligation of the City and is payable solely from the amounts described in the previous sentence.

15.5. The Series 2012B Bond shall be in the form agreed to by the City Official and shall be signed with the facsimile or manual signature of the Mayor and the City Official.

15.6. The Series 2012B Bond proceeds shall be applied to refund the following outstanding revenue borrowings of the City:

Name of Series	Issue Date	Outstanding Principal Amount	First Redemption Date
Water and Sewer Refunding Revenue Bonds, Series 2002	April 5, 2002	$5,865,000	non-callable
Water and Sewer Refunding Revenue Bonds, Series 2004	October 5, 2004	$39,550,000	May 1, 2014

EXECUTED ON BEHALF OF THE CITY OF SALEM BY ITS CITY OFFICIAL AS OF THE 16th DAY OFOCTOBER, 2012.

City of Salem, Oregon

By: _____
Linda Norris, City Manager