

RESOLUTION NO. 6191

A RESOLUTION AUTHORIZING THE REFUNDING OF WATER REVENUE BONDS TO OBTAIN DEBT SERVICE SAVINGS.

WHEREAS, the City of Albany, Oregon (the "City") currently has outstanding approximately \$30 million of Water System Revenue and Refunding Bonds, Series 2003 (the "Refundable Bonds"); and,

WHEREAS, Oregon Revised Statutes sections 287A.360 through 287A.375 authorize Oregon cities to refund outstanding bonds; and,

WHEREAS, under current market conditions, refunding the Refundable Bonds will produce debt service savings; and,

WHEREAS, the above-referenced statutes and ORS 287A.315 authorize the City to secure refunding bonds with any lawfully available funds of the City and to pledge the City's full faith and credit and taxing power to pay the refunding bonds; and,

WHEREAS, pledging the City's full faith and credit and taxing power, in addition to the net revenues from the water system, to pay the refunding bonds will increase the savings produced by the refunding; and,

WHEREAS, refunding all the Refundable Bonds allows the City to replace the documents under which the Refundable Bonds were issued with a new water system bond master declaration; and,

WHEREAS, it is now desirable for the City to authorize the issuance of full faith and credit refunding bonds to refund the Refundable Bonds as provided in this resolution;

NOW, THEREFORE, BE IT RESOLVED THAT:

Section 1. Authorization. The City Council hereby authorizes the issuance of its full faith and credit water refunding bonds (the "Refunding Bonds") to achieve debt service savings by refunding the Refundable Bonds. The Refunding Bonds shall be sold and issued pursuant to ORS Chapter 287A and as provided in this resolution. The Refunding Bonds may be issued in an amount sufficient to pay and redeem the Refundable Bonds, plus an amount sufficient to pay estimated costs related to the refunding and the Refunding Bonds.

Section 2. Security. The City may pledge its full faith and credit and taxing power to pay the Refunded Bonds, may pledge the net revenues of the water system to pay the Refunded Bonds, and may covenant to maintain rates and limit future borrowings as provided in the master declaration described in Section 3(2), below.

Section 3. The City Manager, the Finance Director or a person designated by either the City Manager or the Finance Director to act on behalf of the City under this resolution (each of whom is referred to herein as a City Official) is hereby authorized, on behalf of the City and without further action by the City Council, to:

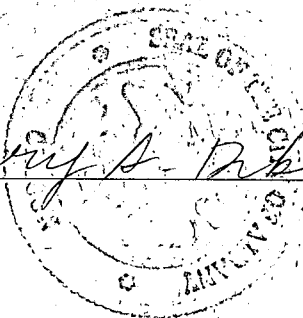
- (1) Issue the Refunding Bonds in one or more series which may be sold at different times.
- (2) Prepare, finalize the terms of, and execute a new master water system bond declaration (the "Master Declaration"), which pledges the revenues of the City's water system, contains covenants regarding the levels of fees and charges that the City must impose for its water system, describes the terms under which the City may issue obligations in the future that are secured by the revenues of the City's water system, specifies the manner in which water system revenues are accounted for and the timing and amount of payments of the revenues, describes the Refunding Bonds, and specifies administrative provisions relating to obligations that are secured by the revenues of the City's water system. The final Master Declaration shall be substantially in the form that was provided to the City Council for the meeting at which this resolution was approved, but with such changes as the City Official may approve.

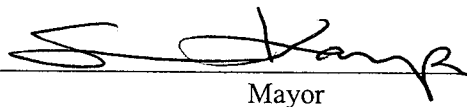
- (3) Participate in the preparation of, authorize the distribution of, and deem final the preliminary and final official statements and any other disclosure documents for each series of the Refunding Bonds.
- (4) Establish the final principal amounts, maturity schedules, interest rates, sale prices, redemption terms, payment terms and dates, record date, and other terms of each series of the Refunding Bonds.
- (5) Publish a notice of sale, receive bids, and award the sale of each series of Refunding Bonds to the bidder complying with the notice and offering the most favorable terms to the City, or select one or more underwriters, commercial banks, or other investors, and negotiate the sale of any series of the Refunding Bonds with those underwriters, commercial banks, or investors.
- (6) Undertake to provide continuing disclosure for each series of the Refunding Bonds in accordance with Rule 15c2-12 of the United States Securities and Exchange Commission.
- (7) Appoint and enter into agreements with a paying agent, verification agent, escrow agent, registrar, and any other professionals and service providers that the City Official determines are desirable in connection with the Refunding Bonds.
- (8) Apply for ratings for each series of Refunding Bonds, determine whether to purchase municipal bond insurance or obtain other forms of credit enhancements for each series of Refunding Bonds, enter into agreements with the providers of credit enhancement, and execute and deliver related documents.
- (9) Determine whether each series of Refunding Bonds will bear interest that is excludable from gross income under the Internal Revenue Code of 1986, as amended, or is includable in gross income under that code. If a series bears interest that is excludable from gross income under that code, the City Official may enter into covenants to maintain the excludability of interest on that series of the Refunding Bonds from gross income.
- (10) File any required advance refunding plans for the Refunding Bonds with the State of Oregon.
- (11) Determine whether the savings produced by refunding are adequate to justify the refunding, and select the outstanding Refundable Bonds that will be refunded.
- (12) Enter into escrow deposit agreements and take any other actions to call, defease and refund any Refundable Bonds that will be refunded.

DATED AND EFFECTIVE THIS 13th DAY OF FEBRUARY 2013.

ATTEST:

City Clerk




Mayor

**MASTER WATER SYSTEM BOND
DECLARATION**

City of Albany, Oregon

Full Faith and Credit Water Refunding Bonds

Series 2013

Executed by the City Official of the City of Albany, Oregon

As of the ___ day of ___, 2013

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MASTER WATER SYSTEM BOND DECLARATION

THIS MASTER WATER SYSTEM BOND DECLARATION is executed as of [Closing Date], 2013, by the City Official of the City of Albany, Oregon to establish the terms under which the City's Full Faith and Credit Water Refunding Bonds, Series 2013 and other obligations secured by liens on the Net Revenues of the City's Water System may be issued.

Section 1. Findings.

The City finds that its City Council adopted Resolution No. ____ on _____, 2013, authorizing the City to issue full faith and credit bonds under Oregon Revised Statutes Sections 287A.360 to 287A.380 and other applicable provisions of Oregon Revised Statutes Chapter 287A, execute this Master Declaration and refund the City's outstanding Water Revenue and Refunding Bonds, Series 2003.

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.

"Annual Debt Service" means in any Fiscal Year the 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, noncontingent redemption or tender shall be deemed to mature on the dates and in the amounts which are subject to mandatory redemption or tender, and only the amount scheduled to be Outstanding on the final maturity date shall be treated as maturing on that date;
- (c) Interest subsidies shall be subtracted from the interest due on Interest Subsidy Obligations as provided in Section 5.5;
- (d) Bonds which are subject to contingent redemption or tender shall be treated as maturing on their stated maturity dates; and,
- (e) 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 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.

“BEO” means “book-entry-only” and refers to a system for clearance and settlement of securities transactions through electronic book-entry changes, which eliminates the need for physical movement of securities.

“Bond Account” means the Bond Account of the Water Fund which is described in Section 4.4.

“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” or “Bonds” means the Series 2013 Bonds and any Parity Bonds.

“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 Council” means the City Council of the City, or its successors.

“City Official” means the City Manager, Finance Director, or designee of the City Manager, as authorized by Resolution No. ____ adopted on _____, 2013.

“City” means the City of Albany in Linn and Benton Counties, Oregon, a municipal corporation of the State of Oregon.

“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 that 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, 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.

“Credit Provider” means the person or entity that is: (i) obligated to make or guarantee payments under a Credit Facility or Reserve Credit Facility; and (ii) whose long-term debt obligations or claims-paying ability (as appropriate) are rated, at the time the Credit Facility or Reserve Credit

Facility is issued, in one of the three highest rating categories by a Rating Agency has issued a rating on Outstanding Bonds. 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 in the "A" category or better.

"Debt Service Account" means the account of that name in the Bond Account. The Debt Service Account is described in Section 4.4.A.

"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 5.4.

"Event of Default" means any event specified in Section 10.2 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.

"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 Water System, including systems development charges for the Water System to the extent those systems development charges can be used to pay Bonds, revenues from product sales, and interest earnings on Gross Revenues in the Water Fund. Gross Revenues shall be increased by any withdrawals from the Rate Stabilization Account as provided in Section 4.6.B, and shall be reduced by any deposits to the Rate Stabilization Account as provided in Section 4.6.A. 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 Water System;

(f) The proceeds derived from the sales of assets pursuant to Section 9.9 of this Master Declaration;

(g) Any ad valorem or other taxes imposed by the City (except charges or payments for Water 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);

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

(j) Any federal interest subsidies the City receives for Interest Subsidy Obligations.

“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.

“Interest Subsidy Obligations” means Bonds for which the City is eligible to receive federal interest rate subsidies that are similar to the interest subsidies that were available for Build America Bonds

“Master Declaration” means this Master Full Faith and Credit Water Refunding Bond Declaration, including any amendments made pursuant to Section 11.

“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 Water 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 Water 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 Water System;

(j) Extraordinary non recurring expenses of the Water System;

(k) Franchise fees and other amounts paid to the City; or

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

“ORS” means the Oregon Revised Statutes.

“Outstanding” refers to all Bonds except Bonds that have been defeased pursuant to Section 12 of this Master Declaration, and Bonds that 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 issued in compliance with Section 6 and is secured on a parity with the Series 2013 Bonds by the Net Revenues that are available to be deposited in the Bond Account.

“Paying Agent” means the paying agent for the Bonds, which is [insert name of paying agent] on the date of this Master Declaration.

“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 Fund pursuant to Section 4.6.

“Rating Agency” means Fitch Investors Service, Inc., Moody’s Investors Service, Standard & Poor’s Corporation, or any other nationally recognized financial rating Agency which has rated Outstanding Bonds or a Credit Facility at the request of the City.

“Record Date” for the Bonds means the fifteenth day of the month preceding the month in which each Interest Payment Date occurs, whether or not a Business Day.

“Reserve Account” means the account of that name in the Bond Account. The Reserve Account is described in Section 4.4.B

“Separate Utility System” means any utility property which is declared by the City to constitute a system which is distinct from the Water System in accordance with Section 8.

“Series 2013 Bonds” means the City’s Full Faith and Credit Water Refunding Bonds, Series 2013 issued pursuant to Section 16 of this Master Declaration.

“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.

“State” means the State of Oregon.

“Subordinate Obligations Account” means the Subordinate Obligations Account of the Water Fund which is described in Section 4.1.

“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 7. On the date of this Master Declaration the City has the following borrowings outstanding with a lien on the Net Revenues which is subordinate to the lien of the Bonds:

“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 11.

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

“Water System” means all utility property now or hereafter used by the City to supply water within or without the corporate limits of the City.

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 Fund, and shall be used only as described in this Section as long as any Bonds remain Outstanding. The City

shall create and maintain the following accounts in the Water Fund: the Bond Account, the Subordinate Obligations Account and the Rate Stabilization Account.

- 4.2. The City shall apply Gross Revenues in the Water Fund on or before the following dates for the following purposes in the following order of priority:
 - A. The City may at any time use Gross Revenues to pay Operating Expenses that are then due;
 - B. On each Payment Date, or any earlier date on which Bond principal, interest and premium, if any, must be transferred to a paying agent to allow the paying agent to pay Bond principal, interest and premium, if any, that is due on that Payment Date, the City shall transfer to the Debt Service Account an amount sufficient 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 dates specified in any proceedings authorizing Parity Bonds that are secured by the Reserve Account, the City shall transfer to that Account or, if applicable, the relevant subaccount therein, the Net Revenues required by those proceedings;
 - D. On any day on which any rebates or penalties for Bonds are required to be paid to the United States pursuant to Section 148 of the Code, 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. On any date, the City may transfer Net Revenues to the Rate Stabilization Account or spend Net Revenues for any other lawful purpose, 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.
- 4.3. The City hereby pledges the Net Revenues and any federal interest subsidies the City receives for Interest Subsidy Bonds to pay the principal of, premium (if any) and interest on all Bonds Pursuant to ORS 287A.310, these pledges made by the City shall be valid and binding from the Closing of the Series 2013 Bonds. The Net Revenues and any federal interest subsidies so pledged and hereafter received by the City shall immediately be subject to the lien of such pledges without any physical delivery or further act. The lien of these pledges 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 these pledges.
- 4.4. **Bond Account.** The City shall create and maintain the Bond Account as long as Bonds are Outstanding. The Bond Account shall contain a Debt Service Account and may contain a Reserve Account.

- A. Net Revenues shall be deposited into the Debt Service as required by Section 4.2.B. Earnings on the Debt Service Account shall be credited to the Debt Service Account. Amounts credited to the Debt Service Account shall be used only to pay, defease, redeem or purchase Bonds. On each Payment Date, or any earlier date on which Bond principal, interest and premium, if any, must be transferred to a paying agent to allow the paying agent to pay Bond principal, interest and premium, if any, that is due on that Payment Date, the City shall apply the amounts in the Debt Service Account to pay the Bond principal, interest and premium, if any, that is due on that Payment Date.
- B. If the City commits to maintain amounts in the Reserve Account to secure Parity Bonds, Net Revenues shall be deposited into the Reserve Account only as permitted by Section 4.2.C. The Reserve Account may be divided into subaccounts, and the City may establish priorities for funding the subaccounts in the Reserve Account. The City is not obligated to maintain any amount in the Reserve Account for the Series 2013 Bonds.
- 4.5. **Subordinate Obligations Account.** The City shall create the Subordinate Obligations Account when the City issues Subordinate Obligations, and shall maintain the Subordinate Obligations Account 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 Account. Net Revenues shall be deposited into the Subordinate Obligations Account only as permitted by Section 4.2.E. Earnings on the Subordinate Obligations Account shall be credited as provided in the proceedings authorizing the Subordinate Obligations.
- 4.6. **Rate Stabilization Account.** The City hereby creates the Rate Stabilization Account in the Water 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 4.2.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 Series 2013 Bonds the City will deposit \$[amount] 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 Fund.

Section 5. Rate Covenant; Calculations Relating to Balloon Indebtedness and Interest Subsidy Obligations.

- 5.1. 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 Water System which are sufficient to permit the City to pay all Operating Expenses and all lawful charges against the Net Revenues, and to make all transfers required by this Master Declaration.
- 5.2. 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 Water System which, when combined with other Gross Revenues, are adequate to generate:
 - A. Net Revenues each Fiscal Year at least equal to one hundred twenty-five percent (125.00%) of Annual Debt Service due in that Fiscal Year; and
 - B. Net Revenues less systems development charges for the Water System for that Fiscal Year that are at least equal to one hundred fifteen percent (115.00%) of Annual Debt Service due in that Fiscal Year.
- 5.3. 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 5.2 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 5.2 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 5.2 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.
- 5.4. The Estimated Debt Service Requirement for Balloon Indebtedness shall be calculated in accordance with this Section 5.4.
 - 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 5.4.C. 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 Sections 5.2 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 5.4.C. The City Official shall prepare that schedule as of the date the Parity Bonds are sold, and that schedule shall be used in preparing the projections and estimates for Parity Bonds that are required by Section 6.

C. 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 first anniversary of 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 5.4.C and is sold at the time the schedule is prepared.

5.5. Interest Subsidy Obligations. The amounts assumed to be paid on Interest Subsidy Obligations shall be calculated as follows:

A. When calculating Annual Debt Service for the rate covenant in Section 5.2, the City shall subtract from interest to be paid on Interest Subsidy Obligations the federal interest subsidies on Interest Subsidy Obligations that the City reasonably expects, at the beginning of the Fiscal Year, to receive during that Fiscal Year.

B. When estimating or projecting Annual Debt Service to make the estimates or projections for Parity Bonds in Section 6, the City shall subtract from the scheduled payments of interest on Interest Subsidy Obligations the amount of federal interest subsidies that the City reasonably expects, at the time the Parity Bonds are issued, to receive.

Section 6. Parity Bonds.

6.1. The City may issue Parity Bonds to provide funds for any purpose relating to the Water 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 deposits required by Section 4.2.C 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 6.2 for the Base Period:

(a) were not less than one hundred twenty-five percent (125%) 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; and

- (b) after deducting systems development charges were not less than one hundred fifteen percent (115%) 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, 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 6.1.C(ii)(a):
 - aa. are at least equal to one hundred twenty-five percent (125%) 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,
 - bb. after deducting systems development charges, are at least equal to one hundred fifteen percent (115%) 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 6.1.C(ii)(a):
 - aa. is at least equal to one hundred twenty-five percent (125%) 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; and
 - bb. after deducting systems development charges, is at least equal to one hundred fifteen percent (115%) 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.

6.2. The City may adjust Net Revenues for purposes of Section 6.1.C(i) by adding any Net Revenues the City Official calculates the City would have had during the Base Period because of increases in Water 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 by eliminating the effect of any withdrawals from or deposits to the Rate Stabilization Account. If the Base Period is not a fiscal year, withdrawals from and deposits to the Rate Stabilization Account for Fiscal Years that are included in the Base Period shall be treated as if they were made in equal, monthly amounts.

6.3. The Qualified Consultant shall calculate Adjusted Net Revenues for purposes of Section 6.1.C(ii) as provided in this Section 6.3:

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 Water System utility properties that are being acquired with Parity Bonds and 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 Water 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 6.3.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 Base Period:

- (i) To reflect any changes that the Qualified Consultant projects will result from the acquisition of Water 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 6.1.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 Water 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 Gross Revenues or Operating Expenses not included in the preceding paragraphs that are projected to result from the completion and operation of additions and extensions to the Water System that were under construction at the beginning of the Base Period, or commenced construction after the beginning of the Base Period.

6.4. The City may issue Parity Bonds to refund Outstanding Bonds without complying with Section 6.1 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.

6.5. All Parity Bonds issued in accordance with this Section 6 shall have a lien on the Net Revenues which is equal to the lien of all other Outstanding Bonds.

Section 7. Subordinate Obligations.

7.1. The City may issue Subordinate Obligations only if:

- A. The Subordinate Obligations are payable solely from amounts permitted to be deposited in the Subordinate Obligations Account pursuant to Section 4.2.E;
- B. 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 8. Separate Utility System.

The City may declare property which the City owns and is part of the Water System (but has a value of less than five percent of the Water System at the time of the declaration), and property which the City has not yet acquired but would otherwise become part of the Water 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 that remain after the deposits required by Section 4.2.E have been made. 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.

Section 9. General Covenants.

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

- 9.1. 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.
- 9.2. The City shall maintain complete books and records relating to the operation of the Water 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.
- 9.3. 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 and Senior Obligations.
- 9.4. 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.
- 9.5. The City shall work in good faith to cause the Water 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 Water System.
- 9.6. The City shall maintain the Water System in good repair, working order and condition.
- 9.7. The City shall not enter into any agreement after the date of this Master Declaration to provide Water System products or services at a discount from published rate schedules or provide free Water System products or services except: a) in case of emergencies, b) where the City exchanges water with other water systems, or c) where in the reasonable judgment of the City such action does not materially reduce the Gross Revenues received by the City.
- 9.8. The City shall at all times maintain with responsible insurers all such insurance on the Water 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 material accident to or material destruction of the Water System shall be used to repair or rebuild the damaged or destroyed Water 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 9.8 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.
- 9.9. 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 Water System except:

- A. The City may dispose of all or substantially all of the Water System, only if the City pays all Bonds or defeases them pursuant to Section 12.
- B. Except as provided in Section 9.9.C, the City will not dispose of any part of the Water System in excess of 5% of the value of the Water 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 Section 5.1 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 Bond Account) that the Gross Revenues attributable to the part of the Water 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 Water System sold or disposed of bears to the book value of the Water System immediately prior to such sale or disposition.
- C. The City may dispose of any portion of the Water System that has become unserviceable, inadequate, obsolete, or unfit to be used or no longer necessary for use in the operation of the Water System.
- D. If the ownership of all or part of the Water System is transferred from the City through the operation of law, 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 10. Events of Default and Remedies.

- 10.1. **Continuous Operation Essential.** The City Council of the City hereby finds and determines that the continuous operation of the Water 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 Water System and the application of the Net Revenues to the operation of the Water System and the payment of the Bonds.

10.2. **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 10.3, 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 20% in aggregate principal amount of the Bonds Outstanding.
- C. If the City shall sell, transfer, assign or convey any properties constituting the Water System in violation of Section 9.9.
- 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 Water 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 Water 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 Water 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 Water System.

10.3. **Exception.** It shall not constitute an Event of Default under 10.2.B if the default cannot practicably be remedied within 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 continues reasonable action to remedy the default until the default is remedied.

10.4. **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 Water 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.

10.5. **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 10.4.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 10 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 5 and that default has not become an Event of Default, that default shall be deemed waived at the end of the first Fiscal Year following that default in which the City has complied with Section 5.

10.6. 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 11. Amendment of Master Declaration.

11.1. 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.
- 11.2. 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.
- 11.3. For purposes of Section 11.2, and subject to Section 11.4, 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.
- 11.4. Except as otherwise expressly provided in Section 11.5, Section 11.6 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;
- 11.5. 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.
- 11.6. 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.
- 11.7. 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 Paying Agent sends out notice of requesting consent, waiver or other action as provided herein.

Section 12: Defeasance.

- 12.1. 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 for the payment of Bonds without reinvestment 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 13. BEO System.

- 13.1. Unless otherwise provided by a Supplemental Declaration, all Bonds shall be subject to the BEO System pursuant to the provisions of this Section 13.1.
- 13.2. The Bonds shall be initially issued as a BEO security issue with no Bonds being made available to the Owners upon the execution and delivery of the letter of representations among the Paying Agent, DTC and the City. Ownership of the Bonds shall be recorded through entries on the books of banks and broker-dealer participants and correspondents that are related to entries on the DTC BEO system. The Bonds shall be initially issued in the form of separate single fully registered typewritten Bonds for each maturity of the Bonds (the "Global Bonds") in substantially the form attached hereto as Appendix A with such changes as the City Official may approve. Each Global Bond shall be registered in the name of CEDE & CO. as nominee (the "Nominee") of DTC (DTC and any other qualified securities depository designated by the City as a successor to DTC, collectively the "Depository") as the "Registered Owner", and such Global Bonds shall be lodged with the Depository until early redemption or maturity of the Bond issue. The Paying Agent shall remit payment for the maturing principal and interest on the Bonds to the Owner for distribution by the Nominee for the benefit of the owners (the "Beneficial Owner" or "Record Owner") by recorded entry on the books of the Depository participants and correspondents. While the Bonds are in BEO form, the Bonds will be available in denominations of \$5,000 or any integral multiple thereof within a maturity.
- 13.3. In the event the Depository determines not to continue to act as securities depository for the Bonds, or the City determines that the Depository shall no longer so act, then the City will discontinue the BEO system with the Depository. If the City fails to designate another qualified securities depository to replace the Depository or elects to discontinue use of a BEO system, the Bonds shall no longer be a BEO issue but shall be registered in the registration books maintained by the Paying Agent in the name of the Owner as appearing on the Bond register and thereafter in the name or names of the Owners of the Bonds transferring or exchanging Bonds.
- 13.4. While the Bonds are in BEO form, the City and the Paying Agent shall have no responsibility or obligation to any participant or correspondent of the Depository or to any Registered Owner on behalf of which such participants or correspondents act as agent for the Owner with respect to:
 - A. The accuracy of the records of the Depository, the Nominee or any participant or correspondent with respect to any ownership interest in the Bonds;

- B. The delivery to any participant or correspondent or any other person, other than an Owner as shown in the registration books maintained by the Paying Agent, of any notice with respect to the Bonds, including any notice of prepayment;
 - C. The selection by the Depository of the beneficial interest in Bonds to be redeemed prior to maturity; or
 - D. The payment to any participant, correspondent, or any other person other than the owner of the Bonds as shown in the registration books maintained by the Paying Agent, of any amount with respect to principal of or interest on the Bonds.
- 13.5. Notwithstanding the BEO system, the City may treat and consider the Owner in whose name each Bond is registered in the registration books maintained by the Paying Agent as the Owner and absolute owner of such Bond for the purpose of payment of principal and interest with respect to such Bond, or for the purpose of giving notices of redemption and other matters with respect to such Bond, or for the purpose of registering transfers with respect to such Bond, or for all other purposes whatsoever. The City shall pay or cause to be paid all principal and interest on the Bonds only to or upon the order of the Registered Owner, as shown in the registration books maintained by the Paying Agent, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligation with respect to payment thereof to the extent of the sum or sums so paid.
- 13.6. Upon delivery by the Depository to the City and to the Owner of written notice to the effect that the Depository has determined to substitute a new nominee in place of the Nominee, then the word "Nominee" in this Master Declaration shall refer to such new nominee of the Depository, and upon receipt of such notice, the City shall promptly deliver a copy thereof to the Paying Agent. The Depository shall tender the Bonds it holds to the Paying Agent for re-registration.

Section 14. Redemption of Bonds.

- 14.1. Unless otherwise provided by a Supplemental Declaration, all Bonds shall be subject to the redemption terms of this Section 14.
- 14.2. The City reserves the right to purchase Bonds in the open market.
- 14.3. If Bonds are subject to mandatory redemption the Paying Agent shall, without further action by the City, select the particular Bonds to be redeemed in accordance with the mandatory redemption schedule, by lot within each maturity, call the selected Bonds, and give notice of their redemption in accordance with this Section 14.
- 14.4. If certain maturities of Bonds are subject to both optional and mandatory redemption, the City may elect to apply any of those Bonds which it has previously optionally redeemed. In addition, if the City purchases Bonds which are subject to mandatory redemption, the City may elect to apply against the mandatory redemption requirement any such Bonds which it has previously purchased. If the City makes such an election, it shall notify the

Paying Agent not less than sixty days prior to the mandatory redemption date to which the election applies.

- 14.5. So long as the BEO System remains in effect with respect to the Bonds, and unless DTC consents to a shorter period, the Paying Agent shall provide not less than 20 days nor more than 60 days notice of redemption, and shall provide such information in connection therewith as required by the letter of representations submitted to DTC in connection with the issuance of the Bonds.
- 14.6. During any period in which the BEO System is not in effect with respect to the Bonds, unless waived by any Owner of the Bonds to be redeemed, official notice of any redemption of Bonds shall be given by the Paying Agent on behalf of the City by mailing a copy of an official redemption notice by first class mail postage prepaid at least 20 days and not more than 60 days prior to the date fixed for redemption to the Owner of the Bonds to be redeemed, at the address shown on the Bond Register or at such other address as is furnished in writing by such owner to the Paying Agent. All such official notices of redemption shall be dated and shall state:
 - A. The redemption date;
 - B. The redemption price;
 - C. If less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed;
 - D. That on the redemption date the redemption price will become due and payable upon each such Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date; and
 - E. The place where such Bonds are to be surrendered for payment of the redemption price, which place of payment shall be the principal office of the Paying Agent.
- 14.7. The City shall deposit with the Paying Agent, on or before the redemption date, an amount of money sufficient to pay the redemption price of all the Bonds or portions of Bonds which are to be redeemed on that date.
- 14.8. Official notice of redemption having been given as aforesaid, the Bonds or portions of Bonds to be redeemed shall, on the redemption date, become due and payable at the Redemption Price therein specified, and from and after such date (unless the City shall default in the payment of the redemption price or unless the notice was conditional as described in Section 14.9) such Bonds or portions of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with said notice, such Bonds shall be paid by the Paying Agent at the Redemption Price. Installments of interest due on or prior to the redemption date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the registered owner a new Bond of the same maturity in the amount of the unpaid principal. All Bonds which have been redeemed shall be canceled and destroyed by the

Paying Agent and shall not be reissued. Notwithstanding that any Bonds called for redemption shall not have been surrendered, no further interest shall accrue on any such Bonds. From and after such notice having been given and such deposit having been made, the Bonds to be redeemed shall not be deemed to be Outstanding hereunder, and the City shall be under no further liability in respect thereof.

- 14.9. Any notice of optional redemption given for the Bonds pursuant to this Section 14 may state that the optional redemption is conditional upon receipt by the Paying Agent of moneys sufficient to pay the redemption price of such Bonds or upon the satisfaction of any other condition, and/or that such notice may be rescinded upon the occurrence of any other event, and any conditional notice so given may be rescinded at any time before payment of such redemption price if any such condition so specified is not satisfied or if any such other event occurs. Notice of such rescission or of the failure of any such condition shall be given by the Paying Agent to affected owners of the Bonds as promptly as practicable.

Section 15. Authentication, Registration and Transfer.

- 15.1. The provisions of this Section 15 apply only if the Bonds cease to be a BEO issue, and unless otherwise specified in a Supplemental Declaration.
- 15.2. No Bond shall be entitled to any right or benefit under this Master Declaration unless it shall have been authenticated by an authorized officer of the Paying Agent. The Paying Agent shall authenticate all Bonds to be delivered at Closing, and shall additionally authenticate all Bonds properly surrendered for exchange or transfer pursuant to this Master Declaration.
- 15.3. All Bonds shall be in registered form. [Paying Agent] is hereby appointed to serve as Paying Agent for the Bonds. A successor Paying Agent may be appointed for the Bonds by ordinance or resolution of the City. The Paying Agent shall provide notice to Owners of any change in the Paying Agent not later than the Payment Date following the change in Paying Agent.
- 15.4. The ownership of all Bonds shall be entered in the Bond register maintained by the Paying Agent and the City and Paying Agent may treat the person listed as owner in the Bond register as the owner of the Bond for all purposes.
- 15.5. The Paying Agent shall mail each interest payment on the Interest Payment Date (or the next Business Day if the Interest Payment Date is not a Business Day) to the name and address of the Owner, as that name and address appear on the Bond register as of the Record Date. If payment is so mailed, neither the City nor the Paying Agent shall have any further liability to any party for such payment.
- 15.6. Bonds may be exchanged for an equal principal amount of Bonds of the same Series and maturity which are in different authorized denominations, and Bonds may be transferred to other owners if the Owner submits the following to the Paying Agent:

- A. Written instructions for exchange or transfer satisfactory to the Paying Agent, signed by the Owner or his attorney in fact and guaranteed or witnessed in a manner satisfactory to the Paying Agent; and
 - B. The Bonds to be exchanged or transferred.
- 15.7. The Paying Agent shall not be required to exchange or transfer any Bonds submitted to it during any period beginning with a Record Date and ending on the next following payment date; however, such Bonds shall be exchanged or transferred promptly following the payment date.
 - 15.8. The Paying Agent shall not be required to exchange or transfer any Bonds which have been designated for redemption if such Bonds are submitted to it during the fifteen-day period preceding the designated redemption date.
 - 15.9. For purposes of this Section, Bonds shall be considered submitted to the Paying Agent on the date the Paying Agent actually receives the materials described in Section 15.6.
 - 15.10. The City may alter these provisions regarding registration and transfer by mailing notification of the altered provisions to all Owners. The altered provisions shall take effect on the date stated in the notice, which shall not be earlier than 45 days after notice is mailed.

Section 16. The Series 2013 Bonds.

16.1. Pursuant to the authority of Resolution No. ____ adopted by the City Council on _____, 2013, and this Master Declaration, the City has issued its Full Faith and Credit Water Refunding Bonds, Series 2013, in the aggregate principal amount of \$[Principal Amount]. The Series 2013 Bonds shall be Bonds as defined in this Master Declaration. The Series 2013 Bonds shall bear interest payable on _____ and _____ of each year at the following rates, commencing _____, 2013, and shall mature in the following years in the following principal amounts:

Maturity Date	Amount (\$)	Rate (%)	CUSIP No.
(_____)			(Base _____)

- 16.2. The Series 2013 Bonds maturing on _____, ____ are subject to redemption at the option of the City prior to their stated maturity dates at any time on or after _____, ____, as a whole or in part, and if in part, with maturities to be selected by the City at a price of par, plus accrued interest, if any, to the date of redemption.
- 16.3. In addition to the pledge of Net Revenues made by Section 4.3 and pursuant to ORS 287A.315 the City pledges its full faith and credit and taxing power to pay the Series 2013 Bonds. If the Net Revenues available in the Bond Account on a Payment Date are not sufficient to pay the Series 2013 Bond principal, interest and premium that is due on that payment date, the City shall use any lawfully available funds to pay the Series 2013 Bonds.
- 16.4. The Series 2013 Bonds shall be in substantially the form attached as Appendix A and shall be signed with the facsimile or manual signature of the Mayor and the City Official.
- A. The Series 2013 Bond proceeds shall be used to refund the City's Water System Revenue and Refunding Bonds, Series 2003, and to pay costs related to the refunding and the Series 2013 Bonds.

EXECUTED ON BEHALF OF THE CITY OF ALBANY BY ITS CITY OFFICIAL AS OF
THE ___ day of ___, 2013.

City of Albany, Oregon

By: _____
City Official

Appendix A

Form of Series 2013 Bond

No. R-«BondNumber»

\$«PrincipalAmtNumber»

United States of America
State of Oregon
Counties of Linn and Benton
City of Albany
Full Faith and Credit Water Refunding Bond
Series 2013

Dated Date: [Closing Date], 2013

Interest Rate Per Annum: «CouponRate»%

Maturity Date: _____, «MaturityYear»

CUSIP Number: _____ «CUSIPNumbr»

Registered Owner: -----Cede & Co.-----

Principal Amount: -----«PrincipalAmtSpelled» Dollars-----

THE CITY OF ALBANY, in Linn and Benton Counties, State of Oregon (the "City"), for value received, acknowledges itself indebted and hereby promises to pay to the Registered Owner hereof, or registered assigns, but solely from the sources indicated below, the Principal Amount on the Maturity Date together with interest thereon from the date hereof at the Interest Rate Per Annum indicated above. Interest is payable semiannually on the ___ days of _____ and _____ in each year until maturity or prior redemption, commencing _____, _____. Payment of each installment of interest shall be made on the payment date to the Registered Owner hereof whose name appears on the registration books of the City maintained by the City's paying agent and registrar, which is currently [Paying Agent] (the "Paying Agent"), as the Registered Owners appear on the registration books as of the 15th day of the month immediately preceding the applicable interest payment date. For so long as this Series 2013 Bond is subject to a book-entry-only system, principal and interest payments shall be paid on each payment date to the nominee of the securities depository for this Series 2013 Bond. On the date of issuance of this Series 2013 Bond, the securities depository for this Series 2013 Bond is The Depository Trust Company, New York, New York, and Cede & Co. is the nominee of The Depository Trust Company. Such payments shall be made payable to the order of "Cede & Co."

This Series 2013 Bond is one of a series of \$[Principal Amount] aggregate principal amount of Full Faith and Credit Water Refunding Bonds, Series 2013 of the City (the "Series 2013 Bonds"), and is issued by the City for the purpose refunding a portion of an outstanding borrowing of the City and paying costs of issuance of the Series 2013 Bonds in full and strict accordance and compliance with all of the provisions of the Constitution and Statutes of the State of Oregon and the charter of the City.

This Series 2013 Bond is payable from the Net Revenues of the Water System as provided in the Master Water System Bond Declaration dated [Closing Date], 2013 (the "Master Declaration"). The City covenants and agrees with the owner of this Series 2013 Bond that it will keep and perform all of the covenants in this Series 2013 Bond and in the Master Declaration. The City has pledged the Net Revenues of the Water System to the payment of principal and interest on this Series 2013 Bond. The City has reserved the right to issue Parity Bonds with an equal lien on the Net Revenues. Pursuant to ORS 287A.315 the City has pledged its full faith and credit and taxing power to pay this Series 2013 Bond. If the Net Revenues available in the Bond Account on a Payment Date are not sufficient to pay the Series 2013 Bond principal, interest and premium that is due on that payment date, the City shall use any lawfully available funds to pay this Series 2013 Bonds.

The Series 2013 Bonds are initially issued as a book-entry-only security issue with no certificates provided to the Series 2013 Bondowners. Records of Series 2013 Bond ownership will be maintained by the Paying Agent and The Depository Trust Company and its participants. Should the book-entry-only security system be discontinued, the City shall cause the Paying Agent to authenticate and deliver replacement Series 2013 Bonds in

fully registered form in authorized denominations in the names of the beneficial owners or their nominees, as provided in the Master Declaration.

The Series 2013 Bonds are subject to optional [and mandatory redemption] as described in the final Official Statement for the Series 2013 Bonds dated _____, 2013.

Unless the book-entry-only system is discontinued, notice of any call for redemption shall be given as required by the Blanket Letter of Representations to The Depository Trust Company, as referenced in the Master Declaration. Interest on any Series 2013 Bond so called for redemption shall cease on the redemption date designated in the notice unless the notice is conditional, as permitted by the Master Declaration. The Paying Agent will notify The Depository Trust Company of any Series 2013 Bonds called for redemption not less than 20 days prior to the date fixed for redemption unless DTC consents to a shorter period. If the book-entry-only system is discontinued, notice of redemption shall be given by first-class mail, postage prepaid at least 20 days and not more than 60 days prior to the date fixed for redemption to the registered owner of each Series 2013 Bond to be redeemed at the address shown on the Series 2013 Bond register.

Any exchange or transfer of this Series 2013 Bond must be registered, as provided in the Master Declaration, upon the Series 2013 Bond register kept for that purpose by the Paying Agent. The exchange or transfer this Series 2013 Bond may be registered only by surrendering it, together with a written instrument of exchange or transfer which is satisfactory to the Paying Agent and which is executed by the registered owner or their duly authorized attorney. Upon registration, a new registered Series 2013 Bond or Series 2013 Bonds, of the same series and maturity and in the same aggregate principal amount, shall be issued to the transferee as provided in the Master Declaration. The Paying Agent and the City may treat the person in whose name this Series 2013 Bond is registered as its absolute owner for all purposes, as provided in the Master Declaration.

Unless this Series 2013 Bond is presented by an authorized representative of The Depository Trust Company to the issuer or its agent for registration of transfer, exchange or payment, and any Series 2013 Bond issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of The Depository Trust Company and any payment is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered owner hereof, Cede & Co., has an interest herein.

This Series 2013 Bond shall remain in the Paying Agent's custody subject to the provisions of the FAST Balance Certificate Agreement currently in effect between the Paying Agent and The Depository Trust Company.

IT IS HEREBY CERTIFIED, RECITED, AND DECLARED that all conditions, acts, and things required to exist, to happen, and to be performed precedent to and in the issuance of this Series 2013 Bond have existed, have happened, and have been performed in due time, form, and manner as required by the Constitution and Statutes of the State of Oregon; that the issue of which this Series 2013 Bond is a part, and all other obligations of such City, are within every debt limitation and other limits prescribed by such Constitution and Statutes.

IN WITNESS WHEREOF, the City Council of the City of Albany, Oregon, has caused this Series 2013 Bond to be signed by facsimile signature of its Mayor and attested by facsimile signature of its City Official as of the date indicated above.

City of Albany, Oregon

Mayor

City Official

THIS SERIES 2013 BOND SHALL NOT BE VALID UNLESS PROPERLY AUTHENTICATED BY THE PAYING AGENT IN THE SPACE INDICATED BELOW.

CERTIFICATE OF AUTHENTICATION

This Series 2013 Bond is one of a series of \$[Principal Amount] aggregate principal amount of Full Faith and Credit Water Refunding Bonds, Series 2013, of the City, issued pursuant to the Master Declaration described herein.

Date of authentication: [Closing Date], 2013.

[Paying Agent], as Paying Agent

Authorized Officer

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto: _____

(Please insert social security or other identifying number of assignee)

this Series 2013 Bond and does hereby irrevocably constitute and appoint _____ as attorney to transfer this Series 2013 Bond on the books kept for registration thereof with the full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name of the registered owner as it appears upon the face of this Series 2013 Bond in every particular, without alteration or enlargement or any change whatever.

NOTICE: Signature(s) must be guaranteed by a member of the New York Stock Exchange or a commercial bank or trust company

Signature Guaranteed

(Bank, Trust Company or Brokerage Firm)

Authorized Officer

The following abbreviations, when used in the inscription on the face of this Series 2013 Bond, shall be construed as though they were written out in full according to applicable laws or regulations.

TEN COM -- tenants in common

TEN ENT -- as tenants by the entireties

JT TEN -- as joint tenants with right of survivorship and not as tenants in common

OREGON CUSTODIANS use the following:

_____ CUST UL OREG _____ MIN

as custodian for _____ (name of minor)

OR UNIF TRANS MIN ACT

under the Oregon Uniform Transfer to Minors Act

Additional abbreviations may also be used though not in the list above.