

RESOLUTION NO. 2580

A RESOLUTION OF THE CITY OF WILSONVILLE, OREGON AUTHORIZING THE REFUNDING OF WATER REVENUE BONDS AND RELATED MATTERS

WHEREAS, on April 4, 2006, the City issued its \$9,325,000 Water System Revenue Refunding Bonds, Series 2006 (the “2006 Bonds”), approximately \$4.1 million of the 2006 Bonds are outstanding, and current interest rates will allow the city to reduce the debt service expense of its water system by refunding the 2006 Bonds; and,

WHEREAS, Columbia State Bank has agreed to loan the city an amount sufficient to refund the 2006 Bonds and pay costs related to the refunding; and,

WHEREAS, Columbia State Bank has agreed that the City will not be required to fund a debt service reserve account in connection with the refunding, increasing the savings that result from the refunding; and,

WHEREAS, ORS 287A.360 authorizes the City to enter into a loan agreement to refund outstanding City bonds;

NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

Section 1. Bonds Authorized.

The City hereby authorizes the City to enter into a loan agreement (the “2016 Agreement”) with Columbia State Bank to refund the 2006 Bonds and to pay related costs. The 2016 Agreement will be a special obligation of the City that is payable solely from the net revenues of the City’s water system, as provided in a Master Water Revenue Bond Declaration (the “Master Declaration”) that the City executes in connection with the 2016 Agreement. The Master Declaration will specify the covenants that the City makes with Columbia State Bank and any revenue bonds that the City may subsequently issue.

Section 2. Security.

The 2016 Bonds shall be special obligations of the City that are payable solely from the net

revenues of the City's water system and proceeds of the 2016 Agreement, as provided in the Master Declaration.

Section 3. Delegation.

The Finance Director of the City or a person designated by the Finance Director to act on behalf of the City under this Resolution (each of whom is referred to in this Resolution as a "City Official") may, on behalf of the City:

- (A) Accept the proposal of Columbia State Bank, with any changes that the City Official may approve, and negotiate the final terms of the 2016 Agreement with Columbia State Bank. If borrowing money from Columbia State Bank proves impractical, the City Official may select another commercial bank or similar entity and enter into the 2016 Agreement with that entity;
- (B) Prepare and execute the 2016 Agreement and the Master Declaration, in substantially the forms attached to this resolution as Exhibits A and B, but with any changes that the City Official may approve;
- (C) Call the 2006 Bonds for redemption and apply the proceeds of the 2016 Agreement to pay and redeem the 2006 Bonds;
- (D) Determine that the 2016 Agreement will bear interest that is excludable from gross income under the Internal Revenue Code of 1986, as amended (the "Code"), and enter into covenants to maintain the excludability of interest on that series of the 2016 Agreement from gross income;
- (E) Designate the 2016 Agreement as qualified tax-exempt obligations pursuant to Section 265(b)(3) of the Code;
- (F) Transfer revenues of the water system to pay and redeem the 2006 Bonds, if necessary;
- (G) Execute any documents and take any other action in connection with the 2016 Agreement and the redemption of the 2006 Bonds which the City Official finds will be advantageous to the City.

Section 4. Effective Date.

This Resolution takes effect upon adoption by the City Council.

ADOPTED by the City Council of the City of Wilsonville at a regular meeting thereof this 18th day of April, 2016 and filed with Wilsonville City Recorder this same date.

Tim Knapp, Mayor

ATTEST:

Sandra C. King, MMC, City Recorder

SUMMARY OF VOTES:

Mayor Knapp	Yes
Council President Starr	Yes
Councilor Fitzgerald	Yes
Councilor Stevens	Yes
Councilor Lehan	Yes

2016 WATER SYSTEM LOAN AGREEMENT

\$4,100,000
Dated _____, 2016

This 2016 Water System Loan Agreement is entered into between City of Wilsonville, Oregon (the "City") and Columbia State Bank (the "Bank") as of this ___ day of ____, 2016.

1. Definitions.

For purposes of this 2016 Agreement and unless the context clearly requires otherwise: (i) capitalized terms that are used in this 2016 Agreement but are not defined in this Section 1 shall have the meanings defined for such terms in the Declaration, as defined below in this Section 1, and (ii) the following capitalized terms shall have the following meanings:

"2016 Agreement" means this 2016 Water System Loan Agreement.

"Bank" means Columbia State Bank, its successors and assigns.

"Closing Date" means ____, 2016.

"Declaration" means the City's Master Water Revenue Bond Declaration that is dated as of the Closing Date, as it may be amended or supplemented from time to time pursuant to its terms.

"Interest Rate" means a fixed annual interest rate of [one and ninety-eight hundredths percent (1.98%) per annum], calculated on the basis of a 360-day year consisting of twelve 30-day months. However, Bank may increase the Interest Rate as provided in Section 2.4.

"Maturity Date" means June 1, 2020.

"Outstanding Balance" means, at any time, the Principal Amount, less the sum of all principal repayments which have been received by the Bank.

"Principal Amount" means \$[principal amount].

"Resolution" means the City Resolution No. ____ adopted April 18, 2016, authorizing this 2016 Agreement.

"Special Counsel" means Hawkins Delafield & Wood LLP.

2. Loan.

2.1. The Bank shall advance the Principal Amount to the City on the Closing Date.

2.2. The Outstanding Balance shall bear interest at the Interest Rate from the Closing Date. Interest is payable semiannually on June 1 and December 1 of each year, commencing December 1, 2016. The City shall repay the Principal Amount and the interest in the following installments on the following dates:

<h1 style="margin: 0;">Example</h1>

BOND DEBT SERVICE

Water
Series 2016 Bank Placement

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
12/01/2016			47,997.68	47,997.68	
06/01/2017	979,000	1.980%	40,184.10	1,019,184.10	
06/30/2017					1,067,181.78
12/01/2017			30,492.00	30,492.00	
06/01/2018	1,007,000	1.980%	30,492.00	1,037,492.00	
06/30/2018					1,067,984.00
12/01/2018			20,522.70	20,522.70	
06/01/2019	1,026,000	1.980%	20,522.70	1,046,522.70	
06/30/2019					1,067,045.40
12/01/2019			10,365.30	10,365.30	
06/01/2020	1,047,000	1.980%	10,365.30	1,057,365.30	
06/30/2020					1,067,730.60
	4,059,000		210,941.78	4,269,941.78	4,269,941.78

- 2.3. All unpaid principal, plus accrued interest, shall be paid no later than the Maturity Date.
- 2.4. The Bank may increase the Interest Rate by five percent (5.00%) per annum:
 - (a) While an Event of Default described in Section 10.2.A of the Declaration is continuing with respect to this 2016 Agreement; or
 - (b) As of the date interest paid under this 2016 Agreement ceases to be excludable from gross income under the Code as a result of the City’s failure to comply with Section 7 of this 2016 Agreement.

3. Prepayment.

The City may prepay all or any portion of the Outstanding Balance on any date if the City:

- 3.1. Gives the Bank [two] Business Day’s prior notice; and,
- 3.2. Pays the Bank the amount of the Outstanding Balance that is to be prepaid, plus interest accrued on that amount through the date of prepayment, plus a premium of three percent (3.00%) of the amount of the Outstanding Balance that is to be prepaid.

4. Security for 2016 Agreement.

This 2016 Agreement is a Bond under the Declaration. This 2016 Agreement is a special limited obligation of the City secured solely by pledges of:

- 4.1. the Net Revenues of the Water System as defined and provided in Section 4.3.A of the Declaration.
- 4.2. the proceeds of this 2016 Agreement as defined and provided in Section 4.3.B of the Declaration.

5. Billing.

The Bank shall send the City a bill for the amount due on each 2016 Agreement payment date not later than seven (7) Business Days prior to that payment date.

6. Use of 2016 Agreement Proceeds.

The City shall apply the amount it receives under this 2016 Agreement solely to refund the City's Water System Revenue Refunding Bonds, Series 2006, and pay related costs.

7. Tax-Exemption.

- 7.1. The City agrees to comply with all representations in the Tax Certificate for this 2016 Agreement. The City further covenants for the benefit of the Bank to comply with all provisions of the Code that are required for interest paid pursuant to this 2016 Agreement to be excluded from gross income for federal income tax purposes.
- 7.2. Interest paid pursuant to this 2016 Agreement is exempt from State of Oregon personal income taxes.
- 7.3. The City has designated this 2016 Agreement as a "qualified tax-exempt obligation" under Section 265 of the Code.

8. Representations of the City.

By executing this 2016 Agreement in the space provided below, the City represents to the Bank that:

- 8.1. The City is duly created and existing under the laws of the State of Oregon, has all necessary power and authority to enter into this 2016 Agreement and the Declaration and perform its duties under this 2016 Agreement and the Declaration.
- 8.2. The adoption of the Resolution, the execution of this 2016 Agreement and the Declaration and the performance of the City's obligations under this 2016 Agreement and the Declaration does not conflict in any material respect with, or constitute a material breach of or default under, any law, court decree, administrative regulation, resolution or other agreement to which the City is a party or by which it is bound.
- 8.3. There is no action, suit, proceeding or investigation at law or in equity before or by any court or governmental agency having jurisdiction over the City that is pending or, to the best of the knowledge of the City, is threatened against the City to restrain or enjoin the

execution of this 2016 Agreement or the Declaration, the adoption of the Resolution, or the collection and application of the funds as contemplated by the Resolution, the Declaration and this 2016 Agreement, that, if such matter were adversely decided against the City would, in the reasonable judgment of the City, have a material and adverse effect on the ability of the City to pay the amounts due under this 2016 Agreement.

- 8.4. The City hereby certifies, recites and declares that all things, conditions and acts required by the Constitution and Statutes of the State of Oregon and by this 2016 Agreement and the Declaration to exist, to have happened and to have been performed precedent to and in the execution and the delivery of this 2016 Agreement and the Declaration, do exist, have happened and have been performed in due time, form and manner, as required by law, and that each of this 2016 Agreement and the Declaration is a valid and binding special obligation of the City that is enforceable against the City in accordance with its terms, except to the extent that enforceability may be limited by (i) bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other laws affecting creditors' rights generally; (ii) the application of equitable principles and the exercise of judicial discretion in appropriate cases; (iii) common law and statutes affecting the enforceability of contractual obligations generally; and (iv) principles of public policy concerning, affecting or limiting the enforcement of rights or remedies against governmental entities such as the City.

9. Covenants of the City.

The City covenants for the benefit of the Bank that:

- 9.1. This 2016 Agreement is a "Bond" under the Master Declaration. The City specifically covenants for the benefit of the Bank to comply with the City's obligations under the Master Declaration.
- 9.2. While this 2016 Agreement is in effect and until full and final payment of the principal amount of the 2016 Agreement and all accrued and unpaid interest and fees the City shall provide the Bank with:
- (a) A complete copy of the City's audited annual financial statements for each Fiscal Year, within 210 days following the end of each Fiscal Year.
 - (b) A complete copy of the City's budget for each Fiscal Year no later than 45 days after it is adopted by the City Council.
 - (c) An executed Annual Covenant Compliance Certificate no later than [interval] after the end of each Fiscal Year, in a form satisfactory to the Bank.
 - (d) Such other information as the Bank may reasonably request.

10. Fees, Costs and Expenses.

10.1. Bank Fees and Charges.

- (a) The City will pay the Bank a loan fee of \$1,500 on the Closing Date.
- (b) The City will pay up to \$3,000 for fees and costs of the Bank's counsel in connection with this 2016 Agreement.
- (c) The Bank will not charge the City any other fees or costs in connection with this 2016 Agreement.

10.2. Costs of Enforcement. If either party incurs any expenses in connection with enforcing this 2016 Agreement, or if the Bank takes collection action under this 2016 Agreement, the losing party shall pay to the prevailing party, on demand, the prevailing party's reasonable costs and reasonable attorneys' fees, whether at trial, on appeal, in any bankruptcy or insolvency proceeding or otherwise, including any allocated costs of in-house counsel.

10.3. Other Fees and Costs. The City shall pay the fees and costs of Special Counsel, and any other expenses and costs that the City incurs in connection with this 2016 Agreement.

11. Default.

If an Event of Default occurs the Bank may its rights as an Owner under the Declaration. The amounts due from the City under this 2016 Agreement shall not be subject to acceleration.

12. Defeasance.

This 2016 Agreement may be defeased and deemed paid pursuant to Section 12 of the Declaration.

13. Conditions to the Obligations of the Bank.

13.1. The Bank may refuse to advance funds under this 2016 Agreement unless the Bank has received:

- (a) An opinion of Special Counsel to the effect that:
 - (i) The Resolution has been duly adopted and each of the 2016 Agreement and the Declaration is a valid and legally binding special obligation of the City that is enforceable against the City in accordance with its terms, subject to customary exceptions;
 - (ii) interest paid pursuant to this 2016 Agreement is excludable from gross income under the Code;

- (iii) interest paid pursuant to this 2016 Agreement is exempt from State of Oregon personal income tax; and,
- (iv) The City has designated this 2016 Agreement as a “qualified tax-exempt obligation” under the Code.

(b) A certificate, signed by a City Official and dated as of the Closing Date, that the representations of the City in this 2016 Agreement are true and correct as of the Closing Date.

(c) Such additional legal opinions, certificates, proceedings, instruments or other documents as the Bank, its counsel or Special Counsel may reasonably request to evidence compliance by the City with the legal requirements for execution and delivery of this 2016 Agreement and the due performance or satisfaction by the City of all agreements then to be performed and all conditions then to be satisfied by the City.

14. Assignment.

- 14.1. The Bank has executed and delivered to the City a Qualified Investor Letter in substantially the form attached as Exhibit B.
- 14.2. The Bank may participate interests in this 2016 Agreement to other commercial banks, but only if the Bank retains an interest in this 2016 Agreement, and the City remains entitled to deal exclusively with the Bank. The Bank may not otherwise sell, transfer or assign its rights or obligations under this 2016 Agreement without the prior, written consent of the City.

15. Miscellaneous.

- 15.1. Any notices required to be given pursuant to this 2016 Agreement shall be given to the following addresses:

City: City of Wilsonville
29799 SW Town Center Loop East
Wilsonville, Oregon 97070
Attn.: Finance Director

Bank: Columbia State Bank
1000 SW Broadway, Suite 1100
Portland, Oregon 97205
Attn.: Senior Vice President

- 15.2. All representations, warranties, and agreements contained in this 2016 Agreement shall survive the execution, delivery and payment of this 2016 Agreement. This 2016 Agreement shall constitute a contract between the City and the Bank. The Bank's extension of credit hereunder is expressly made in reliance on such contract.

- 15.3. This 2016 Agreement shall be governed and interpreted in accordance with the laws of the State of Oregon.
- 15.4. The Bank irrevocably consents to the exclusive personal jurisdiction of the state and federal courts located in the State of Oregon in any action brought under this 2016 Agreement, and in any action based upon the transactions encompassed by this 2016 Agreement, whether or not based in contract.

16. Severability and Waivers.

If any part of this 2016 Agreement is not enforceable, the rest of the 2016 Agreement may be enforced. The Bank retains all rights, even if it makes a loan after default. If the Bank waives a default, it may enforce a later default. Any consent or waiver under this 2016 Agreement must be in writing.

17. Counterparts.

This 2016 Agreement may be executed simultaneously in several counterparts, each of which shall be an original and all of which shall constitute one and the same agreement.

18. Written Agreements.

Under Oregon law, most agreements, promises and commitments made by the Bank concerning loans and other credit extensions which are not for personal, family or household purposes or secured solely by the borrower's residence must be in writing, express consideration and be signed by the Bank to be enforceable.

[The remainder of this page is left blank intentionally.]

DATED as of the __ day of April, 2016.

Columbia State Bank

By: _____
Authorized Officer

Name: _____

Title: _____

[The signature of the City appears on the following page.]

DATED as of the ____ day of April, 2016.

City of Wilsonville, Oregon

By: _____
City Official

[The signature of the Bank appears on the preceding page.]

Exhibit A
Covenant Compliance Certificate
City of Wilsonville
2016 WATER SYSTEM LOAN AGREEMENT

The City of Wilsonville, Oregon, (the “City”) has entered into the 2016 Water System Loan Agreement (the “2016 Agreement”) with Columbia State Bank as of April __, 2016. Capitalized terms used in this certificate have the meanings defined for such terms in the 2016 Agreement. On behalf of the City I hereby certify as follows:

1. No Event of Default has occurred and is continuing.

2. Net Revenues for the most recently completed Fiscal Year (Fiscal Year 20__-20__) were at least equal to one hundred twenty-five percent (125.00%) of Annual Debt Service due in that Fiscal Year. Net Revenues for that Fiscal Year were approximately \$_____ and Annual Debt Service due in that Fiscal Year was approximately \$_____.

3. Net Revenues for the most recently completed Fiscal Year (Fiscal Year 20__-20__), less systems development charges that were included in Gross Revenues for that Fiscal Year, were at least equal to one hundred ten percent (110.00%) of Annual Debt Service due in that Fiscal Year. Net Revenues for that Fiscal Year, less systems development charges that were included in Gross Revenues for that Fiscal Year, were approximately \$_____.

Dated as of _____.

City of Wilsonville, Oregon

By: _____
City Official

QUALIFIED INVESTOR LETTER

\$4,100,000

CITY OF WILSONVILLE

2016 WATER SYSTEM LOAN AGREEMENT

Dated _____, 2016

The undersigned, a duly authorized representative of Columbia State Bank (the “Bank”), hereby certifies as follows with respect to the Bank’s 2016 Water System Loan Agreement (the “2016 Agreement”) with the City of Wilsonville, Oregon (the “Borrower”):

1. The Bank is an organization that falls within one of the following categories:

(a) a bank as defined in Section 3(a)(2) of the Securities Act of 1933 as amended (the “Securities Act”);¹ or

(b) a savings and loan association or other institution described in Section 3(a)(5)(A) of the Securities Act,² whether acting in its individual or fiduciary capacity; or

(c) a “Qualified Institutional Buyer” as that term is defined in Rule 144A under the Securities Act.

2. The Bank has sufficient knowledge and experience in financial and business matters, including purchase and ownership of tax-increment backed borrowings and tax-exempt obligations, to be able to evaluate the risks and merits of the lending represented by the 2016 Agreement.

3. The Bank has made its own independent and satisfactory inquiries related to the execution and performance of the 2016 Agreement to which a reasonable lender would attach significance in making lending decisions, and of any other matters deemed to be relevant to a reasonably informed decision to execute the 2016 Agreement.

¹ A “bank” is defined in Section 3(a)(2) of the Securities Act as “any national bank, or any banking institution organized under the laws of any State, territory, or the District of Columbia, the business of which is substantially confined to banking and is supervised by the State or territorial banking commission or similar official; except that in the case of a common trust fund or similar fund, or a collective trust fund, the term “bank” has the same meaning as in the Investment Company act of 1940 [15 U.S.C.A. §80a-1 et. seq.]”

² A “savings and loan association or other institution described in Section 3(a)(5)(A) of the Securities Act” is a savings and loan association, building and loan association, cooperative bank, homestead association, or similar institution, which is supervised and examined by State or Federal authority having supervision over any such institution.

4. The Bank has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Borrower, the use of the proceeds of the 2016 Agreement, and the 2016 Agreement, all so that as a reasonable lender the Bank has been able to make a reasonably informed decision to execute the 2016 Agreement.

5. The Bank is entering into the 2016 Agreement for its own account (and not as an “underwriter” or “Participating Underwriter” as defined in the Securities and Exchange Commission Rule 15c2-12, as amended, replaced or supplemented) and does not presently intend to transfer, otherwise distribute or sell the 2016 Agreement or any portion thereof to the general public or any other party.

6. The Bank acknowledges that its right to sell and transfer the 2016 Agreement is limited as provided in Section 14 of the 2016 Agreement.

7. The Bank acknowledges that (a) the 2016 Agreement has not been registered under the Securities Act of 1933, as amended, and has not been registered or otherwise qualified for sale under the securities laws of any state, (b) the 2016 Agreement will not be listed on any securities exchange, (c) the 2016 Agreement will carry no rating from any rating service, and (d) there is no established market for the 2016 Agreement and that none is likely to develop. The Bank understands and acknowledges that (i) the 2016 Agreement is not intended to be subject to the requirements of Rule 15c2-12 promulgated under the Securities Exchange Act of 1934, as amended and (ii) in connection with the Bank’s execution of the 2016 Agreement, the Borrower has not prepared or caused to be prepared, any official statement, private placement memorandum or other offering document.

8. The Bank agrees that it will comply with any applicable state and federal securities law in effect with respect to the initial purchase of the 2016 Agreement and in effect with respect to any disposition of the 2016 Agreement by it, and further acknowledges that any current exemption from registration of the 2016 Agreement does not affect or diminish such requirements.

9. Hawkins Delafield & Wood LLP (“Bond Counsel”) will not have any responsibility to the Bank for the accuracy or completeness of information obtained by the Bank from any source regarding the Borrower, the projects financed with the 2016 Agreement or the Borrower’s financial condition, or regarding the ability of the Borrower to pay the 2016 Agreement, or the sufficiency of any security therefore. The Bank acknowledges that, as between the Bank and Bond Counsel, the Bank has assumed responsibility for obtaining such information and making such review as the Bank deemed necessary or desirable in connection with its decision to purchase the 2016 Agreement.

Dated as of the __ day of April, 2016.

Columbia State Bank

Sharon Guisande, Senior Vice President



March 29, 2016

Susan Cole
Finance Director
City of Wilsonville

Sent via Electronic email – cole@ci.wilsonville.or.us

Re: City of Wilsonville – Water Revenue Refunding Bonds, Series 2016.

Dear Susan:

Thank you for giving Columbia State Bank the opportunity to present you with this proposal for lending services. We are truly proud of our record of excellent customer service and expert consultation, and would be honored to provide the same services to your organization.

We are confident that you will find the enclosed proposal will meet your needs. Being a community bank with a local presence, we keep your money working in your community.

Note: The attached Commitment Letter Terms will float until a closing date has been set and rate has been locked.

Please feel free to contact me directly should you have any questions.

A handwritten signature in blue ink that reads 'Sharon Capizzo Guisande'.

Sincerely,

Sharon Capizzo Guisande
Senior Vice President
Columbia State Bank
sguisande@columbiabank.com
503-279-3906



LOAN PROPOSAL

This proposal is presented for discussion purposes only. It is not a commitment to lend by Columbia State Bank ("Bank"). If Bank does extend a loan commitment, terms and conditions will be subject to completion of due diligence, Bank's credit and documentation standard, necessary credit approval, market conditions and other considerations determined by Bank, including pricing and financial covenants. Following are the general terms and conditions based on preliminary information provided:

Borrower:	City of Wilsonville
Purpose:	Refund existing 2006 Bonds and pay cost of issuance.
Loan Type	Fully Amortizing Term Loan.
Amount:	\$4,100,000.
Maturity:	4-year fully amortized – fixed rate. Maturity June 1, 2020.
Advances:	Single advance at closing.
Repayment:	Principal payments due annually on June 1, beginning June 1, 2017. Interest payments due semi-annually on June 1 and December 1, beginning December 1, 2016.
Prepayment Fee:	Prepayment will be allowed on any payment date with a 3% prepayment fee.
Rate:	Tax-exempt Bank Qualified 4-year fixed rate of 1.98%. Rate will float until closing date is set and rate is locked.
Fees:	\$1,500.00 loan fee, plus Bank's out of pocket expenses for documentation review by Bank's Counsel. Bank's counsel review fees not to exceed \$3,000.00 and assumes all documents are prepared by Borrower's Counsel. Borrower shall pay the fees and costs of its counsel. All Bank fees are due at closing.
Collateral:	The City hereby pledges the Net Revenues to pay the principal of, premium (if any) and interest on all Bonds Pursuant to ORS 287A.310, this pledge made by the City shall be valid and binding from the Closing of the 2016 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. When the 2006 Bonds are paid, the lien of this pledge shall be superior to all other claims and liens except liens and claims for the payment of Operating Expenses. Capitalized terms used in this Section and the following section have the

meanings given in the Master Water Revenue Bond Declaration adopted for issuance of the City's Water Revenue Refunding Bonds, Series 2016, reviewed and approved by Bank (the "Master Declaration").

First priority pledge of the Debt Service Account and Reserve Account that are included in the Bond Account.

The City hereby pledges the proceeds of the 2016 Bonds to pay the 2016 Bonds. Pursuant to ORS 287A.310, this pledge made by the City shall be valid and binding from the Closing of the 2016 Bonds. The proceeds so pledged shall immediately be subject to the lien of such pledge without any physical delivery or further act, and the lien of this pledge shall be superior to all other claims and liens.

The 2016 Bonds are payable from the following sources:

- The Net Revenues.
- Unused proceeds of the 2016 Bonds

Other Conditions:

City shall place proceeds from this 2016 Bond in escrow to defease the 2006 Bonds in full when due.

Representations and

Warranties:

Usual and customary for transactions of this type.

Covenants:

Covenants and Covenant Calculations are to be consistent with those covenants and definitions as stated in the Master Declaration.

Usual and customary covenants for transactions of this type will include but are not limited to the following:

Copy of signed Minutes approving the refunding.

Copy of signed Resolution approving the refunding.

No event of default and all conditions satisfied to issue additional debt.

Facility payments are not subject to appropriation.

City will maintain in the Reserve Account Maximum Annual Debt Service Reserve for all Outstanding Bonds.

City will certify annually that the 1.25x test of Net Revenues to Annual Debt Service has been met and that all covenants have been met.

The City may issue parity debt only if all covenants as outlined in the Master Declaration have been met.

The City may issue Subordinate Obligations as outlined in the Master Declaration.

The City may issue subordinate obligations which have a lien on the Pledged collateral which is subordinate to the lien of these Bonds.

The City may not issue any Bonds that would be considered superior to this debt.

All covenants will be consistent with the Master Declaration.

Events of Default:

Usual and customary in transactions of this type. In addition to other legal remedies, if an event of default occurs due to (i) nonpayment of principal, interest, fees or other amounts when due, or (ii) failure to maintain the tax-exempt status of the 2016 Bond, then the Bank may increase the interest rate by an additional five percentage points (5%).

Reporting

Requirements:

Annually:

CPA Audited fiscal yearend financial statements for the City no later than 180-days after fiscal year end.

Copy of the approved and adopted budget for the City no later than 45-days after FYE.

Annual Covenant Compliance Certificate.

Such other financial information as may be reasonably requested by the Bank from time to time.

Other requirements:

Documents to be prepared by City's Bond Counsel.

Loan subject to documentation acceptable to Bank, Bank Counsel, and City's Bond Counsel.

City's Bond Counsel to provide validity and enforceability opinions as to the resolution, Master Declaration and other documents authorizing debt issuance and as to the 2016 Bonds; and a tax opinion acceptable to the Bank and Bank Counsel.

Final approved Master Declaration acceptable to Bank, Bank Counsel, and City's Bond Counsel.

Commitment Letter terms will float until a closing date has been set and then the fixed interest rate will be locked.

This proposal contains confidential and proprietary loan structuring and pricing information. Except for disclosure on a confidential basis to your accountants, attorneys and other professional advisors retained by you in connection with the credit facilities contained in this proposal or as may be required by law, the contents of this proposal may not be disclosed in whole or in part to any other person or entity without our prior written consent, provided that nothing herein shall restrict disclosure of information relating to the tax structure or tax treatment of the proposed credit facility.

Under Oregon law, most agreements, promises, and commitments made by us, Columbia State Bank, concerning loans and other credit extensions which are not tied to personal, family or household purposes or secured solely by the borrower's residence must be in writing, express consideration and be signed by us to be enforceable.

MASTER WATER REVENUE BOND DECLARATION

City of Wilsonville, Oregon

2016 Water System Loan Agreement

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

As of the __ day of _____, 2016

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MASTER WATER REVENUE BOND DECLARATION

THIS MASTER WATER REVENUE BOND DECLARATION is executed as of _____, 2016, by a City Official of the City of Wilsonville, Oregon to establish the terms under which the City's 2016 Water System Loan Agreement 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:

- 1.1. The City's Water System Revenue Refunding Bonds, Series 2006 (the "2006 Bonds") are the only obligations of the City that are currently outstanding and are secured by a pledge of the City's water revenues. The 2006 Bonds were issued under City Resolution No. 1675, as amended, which was initially adopted on October 2, 2000. Resolution 1675 established the terms under which the City may issue obligations in the future that are secured by the revenues of the City's water system.
- 1.2. When all the 2006 Bonds are paid the City will cease to be bound by the terms of Resolution No. 1675, and may enter into new covenants with the purchasers of obligations that are secured by the revenues of the City's Water System.
- 1.3. The City has entered into the 2016 Water System Loan Agreement (the "2016 Agreement") with Columbia State Bank to refund and pay all the City's outstanding 2006 Bonds. Refunding the 2006 Bonds with the 2016 Agreement will reduce the City's debt service expense.
- 1.4. The 2016 Agreement is a "bond" as defined in ORS 287A.001(3)(a), and the City is authorized by ORS 287A.360 to 287A.375 to issue bonds to refund outstanding City bonds.
- 1.5. The City now executes this Master Declaration to establish the terms under which the City will operate its water system and pay the 2016 Agreement and any obligations on a parity with the 2016 Agreement.

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.

"2006 Bonds" means the City's Water System Revenue Refunding Bonds, Series 2006, which are refunded by the 2016 Agreement.

“2016 Agreement” means the City’s 2016 Water System Loan Agreement that is dated as of April __, 2016 and is executed by the City and the Bank. The 2016 Agreement is a “Bond” under this Master Declaration.

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

“Bank” means Columbia State Bank, the lender under the 2016 Agreement.

“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 Account” means the Bond Account of the Water Fund which is described in Section 4.6.

“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 2016 Agreement 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, the Finance Director or the person designated by the City Manager to act on behalf of the City under this Master Declaration.

“City” means the City of Wilsonville in Clackamas and Washington 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.

“Debt Service Account” means the account of that name in the Bond Account. The Debt Service Account is described in Section 4.6.A.

“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. 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.

“Master Declaration” means this Master Water 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 paid, Bonds that have been defeased pursuant to Section 12 of this Master Declaration, and bearer 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 the entity entitled to be paid principal and interest on a Bond, or the paying agent for such an entity. The Owner of the 2016 Agreement is the Bank.

“Parity Bond” means any obligation that is issued in compliance with Section 6 and is secured on a parity with the 2016 Agreement by the Net Revenues that are available to be deposited in the Bond Account.

“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.

“Reserve Account” means the account of that name that the City may elect to create in the Bond Account.

“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” 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 no 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, including the City’s share of any jointly owned facilities. However, the Water System does not include any Separate Utility System, any power

generating facilities which are operated in connection with assets which are part of the Water System, or any share of jointly owned facilities which is the responsibility of another party.

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 and the Subordinate Obligations 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, 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 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. Pledges:
- A. The City hereby pledges the Net Revenues to pay the principal of, premium (if any) and interest on all Bonds Pursuant to ORS 287A.310, this pledge made by the City shall be valid and binding from the Closing of the 2016 Agreement. 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. When the 2006 Bonds are paid the lien of this pledge shall be superior to all other claims and liens except liens and claims for the payment of Operating Expenses.
- B. The City hereby pledges the proceeds of the 2016 Agreement to pay the 2016 Agreement. Pursuant to ORS 287A.310, this pledge made by the City shall be valid and binding from the Closing of the 2016 Agreement. The proceeds so pledged shall immediately be subject to the lien of such pledge without any physical delivery or further act, and the lien of this pledge shall be superior to all other claims and liens.
- C. 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. The City hereby irrevocably calls all outstanding 2006 Bonds for redemption on June 1, 2016.
- 4.5. On the date of this Master Declaration the City shall irrevocably deposit 2016 Bond proceeds and other City funds with the paying agent for the 2006 Bonds in an amount sufficient to pay all principal and interest that is due on the 2006 Bonds from the date of this Master Declaration through June 1, 2016, the date on which all 2006 Bonds have been called for redemption.
- 4.6. **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 Account 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 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 2016 Agreement.

- 4.7. **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.

Section 5. Rate Covenant.

- 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 that are at least equal to one hundred twenty-five percent (125.00%) of Annual Debt Service due in that Fiscal Year; and
 - B. Net Revenues each Fiscal Year, less systems development charges that were included in Gross Revenues for that Fiscal Year, that are at least equal to one hundred ten percent (110.00%) 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.

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;
 - C. There shall have been filed with the City either:
 - (i) a certificate of a City Official stating that Net Revenues (adjusted as provided in Section 6.2) for the Base Period and less systems development charges that were included in Gross Revenues for that Base Period, were not less than one hundred ten percent (110.00%) of the Maximum Annual Debt Service on all Outstanding Bonds, with the proposed Parity Obligations treated as Outstanding, and that the Net Revenues (adjusted as provided in Section 6.2) for the Base Period were at least equal to one hundred twenty-five percent (125.00%) of the Maximum Annual Debt Service on all Outstanding Bonds, with the proposed Parity Obligations treated as Outstanding; or,
 - (ii) a certificate or opinion of a Qualified Consultant stating:
 - (a) the amount of the Adjusted Net Revenues computed as provided in Section 6.3 below; and,
 - (b) that the amount shown in Section 6.1.C(ii)(a) is not less than one hundred twenty-five percent (125.00%) of the Maximum Annual Debt Service on all Outstanding Bonds, with the proposed Parity Obligations treated as Outstanding.
- 6.2. **Adjustments to Net Revenues.** Net Revenues may be adjusted 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 took effect after the beginning of the Base Period. However, no adjustment shall be made for these increases unless they have been approved by the Council prior to delivery of the Proposed Parity Obligations and are required to take effect no later than sixty days after the delivery of the proposed Parity Obligations.
- 6.3. **Adjusted Net Revenues.** A Qualified Consultant may compute Adjusted Net Revenues for purposes of Section 6.1.C(ii) taking the Net Revenues for the Base Period, less systems development charges that were included in Gross Revenues for that Base Period, and making any or all of the following adjustments:

- A. if the Bonds are being issued for the purpose of acquiring operating Water System utility properties having an earnings record, the Qualified Consultant may estimate the effect on the Net Revenues for the Base Period as if the Water System utility properties had been part of the Water System during the Base Period. The estimate shall be based on the operating experience and records of the City and any available financial records relating to the Water System utility properties which will be acquired.
 - B. Adjustments to reflect any changes in rates and charges which were not in effect during the entire Base Period, and which
 - (i) are in effect on the date of sale and delivery of the Bonds, or
 - (ii) are to go into effect not later than twelve months after such date.
 - C. to add the lesser of: one-half of the average annual system development charges that were included in Gross Revenues for the three most recently completed Fiscal Years; or, fifteen percent of Maximum Annual Debt Service on all Outstanding Bonds, with the proposed Parity Obligations treated as Outstanding;
 - D. to reflect any customers added to the Water System after the beginning of the Base Period and prior to the date of the Qualified Consultant's certificate; or,
 - E. if extensions of or additions to the Water System are in the process of construction on the date of the Qualified Consultant's certificate, or if the proceeds of the Bonds being issued are to be used to acquire or construct extensions of or additions to the Water System, to reflect any additional Net Revenues not included in the preceding paragraphs that will be derived from such additions and extensions (after deducting the estimated increase in operating and maintenance expenses resulting from such additions and extensions).
- 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 city's 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.
- 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 the Bank while it is the owner of the 2016

Agreement, and 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 the Bank only if the amendments take effect after all 2016 Agreement cease to be Outstanding.
- 11.2. This Master Declaration may be amended for any other purpose only upon consent of the Owners of not less than fifty-one percent (51%) in aggregate principal amount of any other Bonds Outstanding. In addition, while the Bank owns the 2016 Agreement the consent of the Bank shall be required for an amendment under this Section 11.2. However, no amendment under this Section 11.2 shall be valid 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 all affected Owners; or
 - B. Reduces the percent of Owners required to approve Supplemental Declarations, without the consent of all affected Owners.
- 11.3. For purposes of Section 11.2, 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.

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, without reinvestment, for the payment of Bonds when due of the 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 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. The 2016 Agreement.

Pursuant to the authority of Resolution No. ___ adopted by the City Council on ___, 2016, and this Master Declaration, the City has executed the 2016 Agreement. The 2016 Agreement is a Bond under this Master Declaration. No deposit is required to be made to, or maintained in, the Reserve Account in connection with the 2016 Agreement. Proceeds of the 2016 Agreement shall be used to refund the 2006 Bonds, and to pay related costs.

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EXECUTED ON BEHALF OF THE CITY OF WILSONVILLE BY ITS CITY OFFICIAL AS OF THE __ DAY OF ____, 2016.

City of Wilsonville, Oregon

By: _____
City Official