

**CLEAN WATER
STATE REVOLVING FUND
LOAN AND PLEDGE AGREEMENT**

dated as of November 1, 2013

by and between

Louisiana Department of Environmental Quality

and the

City of Shreveport, State of Louisiana

relating to the issuance of:

\$5,000,000

Taxable Utility Revenue Bonds
(LDEQ Sewer Project) Series 2013
of the
City of Shreveport, State of Louisiana

Loan No. CS221870-01

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LOAN AND PLEDGE AGREEMENT

This **LOAN AND PLEDGE AGREEMENT**, which shall be dated for convenience as of November 1, 2013, by and between:

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY (the "Department"), an executive department and agency of the State of Louisiana, whose mailing address is P.O. Box 4303, Baton Rouge, La. 70821-4303, attn: Clean Water State Revolving Fund, appearing herein through Vince Sagnibene, Undersecretary, duly authorized hereunto pursuant to an executive order of the Secretary of the Department dated August 24, 2011, and

THE CITY OF SHREVEPORT, STATE OF LOUISIANA (the "City"), a political subdivision of the State of Louisiana, whose mailing address is P.O. Box 31109, Shreveport, Louisiana 71130, appearing herein through Cedric B. Glover, its Mayor, and Arthur G. Thompson, its Clerk of Council, both duly authorized hereunto pursuant to a General Bond Resolution and a Thirtieth Supplemental Ordinance (Ordinance No. 77 of 2013) adopted by the governing authority of the City on June 12, 1984, and July 23, 2013, respectively,

WITNESSETH:

WHEREAS, the United States of America, pursuant to the Clean Water Act of 1972, as amended by the Water Quality Act of 1987, specifically Subchapter VI, Chapter 26 of Title 33 of the United States Code (the "Federal Act"), is authorized to make capitalization grants to states to be used for the purpose of establishing a water pollution control revolving fund for providing assistance (i) for construction of treatment works (as defined in Section 1292 of the Federal Act) which are publicly owned, (ii) for implementing a management program under Section 1329 of the Federal Act and (iii) for developing and implementing a conservation and management plan under Section 1330 of the Federal Act; and

WHEREAS, in order to be eligible to receive such capitalization grants, a state must first establish a water pollution control revolving loan fund to be administered by an instrumentality of the state with such powers and limitations as may be required to operate such fund in accordance with the requirements and objectives of the Federal Act; and

WHEREAS, the State of Louisiana (the "State"), pursuant to Subtitle II, Chapter 14 of Title 30 of the Louisiana Revised Statutes of 1950, as amended, specifically La. R.S. 30:2301, *et seq.* (the "State Act"), has established a Clean Water State Revolving Fund in the custody of the Department (the "State Revolving Fund") to be used for the purpose of providing financial assistance for the improvement of wastewater treatment facilities in the State, as more fully described in Section 2302 of the State Act, and has authorized the Department to administer the State Revolving Fund in accordance with applicable federal and state law; and

WHEREAS, the City has made application to the Department for a loan from the State Revolving Fund to finance a portion of the costs of constructing and acquiring improvements, extensions and replacements to its sewerage system, as are generally described in Exhibit A hereto (the "Project"); and

WHEREAS, the Department has approved the City's application for a loan from the State Revolving Fund to finance the costs of the Project; and

WHEREAS, in accordance with Section 1383(g) of the Federal Act, the Department has established a priority list under Section 1296 of Title 33 of the United States Code, and the Project is on such list; and

WHEREAS, the City, by virtue of a General Bond Resolution and a Thirtieth Supplemental Ordinance (Ordinance No. 77 of 2013) adopted by the governing authority of the City on June 12, 1984, and July 23, 2013, respectively, has authorized the incurring of debt and the issuance of its Taxable Utility Revenue Bonds (LDEQ Sewer Project) Series 2013 in an amount not to exceed \$5,000,000 (the "Bonds"), for the purpose of paying costs of the Project, which Bonds are proposed to be purchased by the Department using available moneys in the State Revolving Fund;

NOW, THEREFORE, the Department and the City each agree to perform their respective obligations under this Loan Agreement in accordance with the conditions, covenants and procedures set forth herein and in the exhibits attached hereto and made a part hereof as follows:

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ARTICLE I

DEFINITIONS AND INTERPRETATION

SECTION 1.01. Definitions. The following terms used in this Loan Agreement shall have the following meanings, unless the context clearly requires otherwise:

"Administrative Fee" means the annual fee equal to one-half of one percent (0.5%) *per annum* of the outstanding principal amount of the Bonds, or such lesser amount as the Department may approve from time to time, which shall be payable each year in two equal semi-annual installments on each Interest Payment Date of the Bonds.

"Authorized Officer" means the officer or officers of the City who have executed this Loan Agreement, or their successors in office, or such other person or persons authorized pursuant to a resolution or ordinance of the Governing Authority to act as an authorized officer of the City to perform any act or execute any document relating to the Loan, the Bonds or this Loan Agreement.

"Authorizing Ordinance" means the General Bond Resolution and a Thirtieth Supplemental Ordinance (Ordinance No. 77 of 2013) adopted by the governing authority of the City on June 12, 1984, and July 23, 2013, respectively, authorizing the issuance of the Bonds and authorizing the sale of the Bonds to the Department, as they may be supplemented, modified or amended from time to time in accordance with their terms.

"Bonds" shall mean the City's Taxable Utility Revenue Bonds (LDEQ Sewer Project) Series 2013, in an amount not to exceed Five Million Dollars (\$5,000,000), which indebtedness is being issued by the City pursuant to the Authorizing Ordinance for the purpose of paying Costs of the Project, sold to the Department and purchased by the Department from moneys in the State Revolving Fund.

"City" means the City of Shreveport, State of Louisiana, a political subdivision of the State of Louisiana, and its successors or assigns.

"Code" means the Internal Revenue Code of 1986, as the same may be amended and supplemented from time to time, including any regulations promulgated thereunder or any administrative or judicial interpretations thereof.

"Commitment Agreement" means Commitment Agreement entered into between the Department and the City in connection with the Loan, including the exhibits attached thereto, as it may be supplemented, modified or amended from time to time in accordance with the terms thereof.

"Completion Date" means the earlier of (i) the date of the final disbursement of the purchase price of the Bonds to the City, or (ii) the date that operation of the Project is initiated or capable of being initiated, as certified by an Authorized Officer in accordance with Section 6.06.

"Construction Fund" means the fund or account to be established in accordance with the City's customary accounting practices, into which each installment of the purchase price of the Bonds is to be deposited, and from which Costs of the Project will be disbursed by the City.

"Contingencies Fund" means the fund or account to be established or maintained in accordance with the City's customary accounting practices, for the purpose of providing a reserve for contingencies relating to the System, as set forth in the Authorizing Ordinance.

"Costs of the Project" means, with reference to the Project, all capital costs incurred or to be incurred for the Project, including but not limited to (a) engineering, financing, legal and other fees and expenses related to the engineering and design of the Project and related to the issuance of the Bonds, (b) acquisition and construction costs of the Project, (c) interest on the Bonds during construction, if specifically approved by the Department, and (d) a reasonable allowance for contingencies, all to the extent permitted by the Federal Act, the State Act and any rules or regulations promulgated thereunder.

"Debt Service Fund" means the fund or account to be established or maintained in accordance with the City's customary accounting practices, into which the City will periodically deposit funds for the payment of principal, Administrative Fee and interest on the Bonds, in the manner set forth in the Authorizing Ordinance.

"Default" means an event or condition, the occurrence of which would constitute with the lapse of time or the giving of notice or both an Event of Default with respect to the Bonds.

"Delivery Date" means the date on which the Bonds are delivered to the Department and the first installment of the purchase price therefor is paid by the Department to the City.

"Department" means the Louisiana Department of Environmental Quality, an executive department and agency of the State, and any successor to the duties and functions thereof.

"Engineer" means a consulting engineer or firm of consulting engineers registered and licensed by the Louisiana Professional Engineering and Land Surveying Board, or its successor in function, as a professional engineer and selected by the City for the purpose of providing engineering services with respect to the Project. If the City employs a qualified in-house engineer, then such personnel may be the Engineer hereunder with the approval of the Department.

"EPA" means the United States Environmental Protection Agency or any successor entity which may succeed to the administration of the programs established by the Federal Act.

"Event of Default" means any occurrence or event specified in Section 10.01.

"Federal Act" means the Clean Water Act of 1972, as amended by the Water Quality Act of 1987, specifically Subchapter VI, Chapter 26 of Title 33 of the United States Code, and other statutory and regulatory authority amendatory or supplemental thereto.

"Fiscal Year" means the City's one-year accounting period determined from time to time by the Governing Authority as the fiscal year of the City.

"Funds and Accounts" collectively means the Construction Fund, the Revenue Fund, the Debt Service Fund, the Reserve Fund and the Contingencies Fund.

"Governing Authority" means the City Council of the City or its successor in function.

"Interest Payment Date" shall mean each date on which interest on the Bonds is payable, the first of which shall occur not more than six (6) months after the delivery of the Bonds to the Department and which shall occur semi-annually thereafter until the Bonds are paid in full, as determined by mutual agreement of the City and the Department on the date of delivery of the Bonds and designated in the Bonds.

"Loan" means the loan made by the Department from the State Revolving Fund to the City pursuant to this Loan Agreement, the obligation to repay which Loan is evidenced by the Bonds.

"Loan Agreement" means this Loan and Pledge Agreement, including the exhibits attached hereto, as it may be supplemented, modified or amended from time to time in accordance with the terms hereof.

"Loan Amount" means the maximum amount that the Department has agreed to loan the City, being the authorized principal amount of the Bonds.

"Outstanding" when used with respect to the Bonds, as of the date of determination, means all Bonds theretofore issued and delivered under the Authorizing Ordinance except:

- (a) Bonds that have been cancelled or delivered to the Paying Agent for cancellation;
- (b) Bonds that have been defeased in accordance with Section 4.02;
- (c) Bonds in exchange for or *in lieu* of which other Bonds have been registered and delivered pursuant to the Authorizing Ordinance; or
- (d) Bonds alleged to have been mutilated, destroyed, lost or stolen which have been paid as provided in the Authorizing Ordinance or by law.

"Parity Obligations" means the City's outstanding "Prior Lien Bonds" issued pursuant to the aforesaid General Bond Resolution adopted on June 12, 1984, and also listed on Exhibit D to the Thirtieth Supplemental Ordinance (Ordinance No. 77 of 2013), as well as any additional *pari passu* indebtedness, if any, issued by the City and payable from the same source of revenues on a parity with the Bonds and said Parity Obligations in the manner set forth in the Authorizing Ordinance.

"Paying Agent" means the person designated as paying agent and registrar in the Authorizing Ordinance, unless and until a successor Paying Agent shall have assumed such responsibilities pursuant to the applicable provisions of the Authorizing Ordinance and thereafter "Paying Agent" shall mean such successor Paying Agent.

"Plans and Specifications" means the drawings, elevations, shop drawings and accompanying specifications for work prepared by the Engineer for the City relating to the Project or any portion thereof.

"Principal Payment Date" means each annual principal payment date on the Bonds, which dates are set forth in the Authorizing Ordinance, the first of which shall occur no later than one (1) year after the Completion Date and the last of which shall occur no later than twenty (20) years after the Completion Date.

"Project" means the improvements to the System generally described in Exhibit A hereto, which are being financed through the issuance of the Bonds.

"Regulations" means the regulations of the Department adopted pursuant to and in furtherance of the Clean Water Act of 1972, as amended by the Water Quality Act of 1987, and the State Act, as such may be amended from time to time, including, without limitation Title 33, Part IX, Chapter 21 of the Louisiana Administrative Code (L.A.C. 33:IX.2101, *et seq.*).

"Reserve Fund" means the fund or account to be established or maintained in accordance with the City's customary accounting practices, into which there shall be deposited from available funds of the City, in the manner set forth in the Authorizing Ordinance (but not from the proceeds of the Loan unless specifically approved by the Department), a sum equal to the Reserve Fund Requirement, as defined in the Authorizing Ordinance.

"Revenue Fund" means the fund or account to be established or maintained in accordance with the City's customary accounting practices, into which all revenues of the System shall be deposited in the manner set forth in the Authorizing Ordinance.

"Scheduled Completion Date" means the date presently estimated by the City and the Engineer to be the Completion Date, which is April 30, 2015.

"State" means the State of Louisiana.

"State Act" means La. R.S. 30:2301, *et seq.* and other constitutional and statutory authority supplemental thereto.

"State Revolving Fund" means the Clean Water State Revolving Fund administered, operated and maintained by the Department pursuant to the Federal Act and the State Act.

"System" means the City's revenue-producing combined waterworks plant and system and sewer plant and system, as said combined system now exists, and as it may be hereafter improved, extended or supplemented while any of the Bonds remain outstanding, as more fully described in the Authorizing Ordinance.

"User Fees" means charges or fees levied on users of the System for the cost of operation, maintenance and replacement of the System, for the repayment of debt incurred with respect to the System and for such other purposes as may be determined by the Governing Authority from time to time.

SECTION 1.02. Rules of Interpretation

(a) Unless the context clearly indicates to the contrary, the following rules shall apply to the interpretation and construction of this Loan Agreement:

- (1) words importing the singular number shall include the plural number and *vice versa*;
- (2) all references to particular articles or sections herein are references to articles or sections of this Loan Agreement;
- (3) the captions and headings herein are solely for convenience of reference and shall not constitute a part of this Loan Agreement, nor shall they affect its meaning, construction or effect;
- (4) the terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar terms as used in this Loan Agreement refer to the Loan Agreement in its entirety and not the particular article or section of this Loan Agreement in which they appear; and
- (5) the term "hereafter" means after the date of execution of this Loan Agreement and the term "heretofore" means before the date of the execution of this Loan Agreement.

(b) In the event that any provisions of the Authorizing Ordinance conflict with any provision of this Loan Agreement, then the provisions of this Loan Agreement shall control.

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ARTICLE II

REPRESENTATIONS OF THE DEPARTMENT

SECTION 2.01. Representations of the Department. The Department represents and covenants as follows:

(a) The Department is authorized by the State Act to administer, operate and maintain the State Revolving Fund in full compliance with the Federal Act, as amended, and the requirements of the EPA promulgated thereunder.

(b) The Department has complied with the provisions of the Federal Act and the State Act and all regulations thereunder with respect to the State Revolving Fund and has full power and authority to execute and deliver this Loan Agreement and to consummate the transactions contemplated hereby and perform its obligations hereunder.

(c) The Department, by executive order of its Secretary, being the chief executive officer thereof, has authorized the execution, delivery and due performance of this Loan Agreement and the taking of any and all actions as may be required on the part of the Department to carry out, give effect to and consummate the transactions contemplated hereby and all approvals necessary in connection with the foregoing.

(d) There is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body pending or threatened against or affecting the Department or to the best knowledge of the Department is there any basis therefor, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated hereby or which in any way would adversely affect the validity of this Loan Agreement or any agreement or instrument to which the Department is a party and which is used or contemplated for use in consummation of the transactions contemplated hereby.

(e) The execution and delivery by the Department of this Loan Agreement and the consummation of the transactions contemplated hereby will not violate any indenture, mortgage, deed of trust, note, loan agreement, or other contract or instrument to which the Department is a party or by which it is bound, and to the best of the Department's knowledge any judgment, decree, order, statute, rule or regulation applicable to the Department and all consents, approvals, authorizations and orders of governmental or regulatory authorities which are required for the consummation of the transactions contemplated hereby have been obtained.

(f) The Department has determined that the Project, subject to final review of the Plans and Specifications, is eligible for financial assistance from the State Revolving Fund, and the Project is listed on the State's priority list as required by Section 1383(g) of the Federal Act.

SECTION 2.02. Representations of the City. The City represents and covenants as follows:

(a) The City is a political subdivision of the State and has full legal right and authority and all necessary licenses and permits required as of the date hereof to own, operate and maintain the System, to carry on its activities relating thereto, to execute and deliver this

Loan Agreement, to execute, issue and deliver the Bonds, to pledge the revenues necessary to secure the payment of the Bonds, to undertake and complete the Project and to carry out and consummate all transactions contemplated by this Loan Agreement.

(b) The proceedings of the Governing Authority approving this Loan Agreement and the Bonds and authorizing their execution, issuance and delivery by the City and authorizing the City to undertake and complete the Project, including, without limitation the Authorizing Ordinance, have been duly and lawfully adopted in accordance with the laws of the State, including the Open Meetings Law (R.S. 42:4.1, *et seq.*).

(c) The Thirtieth Supplemental Ordinance (Ordinance No. 77 of 2013) was duly adopted by the Governing Authority and was published in the official journal of the City no less than 30 days prior to the delivery date of the Bonds, and since the said publication no actions or proceedings have been filed or threatened contesting the legality of the Authorizing Ordinance, the Bonds or any provision for payment of the Bonds.

(d) This Loan Agreement and the Bonds have been duly authorized and have been or will be duly executed and delivered by the Authorized Officer, and assuming that the Department has all the requisite power and authority to authorize, execute and deliver and has duly authorized, executed and delivered this Loan Agreement, this Loan Agreement and the Bonds will constitute the legal, valid and binding obligations of the City, enforceable in accordance with their respective terms.

(e) To the best of the City's knowledge, there is no fact that the City has not disclosed to the Department in writing on the City's application for the Loan or otherwise that materially adversely affects the properties, activities, prospects or condition (financial or otherwise) of the City or the System or the ability of the City to make all Loan repayments and otherwise to observe and perform its duties, covenants, obligations and agreements under this Loan Agreement and the Bonds.

(f) To the best of the City's knowledge, the authorization, execution and delivery of this Loan Agreement and the Bonds by the City, the observance and performance by the City of its duties, covenants, obligations and agreements thereunder and under the Authorizing Ordinance and the consummation of the transactions provided for in this Loan Agreement, the Authorizing Ordinance and the Bonds, the compliance by the City with the provisions of this Loan Agreement, the Authorizing Ordinance and the Bonds and the undertaking and completion of the Project will not result in any breach of any of the terms, conditions or provisions of or constitute a default under or result in the creation or imposition of any lien, charge or other encumbrance upon any property or assets of the City pursuant to any ordinance or resolution, trust agreement, indenture, mortgage, deed of trust, loan agreement or other instrument (other than the lien and charge of the Authorizing Ordinance and the Bonds and any ordinance, resolution or indenture which authorized outstanding debt obligations to which the City is a party or by which the City, the System or any of its property or assets may be bound), nor will such action result in any violation of the provisions of any laws, ordinances, resolutions, governmental rules, regulations or court orders to which the City, the System or its properties or operations are subject.

(g) There are no proceedings pending, or to the knowledge of the City threatened, against or affecting the City in any court or before any governmental authority or arbitration board or tribunal that have not been disclosed in writing to the Department in the City's application for the Loan or otherwise that, if adversely determined, would materially adversely affect the properties, activities, prospects or condition (financial or otherwise) of the City or its System or the ability of the City to make all Loan repayments and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement and the Bonds.

(h) To the best of the City's knowledge, no event has occurred and no condition exists that, upon authorization, execution and delivery of this Loan Agreement and the Bonds or receipt of the amount of the Loan, or upon the happening of any such event and the giving of notice and/or the passage of time, would constitute an Event of Default hereunder or under the Authorizing Ordinance. The City is not in violation of and has not received notice of any claimed violation of any term of any agreement or other instrument to which it is a party or by which it or the System or its properties may be bound, which violation would materially adversely affect the properties, activities, prospects or condition (financial or otherwise) of the City or its System or the ability of the City to make all Loan repayments or otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement, the Authorizing Ordinance and the Bonds.

(i) The City has obtained all permits and approvals required to date by any governmental body or officer (and reasonably expects to receive all permits required in the future by any governmental agency) for the making, observance and performance by the City of its duties, covenants, obligations and agreements under this Loan Agreement and the Bonds or for the undertaking or completion of the Project and the financing or refinancing thereof and the City has complied with all applicable provisions of law requiring any notification, declaration, filing or registration with any governmental body or officer in connection with the making, observance and performance by the City of its duties, covenants, obligations and agreements under this Loan Agreement and the Bonds or with the undertaking or completion of the Project and the financing or refinancing thereof. No consent, approval or authorization of, or filing, registration or qualification with any governmental body or officer that has not been obtained is required on the part of the City as a condition to the authorization, execution and delivery of this Loan Agreement and the Bonds, the undertaking or completion of the Project or the consummation of any transaction herein contemplated.

(j) The City is in compliance with all laws, resolutions, ordinances, governmental rules and regulations to which it is subject, the failure to comply with which would materially adversely affect the ability of the City to conduct its activities or undertake or complete the Project, or the condition (financial or otherwise) of the City or its System; and the City has obtained or will obtain all licenses, permits, franchises or other governmental authorizations presently necessary for the ownership of its property or for the conduct of its activities which, if not obtained, would materially adversely affect the ability of the City to conduct its activities or undertake or complete the Project or the condition (financial or otherwise) of the City or its System.

(k) The City has not previously pledged the revenues being used to repay the Bonds to the payment of any indebtedness of the City or any other entity, other than the Parity Obligations defined in Section 1.01 and listed on Exhibit D to the Thirtieth Supplemental Ordinance (Ordinance No. 77 of 2013).

SECTION 2.03. Particular Covenants of the City. The City further covenants and agrees for the benefit of the Department as follows:

(a) The City agrees that the estimated Costs of the Project, as listed in Exhibit C hereto and made a part hereof, is a reasonable and accurate estimation as of the date hereof, and upon direction of the Department will supply the same with a certificate from its Engineer stating that such estimated cost is a reasonable and accurate estimation. With the approval of the State Revolving Fund Engineering Manager, the City and the Department may mutually agree to change the allocation and categories shown in said Exhibit C without the necessity of amending the Loan Agreement.

(b) The City will promptly notify the Department of any material adverse change in the activities, prospects or condition (financial or otherwise) of the City relating to the System or to the ability of the City to make all or any Loan repayments, provide for the payment of Administrative Fees and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement and the Bonds.

SECTION 2.04. Tax-Exempt Status of Department Bonds. The City will not take any action or fail to take any action that could cause any debt obligations now or hereafter issued by or on behalf of the Department to be "arbitrage bonds" or "private activity bonds" under the Code.

The City shall not purchase, pursuant to any arrangement, formal or informal, any debt obligations issued by or on behalf of the Department in an amount related to the amount of the Loan.

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ARTICLE III

LOAN TO CITY; ISSUANCE OF BONDS

SECTION 3.01. Terms of the Loan. The Department hereby agrees to reserve in the State Revolving Fund a sum equal to the Loan Amount from the sums available to the Department or to be received by the Department to be deposited in the State Revolving Fund. The Department further agrees that it will effect the Loan by purchasing the Bonds from the City and paying the purchase price thereof in installments pursuant to this Loan Agreement and the Authorizing Ordinance in accordance with Sections 7.01 and 7.02.

The City will apply the proceeds of the Loan to finance the Costs of the Project, and where applicable, to reimburse the City or any lender for such portion of the Costs of the Project that was paid or incurred by the City or for payment of the cost of which sums were borrowed on an interim basis in anticipation of reimbursement by the Department.

Notwithstanding the foregoing, (i) the Department shall be under no obligation to continue to make disbursements after an Event of Default has occurred and is continuing under the Authorizing Ordinance or this Loan Agreement; and (ii) the Department shall not be obligated to make or continue to make disbursements if funds are not legally available to the Department in the State Revolving Fund to make the Loan or make disbursements pursuant to the Loan. The City shall use the proceeds of the Loan strictly in accordance with the terms of the Authorizing Ordinance and this Loan Agreement.

SECTION 3.02. Issuance of Bonds. As evidence of its obligation to repay the principal and interest of the Loan, and to pay the Administrative Fee, the City contemporaneously herewith has issued and delivered the Bonds to the Department, which Bonds are payable in the manner and from the sources set forth in the Authorizing Ordinance.

SECTION 3.03. Delivery of Documents. On the Delivery Date the City will cause to be delivered to the Department each of the following items:

- (a) the executed opinions of counsel to the City in such form and containing such conclusions as may be reasonably required by the Department, addressed to the Department and the City;
- (b) a certificate or certificates, satisfactory in form and substance to the Department, from an authorized officer of the City, dated the Delivery Date, to the effect that:
 - (i) each of the representations of the City set forth herein and in the Commitment Agreement is true, accurate and complete in all material respects as of the Delivery Date, and each of the agreements of the City set forth in the Loan Agreement to be complied with at or prior to the Delivery Date has been complied with as of such date;
 - (ii) no litigation is pending, or to the knowledge of the authorized officer is threatened, to restrain or enjoin the issuance, execution, sale or delivery of the Bonds or in any way contesting or affecting any authority for or the validity of the

Bonds, the Loan Agreement, the Authorizing Ordinance or the creation, existence or powers of the City or the title of the present officers of the City, or any of them, to the respective offices and that none of the proceedings or authority for the issuance of the Bonds have been repealed, revoked or rescinded; and

- (iii) the Bonds have been duly authorized, executed and delivered by the City, constitute valid and legally binding obligations of the City and are entitled to the security of and are secured by the Authorizing Ordinance which, together with the Loan Agreement have been duly authorized, executed and delivered by the City;

- (c) a tax compliance or use of proceeds certificate executed by a duly authorized officer of the City in form and substance satisfactory to the Department and an opinion of bond counsel acceptable to the Department;

- (d) executed originals of the Bonds and the Loan Agreement and a certified copy of the Authorizing Ordinance;

- (e) executed originals of a Site Certificate, an Engineer's Certificate and a Certification Regarding Cross-Cutting Federal Authorities, in substantially the forms attached to the Commitment Agreement; and

- (f) such additional certificates, instruments and other documents, dated as of the Delivery Date or before, as the Department or its counsel reasonably require to evidence the truth and accuracy as of the Delivery Date of the representations of the City herein contained and contained in the Loan Agreement and the due performance and satisfaction by the City at or prior to such time of all agreements to be performed and all conditions then to be satisfied by the City.

SECTION 3.04. Interest and Principal Payments. The Bonds shall be payable as set forth in the Authorizing Ordinance and as follows:

- (a) Interest shall be payable semiannually in arrears on each Interest Payment Date based on the amount of the Loan theretofore paid by the Department to the City and not yet repaid; and

- (b) Principal shall be payable annually on each Principal Payment Date in the amounts set forth on Exhibit B hereto. Exhibit B has been prepared assuming that the full amount of the Bonds will be disbursed and that the City will not have prepaid any of the Bonds in advance of maturity. In the event that less than the full amount of the Loan is made to the City, or any of the principal of the Bonds is prepaid, then the payment schedule shown as Exhibit B will be adjusted in the manner set forth in the Authorizing Ordinance and in this Loan Agreement.

Promptly after the payment of the final installment of the purchase price of the Bonds, the completion certificate required by Section 6.06 shall be attached to and made a part of the Bonds.

In the event that any installment of principal, interest or Administrative Fee shall become past due for a period in excess of fifteen (15) days from the payment date specified herein, in addition to interest continuing to accrue on the principal amount due until the payment thereof,

the City shall pay upon demand an amount equal to five percent (5%) of the amount of such past-due installment to defray the expenses of handling the delinquent payment.

SECTION 3.05. Prepayment of Bonds. The Department acknowledges that the Bonds are subject to prepayment at the times and in the manner set forth in the Bonds and in the Authorizing Ordinance. In addition to the principal and interest on such prepayment date, the City shall pay to the Department the amount of the Administrative Fee that has accrued on the amount prepaid from the most recent date on which any Administrative Fee was paid.

Prepayment shall be applied first to the Administrative Fee, second to accrued interest on the portion of the Bonds to be redeemed, then to any redemption or prepayment premium and finally to principal.

SECTION 3.06. Administrative Fee. The Administrative Fee shall be payable to the Department on each Interest Payment Date. The City's obligation to pay the Administrative Fee shall be terminated upon the sale or other disposition of the Bonds by the Department, other than a pledge or assignment of the Bonds or this Loan Agreement pursuant to Section 11.01, or upon full payment by the City of the Bonds and all amounts owed the Department under this Loan Agreement. In the event that the Administrative Fee is declared illegal or unenforceable by a court or administrative body of competent jurisdiction, the interest rate borne by the Bonds shall be increased by one half of one percent (0.50%) *per annum*, effective as of the date declared to be the date from which the Administrative Fee is no longer owed because of such illegality or unenforceability.

SECTION 3.07. Manner of Repayment. Payment of the principal, interest and Administrative Fee, shall be made by immediately available funds or mailed and/or made available to the Department no later than the applicable payment date at the following address:

Department of Environmental Quality
Attn: Financial Services Division, Accounts Receivable
P. O. Box 4311
Baton Rouge, Louisiana 70821-4311

or such other address as may be designated by the Department, without presentation or surrender of the Bonds, except upon final payment. If acceptable to the Department, the City may make arrangements to make such payments by wire transfer of immediately available funds.

Payments with respect to the Bonds shall be applied first to the interest due to the date of payment, next to principal and thereafter to the Administrative Fees and other amounts payable on the Loan and the payment of principal and interest shall be recorded on a payment record to be kept and maintained by the Department.

SECTION 3.08. Disclaimer of Warranties and Indemnification. The City acknowledges and agrees that:

(a) the Department and the State make no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for particular purpose or

fitness for any use of the System, the Project or any portions thereof or the Plans and Specifications or any other warranty or representation with respect thereto;

(b) in no event shall the Department or the State be liable or responsible for any direct, incidental, indirect, special or consequential damages in connection with or arising out of this Loan Agreement or the Project or the existence, furnishings, functioning or use of the System or the Project or any item or products or services provided for in this Loan Agreement, including the Plans and Specifications; and

(c) to the extent authorized by law, the City hereby indemnifies, saves and holds harmless the Department and the State against any and all claims, damages, liability and court awards, including costs, expenses and attorney fees, incurred as a result of any act or omission by the City, or its employees, agents or subcontractors pursuant to the terms of this Loan Agreement, including but not limited to failure of the Department to note any defect in materials or workmanship or of physical conditions or failure to comply with any plans, specifications, drawings, ordinances, statutes or other requirements of a governmental authority, or to call to the attention of any person whatsoever, or take any action, or to demand that any action be taken, with regard to any such defect or failure or lack of compliance.

SECTION 3.09. Registration. The City agrees to initially prepare, keep, and maintain books and records reflecting the authorization, issuance, transfer and assignment of the Bonds and has appointed the Paying Agent in the Authorizing Ordinance to do so. A successor paying agent may be appointed in the manner set forth in the Authorizing Ordinance, provided, however, that in no event shall the Department be liable for the payment of any fees of such Paying Agent

SECTION 3.10. Lost, Destroyed or Improperly Cancelled Bonds. In case any of the Bonds shall become lost, destroyed or improperly cancelled, such Bonds may be replaced pursuant to any applicable terms of the Authorizing Ordinance, or in the absence of any such terms, in the manner set forth in R.S. 39:971, *et seq.*, or other applicable laws.

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ARTICLE IV

PAYMENT OF BONDS; DEFEASANCE

SECTION 4.01. Pledge of Revenues. The Bonds, and to the extent allowed by applicable law all other sums due pursuant to this Loan Agreement, including the Administrative Fee, equally with the Parity Obligations, if any, shall be secured and payable from a pledge and dedication of the revenues of the combined water and sewerage system, after payment of the reasonable and necessary expenses of operating and maintaining the System. Subject to the terms of the Authorizing Ordinance, the net revenues of the System shall be set aside in the Funds and Accounts described in the Authorizing Ordinance and shall be and remain so pledged for the security and payment of the Bonds in principal and interest, until the Bonds shall be fully paid and discharged, as provided in the Authorizing Ordinance. The City agrees that it shall not further encumber the pledged revenues, to the payment of any indebtedness having an equal or superior lien to that enjoyed by the Bonds, other than through the issuance of Parity Obligations, or junior lien obligations, in the manner and under the conditions provided in the Authorizing Ordinance.

SECTION 4.02. Defeasance. Notwithstanding any defeasance procedures set forth in the Authorizing Ordinance, so long as the Bonds are owned by the Department or pledged as security for any indebtedness issued by or on behalf of the Department, the Bonds may be defeased and may be deemed to be paid and shall no longer be considered Outstanding under the Authorizing Ordinance and under this Loan Agreement, only in the event that the City has complied with the requirements of Chapter 14 of Title 39 of the Louisiana Revised Statutes of 1950, as amended (La. R.S. 39:1441 *et seq.*), or any successor provision thereto, to defease all remaining scheduled payments of principal, interest and Administrative Fees on the Bonds.

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ARTICLE V

FUNDS AND ACCOUNTS

SECTION 5.01. Funds and Accounts. For the purpose of receiving purchase price payments of the Bonds and paying Costs of the Project, the City has established and agrees to maintain the Construction Fund to be administered in the manner set forth herein and in the Authorizing Ordinance. Additionally, for the payment of and further security for the principal, interest and Administrative Fee on the Bonds, the City has established and agrees to maintain the Funds and Accounts to be administered in the manner set forth in the Authorizing Ordinance.

If at any time the Department deems, in its sole discretion, that the depository for any of the aforesaid funds and accounts to be unsatisfactory for whatever reason, then the City agrees that it will transfer any or all of said funds to such depository as may be designated by the Department.

SECTION 5.02. Investments. All moneys in any of the Funds and Accounts shall be invested in investment securities permitted by State law and the Authorizing Ordinance. All income derived from such investments shall be added to the amounts in the respective funds, if required, or to the Revenue Fund or to such funds as may be designated in the Authorizing Ordinance, and such investments shall be liquidated to the extent at any time necessary to apply the proceeds thereof to the purpose for which the respective funds have been created. For the purpose of determining if the required amount is being maintained in any of the funds, such investment securities shall be valued at least annually at the lesser of amortized cost (exclusive of accrued interest) or fair market value.

SECTION 5.03. Notification of Deficiencies. The City shall notify the Department, and as required by R.S. 39:1410.62 the State Bond Commission, in writing, whenever (i) transfers to any fund required to be established by the Authorizing Ordinance or any ordinance or resolution authorizing the issuance of indebtedness of the City have not been made timely or (ii) principal, interest, premiums, or other payments due on the Bonds or any other outstanding indebtedness of the City have not been made timely.

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ARTICLE VI

CONSTRUCTION AND COMPLETION OF THE PROJECT

SECTION 6.01. Plans and Specifications; Construction Contracts. The Plans and Specifications must be submitted to the Department for approval in writing, prior to formal request for bids on a construction contract or contracts. The Plans and Specifications shall comply with all laws, regulations and ordinances including, in particular, all zoning, fire, safety and environmental laws, regulations and ordinances. Contracts for the acquisition, construction and installation of the Project shall be entered into in compliance with Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950, as amended.

As a condition of the Loan, the City will demonstrate to the satisfaction of the Department before issuing an initial work order for construction, that the City has or will have an ownership or such other real interest in the site(s) of the Project, including necessary servitudes and rights-of-way as the Department finds sufficient to assure undisturbed use and possession for the purpose of construction and operation of the Project for the estimated life of the Project. The City agrees to provide the Department with a Site Certificate in substantially the form attached to the Commitment Agreement prior to disbursement by the Department of any Loan proceeds for construction.

The City will exercise its best efforts to initiate construction of the Project within six (6) months after the Delivery Date and in accordance with prudent public utility practice to complete the Project and to so accomplish such completion on or before the Scheduled Completion Date, and to provide from its own financial resources all moneys required to complete the Project in excess of the Loan Amount available hereunder.

SECTION 6.02. Engineer. Prior to signing a construction contract or contracts, the City shall name the Engineer. If so required by the Department, the Engineer shall issue prior to each disbursement request a progress report detailing construction status to date and stating whether construction is within the Project budget. Requisitions for funds during construction, in the form attached hereto as Exhibit D will be executed by the City and certified by the Engineer.

SECTION 6.03. Compliance with Law. If requested by the Department, the City will furnish the Department with evidence that the property and equipment constituting the System, and the proposed and actual use thereof, comply with all laws, ordinances, rules and regulations of all governmental authorities having jurisdiction over the same, including the Regulations, and that there is no action or proceeding before any court, quasi-judicial body or administrative agency at the time of any disbursement by the Department relating to the System.

The City will obtain all necessary approvals from any and all governmental agencies requisite to the completion of the Project in compliance with all federal, State and local laws, ordinances and regulations applicable thereto. Upon completion of the Project the City shall obtain all required permits and authorizations from appropriate authorities as required for operation and use of the Project as contemplated by this Loan Agreement.