

AMENDED AND RESTATED AGREEMENT

for

OPERATIONS, MAINTENANCE AND MANAGEMENT SERVICES
for the

CITY of SANDY, OREGON

NEW

TABLE OF CONTENTS

1. SERVICES AND STANDARD OF PERFORMANCE	4
2. OWNER’S RESPONSIBILITIES	5
3. COMPENSATION AND PAYMENT	6
4. TERM	6
5. INDEMNITY AND LIABILITY	7
6. FINES AND CIVIL PENALTIES	8
7. INSURANCE.....	9
8. LABOR DISPUTES.....	10
9. UNFORESEEN CIRCUMSTANCES	10
10. ACCESS TO FACILITIES AND PROPERTY	10
11. CONTRIBUTIONS TO THE INDUSTRIAL ACCIDENT FUND	11
12. LIENS AND CLAIMS.....	11
13. INCOME TAX WITHHOLDING	11
14. INDEPENDENT CONTRACTOR	11
15. MEDICAL CARE FOR EMPLOYEES	11
16. SAFETY AND HEALTH REQUIREMENTS	11
17. PAYMENT REQUIREMENTS (ORS 2798.220).....	11
18. NONDISCRIMINATION	12
19. FOREIGN CONTRACTOR.....	12
20. TAX LAW COMPLIANCE.....	12
21. HOURS OF WORK	12
22. PUBLIC WORKS.....	12
23. CHANGES	13
24. NO THIRD PARTY BENEFICIARIES	13
25. JURISDICTION	13
26. CONSENT DECREE	13
27. SEVERABILITY AND SURVIVAL.....	13
28. AUTHORITY.....	13
29. NOTICES	14
30. RECORDS	14
31. WORK IS PROPERTY OF OWNER	14
32. VEOLIA TRADE SECRETS AND OPEN RECORD REQUESTS	15
33. OWNER CONFIDENTIALITY	15
34. SUBCONTRACTORS.....	15
35. ASSIGNMENT.....	16

36. OBSERVE ALL LAWS; DUTY TO INFORM.....16
37. MEDIATION/TRIAL WITHOUT A JURY16
38. BINDING AGREEMENT.....17
39. NO WAIVER17
40. ENTIRE AGREEMENT; INTERPRETATION17
41. COUNTERPARTS; ELECTRONIC SIGNATURES17

APPENDIX A - DEFINITIONS

APPENDIX B - SCOPE OF SERVICES

APPENDIX C - CAPACITY AND CHARACTERISTICS

APPENDIX D - LOCATION OF PROJECT

APPENDIX E - COMPENSATION, PAYMENT AND BASE FEE ADJUSTMENT FORMULA

APPENDIX F - PROJECT VEHICLES AND EQUIPMENT

APPENDIX G - PUBLIC WORKS LEGAL REQUIREMENTS

NEW

AMENDED AND RESTATED AGREEMENT FOR OPERATIONS, MAINTENANCE
AND MANAGEMENT SERVICES

THIS AMENDED AND RESTATED AGREEMENT (the “Agreement”) is made and entered into this 1st day of January 2025 (the “Effective Date”), by and between the City of Sandy, Oregon whose address for any formal notice is 39250 Pioneer Blvd, Sandy, OR 97055 (“Owner”) and Veolia Water North America-West, LLC (“VEOLIA”), whose address for any formal notice is 4160 Temescal Canyon Road, Suite 311, Corona, CA 92883 with a contemporaneous copy to: 53 State Street, 14th Floor, Boston MA 02109, Attn: General Counsel. Owner and VEOLIA are each referred to as a “Party” and are collectively referred to as the “Parties.”

STATEMENT OF PURPOSE

WHEREAS, the Owner owns certain facilities and systems which are further described in Appendix C;

WHEREAS, Owner desires to contract with VEOLIA to perform certain operation and maintenance services as further described in Appendix B under the terms and conditions set forth in this Agreement.

WHEREAS, the Owner and VEOLIA are parties to that certain Agreement for Operations, Maintenance and Management Services, dated as of December 19, 2018, as amended by Amendment No. 1 to Agreement for Operations, Maintenance and Management Services, effective as of March 1, 2024, Amendment No. 2 to Agreement for Operations, Maintenance and Management Services, effective as of July 1, 2024, and Amendment No. 3 to Agreement for Operations, Maintenance and Management Services, effective as of October 1, 2024 (collectively, the “Original Agreement”); and

WHEREAS, the Original Agreement contemplates and permits the parties to extend the Original Agreement for another five (5) years beyond the original five-year term; and

WHEREAS, Owner and VEOLIA temporarily extended the term of the Original Agreement in order to effectively negotiate this Agreement; and

WHEREAS, the Owner and VEOLIA wish to continue their working relationship in connection with the Project and amend and restate the Original Agreement with this Agreement.

NOW, THEREFORE, in consideration of the mutual agreements herein contained, and subject to the terms and conditions herein stated, the parties agree to amend and restate the Original Agreement as follows:

1. SERVICES AND STANDARD OF PERFORMANCE

- 1.1. VEOLIA shall, within the design capacity and capability of the Owner’s facilities, perform the services set forth in Appendix B in accordance with applicable law and the requirements set forth in Appendix C.
- 1.2. VEOLIA shall perform the services with the degree of skill and diligence normally employed by operations and maintenance personnel performing the same or similar services under the same conditions.

1.3. VEOLIA shall be responsible for the cost of operation, maintenance and fuel for Owner vehicles and equipment, unless otherwise agreed to between the parties. Owner shall retain title and ownership of such vehicles and equipment. Use of such vehicles and equipment by VEOLIA shall be limited to duties and use within the course and scope of this Agreement. Training for VEOLIA employees and other such activities are not part of the course and scope of this Agreement and therefore Owner vehicles and equipment should not be used for such matters.

2. OWNER'S RESPONSIBILITIES

2.1. Maintain and renew, with respect to all existing portions of the System, warranties, guarantees, easements, permits, authorizations and licenses that have been granted to the Owner, to the extent the maintenance thereof is not a responsibility of VEOLIA hereunder. All land, buildings, facilities, easements, licenses, structures, rights-of-way, equipment and vehicles presently or hereinafter acquired by Owner shall remain the exclusive property of Owner unless specifically provided for otherwise in this Agreement.

2.2. Owner shall pay all amounts associated with the occupancy or operation of the Project and the performance of the obligations as listed in Appendix B including, but not limited to, all excise, ad valorem, property, franchise, occupational and disposal taxes, or other taxes associated with the Project. Taxes imposed upon VEOLIA's net income and/or payroll taxes for VEOLIA's employees are not included.

2.3. Owner shall provide all registrations, licenses and insurance (and shall be responsible for renewals for such registrations, licenses and insurances) for Owner's vehicles and heavy equipment used in connection with the Project.

2.4. Owner shall provide for VEOLIA's use of all vehicles and equipment currently in use at the Project, including the vehicles described in Appendix F. Such vehicles and equipment shall be in road safe condition. As stated above, VEOLIA shall be responsible for the cost of operation, maintenance and fuel, and the safe and legal operation thereof, for such vehicles and equipment, unless otherwise agreed to between the parties. Owner shall retain title and ownership of such vehicles and equipment. Use of such vehicles and equipment by VEOLIA shall be limited to duties and use within the course and scope of this Agreement. The parties may supplement this Agreement to provide for an agreed schedule of replacement of such vehicles and equipment and provision of any other insurance coverage deemed necessary or appropriate.

2.5. Owner shall provide VEOLIA with, and shall be responsible for all costs associated with, all chemicals used in connection with the operation of the Project, and Owner shall provide VEOLIA with a sufficient inventory of such chemicals consistent with standard industry practices; provided, however, that Owner shall not be responsible for ordering dewatering polymer, and such dewatering polymer will be ordered by VEOLIA and the cost of such dewatering polymer will be billed by VEOLIA to Owner at VEOLIA's cost without markup.

2.6. Owner agrees to not offer employment or other compensation to Project Management and Supervisory personnel of VEOLIA directly working on this Project for a period of two (2) years after the end date of this Agreement or said employee's re-assignment from this Project.

2.7. Owner has provided to VEOLIA all data in Owner's possession relating to the Project. VEOLIA will reasonably rely upon the accuracy and completeness of the information provided by the Owner.

- 2.8. Owner confirms that is has not participated in the Aqueous Film-Forming Foam Product Liability Litigation brought against 3M, DuPont, Tyco and any other parties joined therein in the District Court for the District of South Carolina, Master Docket No. 2:18-MN-2873-RMG (the “PFAS Class Actions”) and has not and will not receive settlement funds from the PFAS Class Actions.
- 2.9. A Change in Law, a change in the Owner’s participation status in the PFAS Class Actions or any other PFAS-related class action case or similar litigation, a change in standard industry practices or legal requirements relating to any Hazardous Substances that materially changes the Direct Cost of performing the work, or a change in the levels of Hazardous Substances on, at, under, or affecting the Project that materially changes the Direct Cost of performing the work shall warrant and require the parties to: (i) meet, discuss, and agree to an appropriate adjustment to the Annual Fee and VEOLIA’s time for performance for increases in performance times, resource requirements, financial requirements, costs, or other increases, (ii) discuss capital expenditures and changes to operating expenses as such changes require, and (iii) discuss any other necessary or appropriate amendments to this Agreement. If the parties agree that such adjustments, expenditures, increases, or amendments are necessary to address a Change in Law, a standard industry practice relating to any Hazardous Substances, or the levels of Hazardous Substances on, at, under, or affecting the Project, the parties shall duly execute an amendment to this Agreement reflecting their agreement regarding the same.
- 2.10. If capital upgrades to the facilities are reasonably required in order to comply with changes in standard industry practices or legal requirements relating to any Hazardous Substances, then VEOLIA will not be required to meet such standards until such capital upgrades are made and an appropriate amendment to this Agreement has been executed by the parties. Notwithstanding the foregoing sentence, VEOLIA will use commercially reasonable efforts to ensure facility operations remain compliant with all local, state, and federal rules and regulations to the extent practicable with then-existing Project assets, and to the extent such efforts result in additional Costs for VEOLIA, VEOLIA will be entitled to a Change in Scope.

3. COMPENSATION AND PAYMENT

Compensation for the services is described in Appendix E.

4. TERM

- 4.1. The initial term of this Agreement shall be for five (5) years commencing on the Effective Date.
- 4.2. Either Party may terminate this Agreement for a material breach of this Agreement by the other Party after giving written notice of the breach and allowing the other Party thirty (30) days’ time to correct the breach. Neither Party shall terminate this Agreement without giving the other Party thirty (30) days’ written notice of intent to terminate for failure of the other Party to correct the breach within a reasonable time.
- 4.3. Beginning on the first anniversary of the Effective Date, either Party may terminate this Agreement at its discretion either with or without cause, by giving at least one hundred and twenty (120) days prior written notice.
- 4.4. Upon notice of termination by either Party, VEOLIA shall assist Owner in assuming or transferring the operation of the Project. If additional Cost is incurred by VEOLIA at the request of Owner, Owner shall pay VEOLIA such Cost within 30 (thirty) days of invoice receipt. If requested by Owner, VEOLIA will continue to provide the current operations staff for a period of up to ninety (90) days beyond the date of termination for a pro-rated Base Fee. If the current staff are not

available, VEOLIA will provide an operations staff for a period of up to ninety (90) days beyond the termination for a negotiated fee to include travel, per diem and associated labor costs.

- 4.5. Upon termination of this Agreement and all renewals and extensions of it, VEOLIA will return the Project to Owner in the same condition as it was upon the Commencement Date of this Agreement, ordinary wear and tear and repairs requested by VEOLIA but not approved by Owner excepted. If Owner incurs any additional costs associated with returning the Project to the original condition less ordinary wear and tear, VEOLIA shall pay Owner such costs within thirty (30) days of invoice receipt. Equipment and other personal property purchased by VEOLIA for use in the routine operation or maintenance practices of the Project and billed to the Owner in excess of the Base Fee shall become the property of the Owner upon termination of this Agreement, provided that Owner has reimbursed VEOLIA for such equipment and other personal property. However, any equipment or personal property that is purchased by VEOLIA and not billed to the Owner shall be the property of VEOLIA and shall be removed from the Project by VEOLIA at the termination of this Agreement.
- 4.6. Effect of termination. If the Agreement is terminated before the expiration date, Owner will compensate VEOLIA for work performed up until the effective date of the termination and any payments subject to Sections 4.4 and 4.5. Upon either expiration, timely termination, or early termination of this Agreement, the respective rights and obligations of the parties hereto shall survive such expiration or other termination to the extent necessary to carry out the intentions of the parties and pursue all available rights and remedies under this Agreement.

5. INDEMNITY AND LIABILITY

- 5.1. VEOLIA agrees to indemnify, defend (with counsel reasonably acceptable to Owner) and hold harmless Owner and its officers, officials, employees and agents from and against all liability, loss, damage, expense, costs, including attorney fees, arising out of or associated with VEOLIA's work or duties as described herein, to the extent caused by (1) any willful misconduct or negligent act or omission of VEOLIA, its agents, any of its subcontractors, and anyone directly or indirectly employed by VEOLIA, its agents or its subcontractors, and anyone for whose acts any of them may be liable, (2) the negligent operation of the Project by or under the direction of VEOLIA, or (3) VEOLIA's failure to perform its duties under this Agreement, except to the extent caused by the Owner's willful misconduct or negligent act or omission.
- 5.2. It is understood and agreed that, in seeking the services of VEOLIA under this Agreement, Owner is requesting VEOLIA to undertake inherently unsafe obligations for Owner's benefit involving the presence or potential presence of Hazardous Substances. Therefore, to the fullest extent permitted by law, including the Oregon Constitution and the Oregon Tort Claims Act, Owner agrees to hold harmless, indemnify, and defend VEOLIA from and against any and all fines, claims, losses, damages, liability, and costs, including, but not limited to, costs of defense and costs to investigate, remediate, or otherwise respond to the actual or alleged presence of Hazardous Substances in accordance with applicable laws and regulations, arising out of or in any way connected with the presence, discharge, release, or escape of contaminants of any kind, excepting only such liability as may arise out of the negligent acts or omissions or willful misconduct of VEOLIA, its employees or its subcontractors in the performance of services under this Agreement.
- 5.3. TO THE FULLEST EXTENT OF THE LAW AND NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL OWNER AND ITS OFFICERS, OR EMPLOYEES, ON ONE HAND, OR VEOLIA AND ITS SUBCONTRACTORS OR THEIR OFFICERS OR EMPLOYEES, ON THE OTHER HAND, BE LIABLE TO ONE ANOTHER IN ANY ACTION OR CLAIM FOR SPECIAL, INCIDENTAL, INDIRECT OR

CONSEQUENTIAL DAMAGES OR LOSS OF PROFITS, LOSS OF OPPORTUNITY, LOSS OF PRODUCT OR LOSS OF USE, WHETHER SUCH LIABILITY ARISES IN BREACH OF CONTRACT OR WARRANTY, TORT INCLUDING NEGLIGENCE, STRICT OR STATUTORY LIABILITY, OR ANY OTHER CAUSE OF ACTION. ANY PROTECTION AGAINST LIABILITY FOR LOSSES OR DAMAGES AFFORDED ANY INDIVIDUAL OR ENTITY BY THESE TERMS SHALL APPLY WHETHER THE ACTION IN WHICH RECOVERY OF DAMAGES IS SOUGHT IS BASED ON CONTRACT, TORT (INCLUDING SOLE, CONCURRENT OR OTHER NEGLIGENCE AND STRICT LIABILITY OF ANY PROTECTED INDIVIDUAL OR ENTITY), STATUTE OR OTHERWISE. TO THE EXTENT PERMITTED BY LAW, ANY STATUTORY REMEDIES, WHICH ARE INCONSISTENT WITH THESE TERMS, ARE WAIVED. VEOLIA's responsibility is to operate the facilities in compliance with current laws and regulations, to the extent of the facility's design, capabilities and physical capacity. It is not part of VEOLIA'S scope to test for or eliminate water borne bacteria or viruses except as required by current laws and regulations.

5.4. TO THE FULLEST EXTENT PERMITTED BY LAW AND NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, VEOLIA'S CUMULATIVE LIABILITY FOR PERFORMANCE OR NON-PERFORMANCE OF ANY OBLIGATION ARISING UNDER THE AGREEMENT (WHETHER ARISING UNDER BREACH OF CONTRACT, TORT, STRICT LIABILITY, OR ANY OTHER THEORY OF LAW OR EQUITY) INCLUDING, BUT NOT LIMITED TO ITS INDEMNITY OBLIGATIONS SPECIFIED IN SECTION 5.1 OF THE AGREEMENT, SHALL NOT EXCEED (1) ANY AVAILABLE AND RECOVERED PROCEEDS FROM INSURANCE REQUIRED BY THIS AGREEMENT UP TO THE SPECIFIED LIMITS (WITHOUT REGARD TO THE AMOUNT OF ANY DEDUCTIBLE WHICH MAY BE APPLICABLE UNDER ANY SUCH POLICY) AND (2) TO THE EXTENT INSURANCE IS NOT APPLICABLE, TEN MILLION (\$10,000,000) FOR THE DURATION OF THE AGREEMENT, PROVIDED THAT THE FOREGOING LIMITATION SHALL NOT APPLY TO ANY LOSSES RESULTING FROM THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF VEOLIA IN BREACH OF VEOLIA'S OBLIGATIONS UNDER THIS AGREEMENT. FINES AND CIVIL PENALTIES.

6. FINES AND CIVIL PENALTIES

6.1. VEOLIA shall be liable for fines or civil penalties which may be imposed by a regulatory or enforcement agency for violations occurring on or after the Effective Date, as a result of the failure to comply with the terms and conditions of any duly authorized permit, court order, administrative order, law, statute, or ordinance to the extent resulting from VEOLIA's breach, negligence or willful misconduct during the term of this Agreement (collectively, "Veolia Responsibility"). Owner will assist VEOLIA to contest any such fines in administrative proceedings and/or in court prior to any payment by VEOLIA. VEOLIA shall pay the costs of contesting that portion of such fines that arise due to Veolia Responsibility. Notwithstanding anything contained in this section, VEOLIA's liability for actual monetary stipulated penalties imposed on the City and payable to the U.S. Environmental Protection Agency or State of Oregon pursuant to the Consent Decree (as defined in Section 26 of this Agreement) in connection with discharge violations as set forth in the Consent Decree, shall not exceed (x) \$5,000 for each violation of each daily limit that is due to Veolia Responsibility; (y) \$10,000 for each violation of each weekly or seven-day limit that is due to Veolia Responsibility, pursuant to this section; and (z) \$20,000 for each violation of each monthly or 30-day limit that are is to Veolia Responsibility. VEOLIA shall additionally be responsible for any late payment penalties and interest on penalties attributable to VEOLIA.

6.2. VEOLIA shall not be liable for fines or civil penalties that result from violations that occurred prior to the Effective Date of this Agreement (unless covered by the existing agreement between

the parties) or are otherwise directly related to the ownership of the Project. Any violation that occurred prior to the Effective Date of this Agreement will be covered by the terms and conditions of the then-existing Agreement between the parties in which time the violation occurred.

- 6.3. OWNER shall be liable for those fines or civil penalties imposed by any regulatory or enforcement agencies on OWNER and/or VEOLIA that are not a result of VEOLIA's breach, negligence or willful misconduct, or are otherwise directly related to the ownership of the Project, and shall indemnify and hold VEOLIA harmless from the payment of any such fines and/or penalties.

7. INSURANCE

- 7.1. VEOLIA shall provide the following insurances throughout the term of the Agreement, and shall provide to Owner Certificates of Insurance demonstrating compliance with this provision:

1. Statutory Worker's Compensation and Employers Liability Insurance as required by the State in which the Project is located.
2. Automobile Liability Insurance with Two Million Dollars (\$2,000,000) combined single limits covering claims for injuries to members of the public and/or damages to property of others arising from the use of VEOLIA owned or leased motor vehicles, including onsite and offsite operations.
3. Commercial General Liability Insurance with limits of Five Million Dollars (\$5,000,000) per occurrence and in the aggregate, covering claims for injuries to members of the public or damages to property of others arising out of any covered act or omission of VEOLIA or any of its employees, or subcontractors.
4. Pollution Liability Insurance with limits of Five Million Dollars (\$5,000,000) per occurrence and in the aggregate, covering operation of the wastewater treatment facilities only.

- 7.2. VEOLIA shall add Owner and Owner's elected officials, officers, and employees, as additional insured in VEOLIA's commercial general liability, automobile liability, excess/umbrella, and contractor's pollution liability policies.

- 7.3. VEOLIA's commercial general liability, automobile liability, employer's liability, excess/umbrella, and contractor's pollution liability policies will be primary and non-contributory to any other coverage available to Owner.

- 7.4. VEOLIA will provide at least thirty (30) days written notice to Owner prior to any cancellation, non-renewal or adverse material change in coverage required in Section 7 (except ten (10) days' notice for non-payment of premium).

- 7.5. Owner will maintain the following insurances throughout the term of the Agreement, and shall provide VEOLIA with Certificates of Insurance to demonstrate compliance with this provision:

- 7.5.1. Property Damage Insurance for all property including Owner supplied vehicles and equipment for the full fair market value of such property. Owner will obtain a waiver of subrogation in favor of VEOLIA and VEOLIA's insurers.

7.5.2. Liability Insurance for all motor vehicles and equipment provided by Owner and operated by VEOLIA under this Agreement.

7.6. Certificates of Insurance (“COI”).

7.6.1. The Parties shall provide a COI evidencing the required insurance policies, limits, term of insurance, insured parties, and other information sufficient to demonstrate conformance with this Section 7 and its subsections. COI will reference the project name as identified on the first page of this Agreement.

7.6.2. In the event the COI provided indicates that any required insurance will expire during the period of this Agreement, the party shall furnish, on or before the expiration date, a renewed COI as proof that equal and like coverage for the balance of the period of the Agreement and any extension thereafter has been procured and in effect.

7.6.3. In the event a COI evidencing the renewed coverage is not available prior to the policy renewal date, that party shall provide to the other party, within fifteen (15) days of the policy’s renewal date(s). The party shall furnish the insurance certificates to the other party immediately upon the first party’s receipt.

8. LABOR DISPUTES

In the event activities by Owner’s employee groups or unions causes disruption in VEOLIA’s ability to perform its obligations under this Agreement, Owner, with VEOLIA’s assistance, or VEOLIA at its own option, may seek appropriate injunctive court orders during any such disruption, VEOLIA shall operate the facilities on a best efforts basis until any such disruptions cease, but VEOLIA cannot assure compliance with all contract conditions.

9. UNFORESEEN CIRCUMSTANCES

Neither party shall be liable for damages, delays, or failure to perform its obligations under this Agreement if such failure is due to any Unforeseen Circumstance beyond its reasonable control. The party invoking this clause shall notify the other party immediately by verbal communication and in writing of the nature and extent of the contingency within ten (10) working days after its occurrence, shall take reasonable measures to mitigate any impact of an Unforeseen Circumstance, and shall recommence its obligations as soon as reasonably possible following the conclusion of the event or condition leading to the Unforeseen Circumstance.

In the case of Unforeseen Circumstances Owner agrees to pay any undisputed Costs incurred by VEOLIA in connection with the Unforeseen Circumstance. Before payment is made, VEOLIA shall provide the Owner with an itemized list of Costs and explanations. Any disputed costs will be reviewed and negotiated by both parties to determine final payment.

10. ACCESS TO FACILITIES AND PROPERTY

Owner will make its facilities accessible to VEOLIA as required for VEOLIA’S performance of its services, and will secure access to any other Owner property necessary for performance of VEOLIA’s services.

VEOLIA shall provide 24-hour per day access to Project for Owner’s personnel. Visits may be made at any time by any of Owner’s employees so designated by Owner’s representative. Keys for the Project shall be provided to Owner by VEOLIA. All visitors to the Project shall comply with VEOLIA’s operating and safety procedures.

11. CONTRIBUTIONS TO THE INDUSTRIAL ACCIDENT FUND

VEOLIA shall pay all contributions or amounts due the Industrial Accident Fund from VEOLIA incurred in the performance of this Agreement, and shall ensure that all subcontractors pay those amounts due from the subcontractors. (ORS 279B.220)

12. LIENS AND CLAIMS

VEOLIA shall not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished. (ORS 279B.220)

13. INCOME TAX WITHHOLDING

VEOLIA shall pay to the Oregon Department of Revenue all sums withheld from employees pursuant to ORS 316.167. (ORS 279B.220).

14. INDEPENDENT CONTRACTOR

14.1. VEOLIA is an independent contractor for all purposes and shall be entitled to no compensation other than the compensation expressly provided by this Agreement. As an independent contractor, VEOLIA is not entitled to indemnification by Owner or the provision of a defense by Owner under the terms of ORS 30.285. This acknowledgment by VEOLIA does not affect its independent ability (or the ability of its insurer) to assert the monetary affecting the assertion of any claim under the terms of the Oregon Tort Claims Act (ORS 30.260 to ORS 30.300).

14.2. Worker's Compensation Coverage. VEOLIA hereby certifies that it has qualified for State of Oregon Worker's Compensation coverage either as carrier-insured employer or as a self-insured employer. (ORS 279B.230).

15. MEDICAL CARE FOR EMPLOYEES

VEOLIA shall make payment of all sums to any person, co-partnership, association or corporation, furnishing medical, surgical and/or hospital care incident to the sickness or injury of VEOLIA's employee(s), all sums which VEOLIA agrees to pay for such services and all monies and sums which Owner collected or deducted from the wages of employees pursuant to any law, contract or contract for the purpose of providing or paying for such service. (ORS 279B.230).

16. SAFETY AND HEALTH REQUIREMENTS

VEOLIA shall comply with all federal Occupational Safety and Health Administration (OSHA) requirements and with all Oregon safety and health requirements, including those of the State Workers' Compensation Division.

VEOLIA shall post compliance documents as required by applicable law. VEOLIA shall conduct safety training as required by applicable law, and Owner shall have the right to inspect records of such training during normal business hours.

17. PAYMENT REQUIREMENTS (ORS 279B.220)

VEOLIA shall make payment promptly, as due, to all persons supplying to VEOLIA labor or material for the prosecution of the work provided for in this Agreement. (ORS 279B.220). If VEOLIA fails, neglects, or refuses to make a prompt payment of any claim for labor or services furnished to VEOLIA or a subcontractor, or by any person in connection with this contract as the claim becomes due, the Owner may pay the claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due to VEOLIA pursuant to this contract. The Owner's payment of a claim under this Section shall not relieve VEOLIA or VEOLIA's surety, if any, from responsibility for those claims.

18. NONDISCRIMINATION

VEOLIA agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Consultant also shall comply with the Americans with Disabilities Act of 1990, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws.

19. FOREIGN CONTRACTOR

If VEOLIA is not domiciled in or registered to do business in the state of Oregon, VEOLIA shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to this Agreement.

20. TAX LAW COMPLIANCE

VEOLIA (to the best of VEOLIA's knowledge, after due inquiry), for a period of no fewer than six calendar years (or since the firm's inception if less than that) preceding the Effective Date of this Agreement, faithfully has complied with, and for the term of this Agreement shall continue to comply with: (1) All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; (2) Any tax provisions imposed by a political subdivision of this state that applied to VEOLIA, to VEOLIA's property, operations, receipts, or income, or to VEOLIA's performance of or compensation for any work performed by VEOLIA; (3) Any tax provisions imposed by a political subdivision of this state that applied to VEOLIA, or to goods, services, or property, whether tangible or intangible, provided by VEOLIA; and (4) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

21. HOURS OF WORK

VEOLIA shall pay employees for overtime work performed under the terms of this Agreement in accordance with ORS 653.010 to ORS 653.261 and the Fair Labor Standards Act of 1938 (29 USC §201 et. seq.). Any person employed on work under this Agreement, other than a person subject to being excluded from the payment of overtime pursuant to either ORS 653.010 to 653.261 or 29 USC §201 to 209, shall be paid at least time and a half for all overtime worked in excess of 10 hours in any one day or 40 hours in any one week, and for all work performed on a Saturday or any legal holiday, or for all work performed on any other holiday specified in a collective bargaining agreement. (ORS 279B.235).

22. PUBLIC WORKS

VEOLIA and Owner do not intend that the Preventative Maintenance VEOLIA is to perform under this Agreement will constitute "Public Works" as defined in ORS 279C.800. However, VEOLIA and Owner understand and agree that Repairs and Major Repairs, as non-routine or major reparative work, performed under this Agreement likely constitute "Public Works" as defined in ORS 279C.800 ("Prevailing Wage Work"). Accordingly, upon initiation of the first Repair or Major Repair pursuant to this Agreement, the parties shall mutually execute a task order and undertake all respective obligations as set forth in Appendix G. At such time, the Owner represents and warrants that it shall notify the Commissioner of the Oregon Bureau of Labor and Industries prior to VEOLIA undertaking any Prevailing Wage Work, as provided in ORS 279C.835. The applicable prevailing rate of wage shall be the rate in effect at the time VEOLIA first undertakes such Repairs or Major Repairs. In the event that VEOLIA is required to pay prevailing wages for the operations and maintenance services set forth in Appendix B (other than Major Repairs, Repairs, replacements, or other capital projects) (such services, the "O&M Work"), then that circumstance will be deemed a Change in Law and VEOLIA and Owner shall execute a mutually agreeable amendment changing VEOLIA's Base Fee. In the event that VEOLIA is required to pay back pay

or fines relating to prevailing wage for VEOLIA's O&M Work in connection with this Agreement or for work performed under the Original Agreement, then City and VEOLIA shall negotiate and execute a reasonable change order to compensate VEOLIA for such costs.

23. CHANGES

Owner and VEOLIA may mutually make changes within the general scope of services of this Agreement. The contract price and schedule will be equitably adjusted pursuant to a written Change Order, individual task order, modification or amendment to the Agreement executed by both parties. For clarity's sake, any change order, individual task order, modification, or other amendment to the provisions of this Agreement shall be reduced to writing and signed by the authorized agents of Owner and VEOLIA in order to be effective.

24. NO THIRD PARTY BENEFICIARIES

This Agreement gives no rights or benefits to anyone other than Owner and VEOLIA and has no third party beneficiaries.

25. JURISDICTION

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Oregon without regard to conflict of law principles. Venue shall be in Clackamas County, Oregon.

26. CONSENT DECREE

The Owner has provided VEOLIA with a copy of the Consent Decree between the Owner and the United States of America and the State of Oregon dated September 11, 2023 (the "Consent Decree"). To the extent that the terms of the Consent Decree apply to VEOLIA's scope of services set forth in Appendix B, then VEOLIA's performance of such services shall be in conformity with the terms of the Consent Decree; provided, however, that (i) any changes in VEOLIA's scope of services required by changes in the terms of, interpretation of, or determination made by EPA or DEQ regarding the Consent Decree shall be treated as a Change in Law and (ii) VEOLIA shall have no liability to any party in connection with the Consent Decree, and, to the fullest extent permitted by law, including the Oregon Constitution and the Oregon Tort Claims Act, Owner agrees to hold harmless, indemnify, and defend VEOLIA from and against any and all fines, claims, losses, damages, liability, and costs, including, but not limited to, costs of defense, arising out of or in any way connected with the Consent Decree, excepting only such liability as may arise out of the negligent acts or omissions or willful misconduct of VEOLIA, its employees or its subcontractors in the performance of services under this Agreement.

27. SEVERABILITY AND SURVIVAL

If any of the provisions contained in this Agreement are held for any reason to be invalid, illegal, or unenforceable, the enforceability of the remaining provisions shall not be impaired thereby. The provisions of this Agreement that by their sense and context are intended to survive expiration of this Agreement shall survive.

28. AUTHORITY

Both parties represent and warrant to the other party that the execution delivery and performance of this Agreement has been duly authorized by the responsible parties thereof. Both parties warrant that all required approvals have been obtained and the executing party below has such authority to bind the party.

29. NOTICES

All notices shall be in writing and delivered, mailed or e-mailed to each Party at the respective addresses written below. All notices shall be deemed given (i) if delivered personally or by

messenger, upon delivery, (ii) if delivered or sent by overnight mail or overnight courier, on the scheduled day of delivery or such earlier time as is confirmed by the receiving Party, (iii) if sent by registered or certified first class mail, upon the sooner of the date on which receipt is acknowledged or the expiration of three (3) days after deposit in United States post office facilities properly addressed with postage prepaid, or (iv) if delivered or sent by e-mail, on the day of transmittal if transmitted during normal business hours or on the next business day if not transmitted during normal business hours. Notice of change of address shall be provided in the same manner, and such change shall not be deemed a modification or amendment to the Agreement.

Owner's Project Manager:
Ryan Wood
Public Works Superintendent
39250 Pioneer Blvd.
Sandy, OR 97055

Veolia Water North America-West, LLC
4160 Temescal Canyon Road, Suite 311
Corona, CA 92883
Attn: West Region President

Veolia Water North America-West, LLC
Attn: General Counsel
53 State Street, 14th Floor
Boston MA 02109
Attn: General Counsel

30. RECORDS

VEOLIA agrees that Owner and its authorized representatives shall have access during normal business hours to all books, documents, papers and records that are directly related to the Project for the purpose of making any audit, examination, copies, excerpts and transcripts.

31. WORK IS PROPERTY OF OWNER

All work, including but not limited to process data, documents, drawings, papers, photographs, and reports ("Deliverables"), performed or produced by VEOLIA under this Agreement shall be the property of Owner. VEOLIA may retain copies of said Deliverables as desired but will deliver all original materials to Owner upon Owner's written notice. Owner agrees that use of VEOLIA'S completed work product, for purposes other than identified in this Agreement, or use of incomplete work product, is at Owner's own risk. Except as provided by this Agreement, VEOLIA shall retain ownership of its business records and Owner shall have no right to view or obtain copies of such business records, except pursuant a subpoena lawfully issued by court of competent jurisdiction. Notwithstanding the foregoing, VEOLIA shall retain the right to use the ideas, concepts, know-how, and techniques derived from the rendering of the Deliverables, and VEOLIA shall be entitled to any and all protections afforded under state and federal statutory or common law with respect to any materials that were prepared, developed or used by VEOLIA prior to or outside the scope and course of completing the Services performed under the terms of this Agreement ("VEOLIA Intellectual Property"), and such VEOLIA Intellectual Property shall remain the intellectual property of VEOLIA and shall not be the property of Owner. In the event (and to the extent) that any Deliverable contains any items or elements that are VEOLIA Intellectual Property, VEOLIA

grants to Owner an irrevocable, perpetual, royalty-free limited license to use, execute, display and/or perform such to the extent it is necessary to fulfill Owner's purposes under this Agreement.

VEOLIA shall maintain all records and accounts concerning the operation, maintenance and repair of the Project in accordance with generally accepted accounting principles. All such records and accounts shall be retained by VEOLIA and kept accessible for a minimum of five (5) years from the expiration or termination of this Agreement, except as required longer by law, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later.

32. VEOLIA TRADE SECRETS AND OPEN RECORDS REQUESTS

Public Records. VEOLIA acknowledges and agrees that all documents in Owner's possession, including documents submitted by VEOLIA, are subject to the provisions of the Oregon Public Records Law, and VEOLIA acknowledges that Owner shall abide by the Oregon Public Records Law, including honoring all proper public records requests. VEOLIA shall be responsible for all VEOLIA's costs incurred in connection with any legal determination regarding the Oregon Public Records Law, including any determination made by a court pursuant to the Oregon Public Records Law. VEOLIA is advised to contact legal counsel concerning such acts in application of the law to VEOLIA.

Confidential or Proprietary Materials. If VEOLIA deems any document(s) which VEOLIA submits to Owner to be confidential, proprietary or otherwise protected from disclosure under the Oregon Public Records Law, then VEOLIA shall appropriately label such document(s), and submit such document(s) to the Owner together with a written statement describing the material which is requested to remain protected from disclosure and the justification for such request. The request will either be approved or denied by the Owner in the Owner's reasonable discretion. The Owner will make a good faith effort to accommodate a reasonable confidentiality request if the Owner reasonably determines the material may be withheld under the Oregon Public Records Law.

33. OWNER CONFIDENTIALITY

VEOLIA agrees that if the Owner so requests, VEOLIA will execute a confidentiality agreement in a form reasonably acceptable to Owner and VEOLIA, and VEOLIA will require any employee or sub-consultant performing work under this Agreement or receiving any information reasonably deemed confidential by the Owner to execute such a confidentiality agreement.

34. SUBCONTRACTORS

VEOLIA is solely and fully responsible to the Owner for the performance of its services under this Agreement. Except in cases of emergency (as determined in VEOLIA's reasonable discretion), VEOLIA shall seek Owner's pre-approval to use any subcontractor for work conducted at the Project, which approval will not be unreasonably withheld, and VEOLIA shall otherwise promptly inform Owner of its use of such subcontractors following execution of any subcontractor agreements. VEOLIA agrees to pass through all legally required provisions and other reasonably relevant provisions of this Agreement into the contracts of any subcontractors conducting work at the Project, and to do so to the extent reasonably practicable and reasonably relevant for all other subcontractor contracts directly related to the Project. VEOLIA shall pay or cause each subcontractor to pay all wages, salaries and other amounts due to VEOLIA's subcontractors in performance of the duties set forth in this Agreement and shall be responsible for any and all reports

and obligations with respect to such subcontractors. All subcontractors shall have the skill and experience and any license or permits required to perform the services assigned to them.

35. ASSIGNMENT

Neither party shall assign this Agreement or parts hereof or its duties hereunder, but not including work products produced by VEOLIA, without the express written consent of the other party. In the event of dissolution, consolidation or termination of the Owner, the parties agree that the Owner may assign to a successor entity any rights, obligations and functions it may have remaining under this Agreement.

36. OBSERVE ALL LAWS; DUTY TO INFORM

VEOLIA shall keep fully informed regarding and materially comply with all federal, state, and local laws, ordinances and regulations and all orders and decrees of bodies or tribunals having jurisdiction or authority which may affect those engaged or employed in the performance of this Agreement.

VEOLIA shall give prompt written notice to Owner's Project Manager if, at any time during the performance of this Agreement, VEOLIA becomes aware of actual or potential problems, faults or defects in the Project, any nonconformity with the Agreement, any nonconformity with any federal, state, or local law, rule or regulation, or any nonconformity with any order or decree of any body or tribunal having jurisdiction or authority, or has any objection to any decision or order made by Owner. Any delay or failure on the part of Owner to provide a written response to VEOLIA shall constitute neither agreement with nor acquiescence in VEOLIA's statement or claim and shall not constitute a waiver of any of Owner's rights.

For avoidance of doubt, an order or decree of a tribunal having jurisdiction or authority, for purposes of this Section, includes but is not limited to the Consent Decree between the City of Sandy, the United States, and the State of Oregon that was entered in the U.S. District Court for the District of Oregon on September 11, 2023.

37. MEDIATION/TRIAL WITHOUT A JURY

Should any Agreement-related dispute arise between the Parties, which does not involve claims made by or asserted against third parties, and if the dispute cannot be settled through negotiation in good faith, it is agreed that such dispute will be submitted to a mediator prior to any litigation, and the Parties hereby expressly agree that no claim or dispute arising under the terms of this Agreement shall be resolved other than first through non-binding mediation and only in the event said mediation efforts fail, then through litigation.

EACH PARTY WAIVES ITS RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS AGREEMENT, ANY RIGHTS OR OBLIGATIONS HEREUNDER OR THE PERFORMANCE OF ANY SUCH RIGHTS OR OBLIGATIONS.

The Parties shall exercise good faith efforts to select a mediator who shall be compensated equally by the Parties. Mediation will be conducted in Sandy, Oregon, unless the Parties agree in writing otherwise. Parties agree to exercise good faith efforts to resolve all Agreement-related disputes through the mediation process. If a Party requests mediation and the other Party fails to respond within ten (10) days, or if the Parties fail to agree on a mediator within ten (10) days, a mediator shall be appointed by the presiding judge of the Clackamas County Circuit Court upon the request of either Party. The Parties shall retain all rights with respect to any dispute not covered by this Section. The period for mediation shall commence upon the appointment of the mediator and shall

not exceed sixty (60) days, unless such time period is modified by written agreement of the Parties. Each party agrees to be responsible for payment of its own professional fees, including attorneys' fees.

38. BINDING AGREEMENT

This Agreement shall inure to and be binding on the heirs, executors, administrators, successors, and assigners of the parties hereto.

39. NO WAIVER

No waiver of any provisions of this Agreement shall be deemed to constitute a waiver of any other provision of the Agreement, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default hereunder be deemed a waiver of any subsequent default hereunder.

40. ENTIRE AGREEMENT; INTERPRETATION

This Agreement, together with all Appendices attached hereto, contains all representations and the entire understanding between the parties with respect to the subject matter of this Agreement. Any prior correspondence, memoranda, or agreements, whether or not such correspondence, memoranda or agreements are in conflict with this Agreement, are intended to be replaced in total by this Agreement and its Appendices. The parties mutually declare there are no oral understandings or promises not contained in the Agreement which contains the complete, integrated, and final agreement between the parties. Any conflict between this Agreement and any of the Appendices (if any) shall be resolved first in favor of this Agreement, then in the order of the Appendices listed in the Table of Contents.

41. COUNTERPARTS; ELECTRONIC SIGNATURES

The Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original and such counterparts shall together constitute but one and the same Agreement. Any party shall be entitled to sign and transmit electronic signatures to this Agreement (whether by facsimile, .pdf, or electronic mail transmission), and any such signature shall be binding on the party whose name is contained therein. Any party providing an electronic signature to this Agreement agrees to promptly execute and deliver to the other parties, upon request, an original signed Agreement.

Both parties indicate their approval of this Agreement by their signatures below, and each Party warrants that all corporate or governmental action necessary to bind the parties to the terms of this Agreement has been and will be taken.

Veolia Water North America-West, LLC

City of Sandy, Oregon

By: _____

By: _____

Name: Aaditya Raman

Name: Tyler Deems

Title: President

Title: City Manager

NEW

APPENDIX A DEFINITIONS

- A.1. "Adequate Nutrients" means plant influent nitrogen, phosphorous, and iron contents proportional to BODs in the ratio of five (5) parts nitrogen, one (1) part phosphorous, and one-half (0.5) part iron for each one hundred (100) parts BODs.
- A.2. "Base Fee" means the compensation paid by Owner to VEOLIA for the base services defined in Appendix B of this Agreement for any year of the Agreement. The Base Fee is specified in Appendix E.1 and will be adjusted annually in accordance with Base Fee Formula specified in Appendix E.3. This compensation does not include payments for Requests by Owner that are incidental to or outside the Scope of Services.
- A.3. "Biologically Toxic Substances" means any substance or combination of substances contained in the plant influent in sufficiently high concentrations so as to interfere with the biological processes necessary for the removal of the organic and chemical constituents of the wastewater required to meet the discharge requirements of Owner's NPDES permit. Biologically Toxic Substances include but are not limited to heavy metals, phenols, cyanides, pesticides, and herbicides.
- A.4. "BOD" means Biochemical Oxygen Demand over a five (5) day period.
- A.5. "Change in Law" means any of the following acts, events or circumstances to the extent that compliance with the change materially changes the Direct Cost of performing the work: the adoption, amendment, promulgation, issuance, modification, specifically changed by any local, state, federal or other governmental body. VEOLIA and Owner shall negotiate a mutually agreeable change in VEOLIA's Base Fee for any change in law which results in a significant change to the Direct Cost incurred to perform the scope of services. If the change results in a decrease in price, VEOLIA and Owner shall negotiate the change and apply a credit to the Base Fee.
- A.6. "Change in the Scope" are defined in Appendix B.4.
- A.7. "Cost" means the total of all Direct Cost and indirect cost determined on an accrual basis in accordance with Generally Accepted Accounting Principles (GAAP).
- A.8. "Direct Cost" means the actual cost incurred for the direct benefit of the Project, including but not limited to, expenditures for Project management labor, employee benefits, chemicals, lab supplies, repairs, repair parts, maintenance parts, safety supplies, gasoline, oil, equipment rental, legal and professional services, quality assurance, travel, office supplies, other supplies, uniforms, telephone, postage, utilities, tools memberships and training supplies.
- A.9. "Hazardous Substance" means any waste, substance, object, or material deemed hazardous under applicable law, including (a) "hazardous substances" as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended; (b) "hazardous waste" as defined in the "hazardous waste" under the Resource, Conservation and Recovery Act; and (c) "emerging contaminants" as identified by the U.S. Environmental Protection Agency or other governmental authorities due to their potential for adverse impacts to human health or the environment, specifically including, without limitation, perfluoroalkyl and polyfluoroalkyl substances ("PFAS") such as perfluorooctanoic acid ("PFOA") and perfluoro octane sulfonate ("PFOS"). As used herein, "Hazardous Substances" also means materials, equipment, physical property, soil, groundwater or stormwater that are contaminated with Hazardous Substances.

A.10. "Major Repairs" mean those Repairs that cost more than Two Thousand Five Hundred Fifty Dollars (\$2,550.00).

A.11. "Preventive Maintenance" means those routine and/or repetitive activities required or recommended by the equipment or facility manufacturer or VEOLIA to maximize the service life of the equipment, sewer, vehicles, and facility.

A.12. "Project" means all equipment, vehicles, grounds, and facilities described in Appendix D and where appropriate, the operations, maintenance, and management of such.

A.13. "Repairs" means those non-routine/non-repetitive activities required for operational continuity, safety, and performance generally resulting from failure or to avert a failure of the equipment, sewer, vehicle, or facility or some component thereof. However, if the need for the repair is caused by VEOLIA negligent or willful acts or omissions, such expenditure will not be a "repair" under this agreement, will not be deducted from the Repair Limit and will be VEOLIA's sole responsibility.

Scheduled replacement per manufacturer's recommendations of the following specific consumables shall not be considered Repairs and the cost for same (excluding labor for installation) shall be the responsibility of the City:

- Effluent disc filter media cloth covers
- Ultraviolet disinfection system lamps, ballasts, wipers and sleeves

A.14. "TSS" means total suspended solids.

A.15. "Unforeseen Circumstances" means an event or condition which has an effect on the rights or obligations of the parties under this Agreement, or upon the Project, and which is beyond the reasonable control of the party relying thereon and constitutes a reasonable justification for a delay in or non-performance of action required by this Agreement, including but not limited to (i) landslide, lightning, earthquake, tornado, fire, explosion, flood, failure to possess sufficient property rights, acts of the public enemy, war blockade, sabotage, insurrection, riot or civil disturbance or a pandemic event; (ii) labor disputes, strikes, work slowdowns or work stoppages, but excluding labor disputes, strike or work slowdowns or stoppages by employees of VEOLIA; (iii) the presence of Biologically Toxic Substances in the influent or the presence of hazardous wastes, materials or liquids in the influent or raw water supply, which detrimentally affect the machinery, infrastructure or processes at the Project; and (iv) loss of or inability to obtain service from a utility necessary to furnish power for the operation and maintenance of the Project.

APPENDIX B
SCOPE OF SERVICES

VEOLIA SHALL:

B.1. GENERAL

- B.1.1. Subject to the Maintenance and Repairs Limit, alter as needed, the process and/or facilities to achieve the objectives of this Agreement; provided, however, that no alteration shall be without Owner's written approval if alteration shall cost in excess of One Thousand Dollars (\$1,000.00).
- B.1.2. Operate, maintain and/or monitor the Project such that the Project is staffed at least Monday through Friday, eight (8) hours per day and a reduced but sufficient number of hours per day (Saturday, Sunday, Holidays) as necessary to meet operational needs. VEOLIA shall be responsive to alarms and emergency calls 24 hours per day, 7 days per week, within one (1) hour of its occurrence. VEOLIA shall designate, as a minimum, one staff member as standby to respond to such calls.
- B.1.3. Staff the Project with a sufficient number of qualified employees who possess the managerial, administrative, and technical skills to perform the services specified in this Agreement, and where appropriate, the certification requirements mandated by the State.
- B.1.4. Pay all Costs incurred in normal Project operations except as otherwise included in Article 2 - Owner's Responsibilities.
- B.1.5. Perform Preventative Maintenance and Repairs for the Project, subject to the Repairs Limit.
- B.1.6. Maintain aesthetics of the facilities:
 - B.1.6.1. In general, maintain the WTP and WWTP site and grounds in a clean, neat, and orderly fashion to present a positive image of the facility and program.
 - B.1.6.2. Administrative and other occupied spaces shall be kept clean, dry, and habitable
 - B.1.6.3. Other spaces and floors shall be free of sewage, screenings, sludge, debris, etc.
 - B.1.6.4. Equipment, tools, and material will be properly stored.
 - B.1.6.5. Trees and shrubs shall be kept trimmed, grass shall be maintained, and other grounds shall be free of noxious weeds.
- B.1.7. Place at each permanently staffed Project facility, a copy of VEOLIA's Corporate Safety Program and provide all employees training specific to this Program, within forty-five (45) days from the Effective Date of this Agreement. The cost of any capital improvement required at the Project to bring the facilities within OSHA compliance will be paid by the Owner.
- B.1.8. Provide job related training for personnel in the areas including but not limited to operation, quality, maintenance, safety, supervisory skills, laboratory, and energy management. All such training shall be fully documented. Where employees are required by law or regulation to hold current licenses, certificates or authority to perform the work required of their respective

positions, VEOLIA shall provide the training and agree with the employee to a reasonable time frame for the employee to qualify for such certificate, license or authority.

- B.1.9. In any emergency affecting the safety of persons or property, VEOLIA shall act without written amendment or change order, at VEOLIA's discretion, to prevent threatened damage, injury or loss; provided however, that VEOLIA shall obtain prior Owner approval for any emergency expenditure in excess of Five Thousand Dollars (\$5,000.00). VEOLIA will notify Owner as soon as reasonably possible and shall be compensated by Owner for any such emergency work notwithstanding the lack of written amendment or change order. VEOLIA will invoice Owner the amount mutually agreed to by the Parties for the emergency expenditure.
- B.1.10. Utilize Owner provided security devices during VEOLIA's hours of operation to protect against any losses resulting from theft, damage or unauthorized use of the Project. Existing security devices include: fencing, access gates, lockable structures, and limited intrusion alarm. Upon exiting the Project, VEOLIA shall make sure that all Project gates and structures are locked and that any security alarms are activated.
- B.1.11. Comply with all Federal and OR-OSHA regulations relating to bloodborne pathogens, confined space entry, fall protection, and any other applicable occupational health and safety requirements.
- B.1.12. Review the existing plant emergency action plan and provide an updated plan (if needed).
- B.1.13. VEOLIA shall provide Owner with a listing of any recommended Major Repairs that VEOLIA believes will be required for any of the facilities covered under the contract. Owner may choose to act on these recommendations upon review with Owner's Consulting Engineer. If Owner agrees with any of the recommendations provided, Owner shall attempt to budget for the necessary expenditure(s) in the next regularly scheduled biennial budget preparation cycle. However, VEOLIA shall not be relieved of its responsibilities to perform if the recommendations are not implemented and the City will be responsible for any fines, penalties or regulatory actions or consequences incurred if it can be demonstrated that such occurred as a result of these recommendations not being implemented. If VEOLIA believes the recommendation is necessary to perform its responsibilities and Owner continues to disagree, VEOLIA may terminate the Agreement pursuant to Section 4.3.
- B.1.14. VEOLIA shall prepare monthly operations reports with respect to the Project in a format to be reasonably agreed to by both Parties by the seventeenth (17th) day of each month for the prior month.
- B.1.15. Perform testing and analysis as set forth in Table B-1. For each contract year beginning on the anniversary of the Effective Date, VEOLIA will provide Owner with an analysis of all tests and analyses performed for the Project, and if the number of any test or analysis exceeds 10% of the annual total listed in Table B-1 for such test or analysis, Owner shall compensate VEOLIA for VEOLIA's reasonable, documented costs associated with such additional testing or analysis.
- B.1.16. VEOLIA shall verbally or by email notify the Owner of past or potential future non-compliance with any material prohibitions or limitations in the NPDES Permit or the regulations governing the water discharged from the WTR Plant, within 24 hours of having knowledge of such noncompliance. Owner shall promptly notify the appropriate regulators of

such non-compliance in accordance with the Consent Decree, the NPDES Permit, and all other applicable legal requirements. VEOLIA shall prepare a written notification to Owner within three (3) calendar days of knowledge of such noncompliance.

B.1.17. VEOLIA shall develop and maintain process control management plans and for the water and wastewater treatment systems.

B.1.18. VEOLIA shall provide Owner with monthly updates regarding the inventory of chemicals used in connection with the operation of the Project, and VEOLIA will notify Owner by email of any material chemical shortages that occur outside of the standard chemical usage of the Project. Consistent with Section 2.5 of the Agreement, Owner shall not be responsible for ordering dewatering polymer, and such dewatering polymer will be ordered by VEOLIA and the cost of such dewatering polymer will be billed by VEOLIA to Owner at VEOLIA's cost without markup.

B.1.19. VEOLIA shall not be responsible for maintenance, repair, or replacement of any underground asset (including piping of any diameter) at the Project; provided that if VEOLIA becomes aware of any maintenance, repair, or replacement needed on, or any change in the operational status of, any underground asset, VEOLIA shall promptly notify Owner of such need or status change. Owner shall be solely responsible for any maintenance, repairs, or replacement of any underground asset at the Project.

B.2. WASTEWATER TREATMENT PLANT

B.2.1. Within the design capacity and capability of the Wastewater Treatment Plant (the "WW Plant"), manage, operate, and maintain the WW Plant so that effluent discharged from the WW Plant meets of the Clean Water Act and the requirements specified in NPDES Permit No. 102492 issued January 23, 2010 (copy attached), and other applicable/related permits issued by EPA, the State or local authorities, unless one or more of the following occurs: (1) WW Plant influent does not contain Adequate Nutrients to support operation of the WW Plant's biological processes and/or contains Biologically Toxic Substances that cannot be removed by the existing processes and facilities; (2) dischargers into Owner's sewer system violate any or all regulations as stated in Section 13.12.080 of the Sandy Municipal Code; and (3) the flow, influent biochemical demand (BODs,) and/or total suspended solids (TSS) exceeds the WW Plant's design parameters that exceed the plants Maximum Allowable Headworks Loadings in which case Appendix C specifies responsibilities and remedies.

B.2.2. Within the design capacity and capability of the WW Plant, operate the WW Plant in a manner such that odor and noise are minimized.

B.2.3. Operate and maintain effluent filtration and UV disinfection systems. Replace disk filter media and UV system components per industry standard.

B.2.4. Operate sodium hypochlorite disinfection system and recycled water pump station during land application season.

B.2.5. Prepare and submit to appropriate agencies, all regulatory reports pertaining to routine operation and maintenance of the facilities specified herein. VEOLIA shall

comply with all current local, State and Federal notice and reporting requirements, regarding violations, upsets, excursions, or emergencies related to the Plant.

- B.2.6. When daily flow exceeds 25% of the average daily flow for the prior calendar year, VEOLIA will implement additional monitoring and analysis, which will be compensated in accordance with Section B.1.15.
- B.2.7. Assist the Owner with the NPDES permit renewal process by providing Project information within VEOLIA's possession and control. Any additional assistance requested by the Owner will be handled as a Change in Scope.
- B.2.8. Operate and maintain, to its design capacity and capability, the solids handling system, including polymer addition in compliance with the biosolids handling plan and regulatory requirements.

Owner to provide hauling and disposal of screenings, grit, scum, sludges, and biosolids (collectively, "Residuals") for disposal.
- B.2.9. Provide computerized maintenance, process control and laboratory management systems for the Project. Owner shall have the right to inspect these records during normal business hours. The maintenance program will include documentation of spare parts inventory. This system shall be capable of providing historical data.
- B.2.10. Perform all laboratory testing and sampling for process control and as currently required by the State and Federal Clean Water Act, NPDES permit NPDES referenced documents and all Federal or State issued permits. Develop, follow and maintain a QA/QC program for laboratory equipment processes and procedures and comply with all OR-OSHA and other applicable laboratory and chemical safe handling requirements. Additional laboratory testing and sampling requested by the Owner will be provided on a fee per test basis to be determined at the time of the request.
- B.2.11. Provide and document all Preventive Maintenance for the WW Plant. Owner shall have the right to inspect these records during normal business hours.
- B.2.12. Provide and document Repairs for the WW Plant. The Repairs Limit described in Appendix E shall not include the salary cost of VEOLIA's onsite personnel assigned to the project making such repair. However, due to the size, complexity, technical nature, or timing for completion of such repairs, VEOLIA may subcontract or provide VEOLIA personnel outside of the project to make such repairs and charge such services to the Repairs budget. VEOLIA will provide Owner with a monthly report on the expenditures of Repairs.
- B.2.13. Owner will be responsible for all utilities, including power costs, internet, and phone service at the Wastewater Treatment Plant during the term of the Agreement. The master water and wastewater SCADA computer is located at the water treatment plant and telephone lines are used for communications between the facilities. Solid waste disposal (trash and bar screenings) are collected by the Owner's solid waste franchisee at no cost to the project.

B.3. WATER TREATMENT PLANT

B.3.1. Within the design capacity and capability of the Water Treatment Plant (“WTR Plant”), manage, operate, and maintain the WTR Plant, as set forth in this Section B.3.1, so that finished water discharged from the WTR Plant meets the requirements specified by the State of Oregon and U.S. EPA for Public Water Systems and National Primary Water Treatment Regulations as required by the Safe Drinking Water Act and as outlined in Appendix C.

B.3.1.1. For raw water sourced from Portland Water Bureau:

- Operate and maintain booster pumps;
- Operate and maintain the Bull Run Supply Pump Station and set pump start/stop setpoints
- Operate and maintain Revenue Avenue transfer pumps including start/stop setpoints.

Operation and maintenance of the chemical feed system and the carbon filter stream is not included as part of the scope.

B.3.1.2. For the Alder Creek Water Treatment Plant:

- Operate and maintain diversion dam and intake screens. Seasonally remove or install splash boards as necessary to provide positive suction head at raw water booster pump station;
- Operate and maintain raw water booster pump station and variable frequency drives;
- Operate and maintain streaming current monitors and chemical mixing and feed systems;
- Operate and maintain clarifiers and filters;
- Operate and maintain finished water pumps and set pump start/stop setpoints to maintain reservoir levels and adequate filter backwash water supply;
- Operate and maintain the on-site diesel generator, including all expendables (fuel, oil, etc.). Perform load bank testing at least bi-annually. This includes the diesel generator at the Terra Fern reservoir and pump station.

Maintenance of the underground piping of any diameter at this site will be performed by the Owner

B.3.1.3. For Brownell Springs:

- Operate and maintain chemical feed equipment;

- Maintain disinfectant inventory at the site by safely transporting and transferring small quantities of disinfectant to the site; and
- Maintain plant equipment, building and components.

Maintenance of the underground piping of any diameter at this site will be performed by the Owner

- B.3.1.4. For Hudson Road Booster Pump Station and Revenue Ave. Transfer Pump Station:
- Operate and maintain the on-site diesel generator, including all expendables, (fuel, oil, etc.) at the Hudson Rd. site and the natural gas generator at Revenue Ave. site including all expendables. Perform load bank testing at least biannually. Owner will be responsible for natural gas service at the Revenue Ave. site.
 - Maintenance of the underground piping of any diameter at this site will be performed by the Owner
- B.3.1.5. VEOLIA shall be responsible for meeting potable water quality limitations established therein unless the raw water supply contains substances, materials or liquids contained in the raw water supply, which detrimentally affect the machinery, infrastructure or processes at the WTR Plant.
- B.3.2. Assist the Owner with the disposal of Residuals to permitted disposal sites. Any Cost of this service due to permitting requirements, increased or unusual quantities of material, or increases in landfill rates, hauling costs, or tipping fees shall constitute a change in scope and give cause for an adjustment in fee. Owner and VEOLIA agree that Owner is the Generator of the Residuals.
- B.3.3. Perform all laboratory testing and sampling currently required by the State and Federal Safe Drinking Water Regulations at the entry point and upstream as shown in Appendix V. Develop, follow and maintain a QA/QC program for laboratory equipment process and procedures. Comply with OR-OSHA and all applicable laboratory and chemical handling safety requirements. Additional laboratory testing and sampling requested by the Owner will be provided on a fee per test basis to be determined at the time of the request.
- B.3.4. Provide and document all Preventive Maintenance for the WTR Plant. Owner shall have the right to inspect these records during normal business hours.
- B.3.5. Provide and document Repairs for the WTR Plant. The Repairs Limit described in Appendix E shall not include the salary cost of VEOLIA's onsite personnel assigned to the project making such Repair. However, due to the size, complexity, technical nature, or timing for completion of such Repairs, VEOLIA may subcontract or provide VEOLIA personnel outside of the project to make such Repairs and charge such services to the Repairs budget. VEOLIA will provide Owner with a monthly report on the expenditures of Repairs.
- B.3.6. Provide and document Repairs for the WTR Plant in a mutually-agreed format by the seventeenth (17th) day of each month for the prior month.

- B.3.7. Provide monthly water production, peak day and regulatory compliance data by source in a mutually-agreed format by the seventeenth (17th) day of each month for the prior month.
- B.3.8. Owner will be responsible for all power costs at the Water Treatment Plant and associated sites during the term of the Agreement. VEOLIA will be responsible for all other utility costs, (telephone, SCADA circuits, satellite internet, solid waste disposal) at the facility. The master water and wastewater SCADA computer is located at the water treatment plant and telephone lines are used for communications between the facilities

B.4. SCOPE CHANGES

- B.4.1. A Change in Scope of services shall occur when and as VEOLIA's costs of providing services under this Agreement change as a result of:
 - B.4.1.1. Any change in Project operations, personnel qualifications, required certification, staffing or other cost which is a result of an Unforeseen Circumstance. VEOLIA will invoice Owner the amount mutually agreed to by the Parties. The undisputed invoice will be due and payable by Owner commencing the month following when the Change in Scope occurs.
 - B.4.1.2. The current WWTP NPDES permit is being renewed. Any change in Project operations, personnel qualifications, required certification, staffing or other cost as a result of the issuance of new Permit or permit renewal shall constitute a Change in Scope. Increases or decreases of not less than ten percent (10%) in the Wastewater Plant influent flow or loadings, as set forth in Appendix C, as demonstrated by a twelve month floating average compared to the twelve month period ending on the Effective Date of this Agreement. The Parties must mutually agree upon compensation for the Changes in Scope.
 - B.4.1.3. Increases or decreases of not less than ten percent (10%) in the Water Plant average daily production, as set forth in Appendix C, as demonstrated by a twelve month floating average compared to the twelve month period ending on the Effective Date of this Agreement. VEOLIA will invoice Owner the amount mutually agreed to by the Parties. The undisputed invoice will be due and payable by Owner commencing the month following when the Change is Scope occurs. Owner's request of VEOLIA, and VEOLIA's consent, to provide additional services. Owner and VEOLIA shall negotiate an increase in VEOLIA's Base Fee for these Changes in Scope
- B.4.2. At any time, the Owner may request VEOLIA to provide support services for Owner's capital projects. In this case VEOLIA shall propose a scope of services, schedule and budget identifying Direct Costs and overhead/profit charges. VEOLIA shall not proceed with any such capital project services without express written authorization of Owner.
- B.4.3. Efficiency Changes. During the term of this Agreement, Owner may elect to design, develop, and construct a capital project or other changes to the Project for the purpose of enhancing the efficiency of the Project and reducing the costs of the Project (such changes, an "Efficiency Project"). Efficiency Projects that use joint capital investment from VEOLIA and Owner shall include a savings sharing component to be negotiated and agreed to in writing by both Parties prior to the commencement of the Efficiency Project based on the funding contribution of each Party, taking into account the provisions below. Any verified savings of Owner achieved through an Efficiency Project funded in whole or in part by VEOLIA shall be paid by Owner to VEOLIA as increased compensation until VEOLIA's recovery of its capital investment in

such Efficiency Project, plus 8% (the “Investment Amount”), and, thereafter, any savings shall be shared and credited eighty percent (80%) to VEOLIA (as increased compensation) and twenty percent (20%) to Owner, and if this Agreement is terminated or the term of the Agreement expires (the date of such termination or expiration, the “Termination Date”) prior to VEOLIA’s full recovery of any Investment Amount, then Owner will reimburse VEOLIA for any Investment Amount that has not been reimbursed by the Termination Date. Any verified savings achieved through an Efficiency Project suggested by VEOLIA but funded by Owner shall be shared and credited eighty percent (80%) to Owner and twenty percent (20%) to VEOLIA (as increased compensation), which savings sharing will be in recognition of the importance of incentivizing optimal operation and maintenance of any Efficiency Project and to ensure that VEOLIA will monitor and adjust the relevant processes to achieve efficiencies. The savings allocation in this Section B.4.3 is in addition to any changes in compensation related to a Change in Scope that may result from an Efficiency Project.

NEW

Table B-1

<i>Wastewater Regulatory Testing</i>	<i>Annual Totals</i>	
BOD		156
TSS		156
Ammonia		52
E.Coli		52
Total Coliform		78
Total Chlorine Residual		184
<i>Quarterly Analyses</i>		
Metals		3 (9 different metals)
Tickle Creek Metals		3 (10 different metals)
Alkalinity		6
TKN		3
Ammonia		3
Nitrate-Nitrite as N		3
Phosphorus		3
<i>Biosolids Annual Testing</i>		
Total Solids		1
Volatile Solids		1
Nitrite as N		1
Ammonia		1
Phosphorus		1
TKN		1
Waste pH		1
Metals (As, Cd, Cu, Hg, Mo, Ni, Pb, Se, Zn)		1
Potassium		1
<i>Stormwater Regulatory Analysis</i>		
Fats, Oils, Greases		4
TSS		4
Copper, Lead & Zinc		4
E.Coli		4
<i>Drinking Water Regulatory Analysis</i>		
VOC's		1
Nitrate		2
Alkalinity		4
TOCs		4

APPENDIX C
CAPACITY AND CHARACTERISTICS

C.1. RAW WATER QUALITY AND FINISHED WATER REQUIREMENTS OF WATER TREATMENT PLANT

C.1.1. The facilities shall be operated and maintained in accordance with all applicable federal, state and local regulations pertaining to water treatment, contaminant monitoring, and reporting. All analytical methods used to demonstrate compliance shall be in accordance with methods approved by the Owner and State Agencies, as applicable. In the event the parameter does not have a method approved by Federal and State Agencies, VEOLIA will utilize alternate test methods approved by EPA in 40 CFR, 141, Subpart C.

C.1.2. Plant Capacity

VEOLIA shall assume an average day demand (for water of 1.21 mgd and a peak daily demand of 1.792 mgd as of the Effective Date. VEOLIA acknowledges that the Owner has the right to demand up to 3.5 mgd (including 0.5 mgd from the Portland Water Bureau source) on any day, and VEOLIA shall undertake, as and when needed, the necessary arrangements to assure that sufficient personnel are available to satisfy additional demand overtime. If Owner communicates any changes in the average daily demand for water as listed above, this will constitute a Change in Scope, and an appropriate adjustment of fee shall be negotiated.

The Base Fee is based on the assumption that the supply of raw water for treatment shall be Brownell Springs and Alder Creek. VEOLIA shall accept 500,000 gallons/day of treated water from the City of Portland source, but any additional costs to treat Portland Water or the impacts associated with Portland Water is not covered in this Scope.

C.1.3. VEOLIA shall be responsible for meeting the water treatment performance standards established in Appendix B and C, but shall not be responsible for events not caused by or resulting from VEOLIA's negligent acts or omissions or events outside the reasonable control of VEOLIA, which include but are not limited to:

C.1.3.1. Materials or liquids contained in the raw water supply, which detrimentally affect the machinery, infrastructure or processes at the Project;

C.1.3.2. Raw water supply is insufficient to meet demand;

C.1.3.3. The demand for water exceeds the design capacity of the facilities specified in Appendix C;

C.1.3.4. Vandalism; and/or

C.1.3.5. Unforeseen Circumstances.

C.1.4. The estimated cost for services under this Agreement is based on an average day demand (ADD) of 1.21 mgd. Any change of ten percent (10%) in the average daily production based upon the prior calendar year (January–December of previous year) will constitute a Change in Scope.

APPENDIX D
LOCATION OF PROJECT

VEOLIA agrees to provide the services necessary for the operation, maintenance, and management of the facilities described herein:

- D.1. All equipment, grounds, and facilities now existing within the current property boundaries of or being used to operate Owner's Wastewater Treatment Plant located at:

Wastewater Treatment Plant, 33400 SE Jarl Rd

- D.2. All equipment, grounds, and facilities now existing within the current property boundaries of or being used to operate Owner's WTR Plant located at:

Facility	Address
Alder Creek Water Treatment Plant	52500 Hwy 26
Terra Fern Rd. Reservoir and Pump Station	51515 Terra Fern Dr.
Brownell Springs	48205 SE Dowling Rd.
Sandercock Reservoir	44334 Sandercock Ln.
Vista Loop Rd. Reservoir	41225 SE Vista Loop Dr.
Hudson Road Booster Pump Station	39175 Hudson Road
Revenue Avenue Reservoir and Transfer Station	17160 Revenue Ave.

APPENDIX E
COMPENSATION, PAYMENT AND BASE FEE ADJUSTMENT FORMULA

E.1. COMPENSATION

E.1.1. Calculation of Compensation

E.1.1.1. Owner shall pay to VEOLIA as compensation for services performed under this Agreement a Base Fee of **Nine Hundred Forty-Two Thousand Eighty-One Dollars (\$942,081)** for the Wastewater Services and **Two Hundred Twenty-Three Thousand Six Hundred Fifteen Dollars (\$223,615)** for the Water Services for the first year of this Agreement. Subsequent years' base fees shall be determined as specified in Appendix E.3. The Base Fee includes the following cost incurred for the direct or indirect benefit of the Project: expenditures for Project management labor, employee benefits, lab supplies, safety supplies, gasoline, oil, equipment rental, legal and professional services, quality assurance, travel, office supplies, other supplies, uniforms, telephone, postage, utilities (excluding electricity, which shall be paid by Owner), tools, memberships, training and training supplies. The Base Fee is based on the assumption of treatment at the existing wastewater plant listed in Appendix D.2 and the characteristics listed in Appendix C.1.4. Any limitations on these expenditures as set forth in Appendix E.1.2.

E.1.1.2. The services provided under this Agreement assume overtime for normal breakdowns or services required after hours. Any additional expenses including straight or overtime wages caused by Unforeseen Circumstances will be billed to the Owner for reimbursement. All additional expenses for water or wastewater treatment services shall be tracked and invoiced separately.

E.1.2. Limitations

E.1.2.1. The total amount VEOLIA will be required to pay for Major Repairs, Repairs, and Preventative Maintenance will not exceed the annual Repairs Limit of Thirty Thousand (\$30,000.00) for the Wastewater services and Twenty Five Thousand (\$25,000.00) for the Water Services for the contract year identified under Appendix E.1.1 All Major Repairs will be deducted from the Repair Limit for the respective facilities.

E.1.2.2. VEOLIA will bill the Owner for Major Repairs should the Repair Limit for a facility be exceeded prior to the end of the contract year, or otherwise the Owner may choose to complete these repairs. Repairs (including labor) below the \$2,550 limit will be considered incidental to the project and included in the Base Fee. VEOLIA shall provide Owner with a detailed invoice of Repairs over the annual Repairs Limit, and Owner shall pay VEOLIA for all Repairs performed by VEOLIA in excess of such limit. Any loss, damage or injury resulting from Owner's failure to provide for Repairs in excess of the Repairs Limit shall be the sole responsibility of Owner. VEOLIA shall rebate to Owner the entire amount that the cost of Repairs is less than the annual Repairs Limit. VEOLIA will ask for Client consent before any Repair expenditure over \$5,000.00

E.1.2.3. Repairs charged to the Repair Limit shall not include labor costs for VEOLIA personnel assigned to the Project. Repairs charged to the Repairs Limit using

VEOLIA staff not assigned to the Project may include labor costs; provided that VEOLIA obtains Owner consent for such costs, which consent shall not be unreasonably withheld.

- E.1.2.4. The repair or replacement budget shall be used for individual Repairs and Preventative Maintenance on discrete pieces of equipment or process components. Repair expenses related to discrete failure events or separate and unrelated pieces of equipment not required to make a piece of equipment operable may not be aggregated or combined in order to surpass the \$2,000 threshold.
- E.1.2.5. Any loss, damage or injury resulting from VEOLIA's negligence, misconduct negligent maintenance, or violation of this Agreement shall be the sole responsibility of VEOLIA

E.1.3. Changes in Compensation

- E.1.3.1. The Base Fee will be adjusted annually using the Base Fee Adjustment Formula shown in Appendix E.3, with an annual escalation not to go below two percent (2%) or exceed five percent (5%). Upon each contract year renegotiation, VEOLIA shall continue to invoice Owner at the previous amount until written agreement between the Parties as to the new contract year Base Fee, upon which VEOLIA shall issue an invoice retroactively adjusting the previous contract year Base Fee amount
- E.1.3.2. The Parties will negotiate the Repairs Limit each year, three (3) months prior to anniversary of the Effective Date hereof in accordance with Appendix E.1.3.1. Should Owner and VEOLIA fail to agree, the Repairs Limit will be determined by the prior year's Repairs Limit Amount plus application of the Consumer Price Index (CPI) component of the Base Fee Adjustment Formula shown in Appendix E.3.
- E.1.3.3. The Parties will negotiate compensation for Changes in Scope in accordance with Appendix B.

E.2. PAYMENT OF COMPENSATION

- E.2.1. One-twelfth (1/12th) of the Base Fee for the current year and any charges against the repairs limit occurring in the subject month shall be invoiced on the first of the month for each month that services are provided. Repairs will be reconciled quarterly.
- E.2.2. Invoices, (including Repair and Preventative Maintenance expenses and out-of-scope services) for services at the WW Plant shall be identified as such on the invoice. Invoices for Repair and Preventative Maintenance expenses and out-of-scope services shall include a detailed description of work performed and include evidence of any reimbursable expenses in a form reasonably acceptable to the Owner.
- E.2.3. All other compensation to VEOLIA is due on receipt of VEOLIA's invoice and payable within thirty (30) calendar days, unless disputed by Owner.
- E.2.4. All payments due Owner under Section E.1.2 above shall be due and payable within ninety (90) days following the end of the applicable contract year.

E.2.5. Owner shall pay interest at an annual rate equal to the higher of 8% or other such lower percentage as may be allowed by statute, said amount of interest not to exceed any limitation provided by applicable law, on payments not paid and received within thirty (30) calendar days, such interest being calculated from the due date of the payment.

E.2.6. In the event of a contested billing, Owner may only withhold the contested portion from payment. The Owner will pay VEOLIA the undisputed portion in accordance with Appendix E.2.3.

E.3. BASE FEE ADJUSTMENT FORMULA

$$ABF = BF \times AF$$

Where:

ABF = Adjusted Base Fee

BF = Base Fee specified in Appendix E.1.1

AF = Adjustment Factor as determined by the formula:

$$[(ECI).70 + (CPI).30]] + 1.02$$

Where:

ECI = The twelve month percent change (from the third quarter of the prior year to the third quarter in the current year) in the Employment Cost Index for Total Compensation for Private Industry Workers in the Pacific Census Division as published by U.S. Department of Labor, Bureau of Labor Statistics in the Detailed Report Series ID: CIU201000000249I.

CPI = The twelve month percent change (from September of the prior year to September of the current year) in the Consumer Price Index for All Urban Consumers: Water and Sewer and trash collection services (CUUR0000SEHG01) but not less than zero (0%).

APPENDIX F
PROJECT VEHICLES AND EQUIPMENT

The Project includes all vehicles, rolling stock, and other equipment as follows:

Year	Make	Model/Description	Equipment/Vehicle ID No.
2009	Ford	F150 4x4 PU	
xxxx	Kubota	R 420 wheel loader	

NEW

APPENDIX G

Public Works Legal Requirements

To the extent that VEOLIA undertakes Repairs or Major Repairs as contemplated in Section 22 of this Agreement, each fully executed task order shall be subject to the following legally required terms (in addition to all other terms and conditions set forth in this Agreement):

1. ORS 279C.800 to 279C.870 (Payment of Prevailing Wage Required):
 - a. The hourly rate of wage to be paid by VEOLIA or any subcontractor to workers in each trade or occupation required for the public works employed in the performance of this Agreement shall not be less than the specified minimum rate of wage in accordance with ORS 279C.838 and ORS 279C.840 for each trade or occupation as defined by the Commissioner of the Oregon Bureau of Labor and Industries in the applicable publication entitled Definitions of Covered Occupations for Public Works Contracts in Oregon available at <https://www.oregon.gov/boli/employers/pages/prevailing-wage-rates.aspx>.
 - b. In order to be effective, each task order shall include the title and date of the applicable prevailing wage publication and the date of any amendment that applies.
 - c. VEOLIA and all subcontractors shall keep the prevailing wage rates for this Project posted in a conspicuous and accessible place in or about the Project.
 - d. The Owner shall pay a fee to the Commissioner of the Oregon Bureau of Labor and Industries as provided in ORS 279C.825. The fee shall be paid to the Commissioner under the administrative rule of the Commissioner.
 - e. If VEOLIA or any subcontractor also provides for or contributes to a health and welfare plan or a pension plan, or both, for its employees on the Project, it shall post notice describing such plans in a conspicuous and accessible place in or about the Project. The notice shall contain information on how and where to make claims and where to obtain future information.
2. ORS 279C.836 (Public Works Bond Required): VEOLIA shall:
 - a. File a public works bond with the Construction Contractors Board pursuant to ORS 279C.836 before starting work on the Project, unless exempt under ORS 279C.836(2), (7) or (8); and
 - b. Include in every subcontract a provision requiring the subcontractor to file a public works bond with the Construction Contractors Board pursuant to ORS 279C.836 before starting work on the Project, unless exempt under ORS 279C.836(2), (7) or (8).
3. ORS 279C.845 (Prevailing Wage Certification; Additional Retainage):

- a. VEOLIA and every subcontractor shall file certified statements with City in writing in the form prescribed by the Commissioner of the Bureau of Labor and Industries, certifying the hourly rate of wage paid each worker whom VEOLIA or subcontractor has employed upon such public work, and further certifying that no worker employed upon such public work has been paid less than the prevailing rate of wage or less than the minimum hourly rate of wage specified in the Agreement, which certificate and statement shall be verified by the oath of VEOLIA or VEOLIA's surety or subcontractor or subcontractor's surety that VEOLIA and any subcontractor has read such statement and certificate and knows the contents thereof, and that the same is true to VEOLIA's or subcontractor's knowledge. The certified statements shall set out accurately and completely the payroll records for the prior week including the name and address of each worker, the worker's correct classification, rate of pay, daily and weekly number of hours worked, deductions made, and actual wages paid.
- b. The certified statement shall be delivered or mailed by VEOLIA or subcontractor to City. Certified statements for each week during which VEOLIA or subcontractor employs a worker upon the public work shall be submitted once a month, by the fifth business day of the following month. Information submitted on certified statements may be used only to ensure compliance with the provisions of ORS 279C.800 to 279C.870. Notwithstanding any other provision of this Agreement and in addition to any other retainage required under this Agreement, the City shall retain 25% of any amount earned by VEOLIA until VEOLIA has filed the certified statements with the City as required by this Section. The City will pay the retainage required under this Section within 14 days after VEOLIA files the certified statements required by this Section.
- c. VEOLIA and each subcontractor shall preserve the certified statements for a period of three years from the date of completion of the Agreement.