



# City of Rockaway Beach City Council Workshop Meeting Agenda

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**Date:** Wednesday, January 14, 2026

**Time:** 4:30 PM

**Location:** Rockaway Beach City Hall, 276 Hwy 101 - 2nd Floor Conference Room

**Watch meeting here:** [rockawaybeachor.portal.civicclerk.com](https://rockawaybeachor.portal.civicclerk.com)

**Join here to attend remotely:**

<https://us06web.zoom.us/j/82676179539?pwd=qlmOQSRPcu7Ku4YQxBTytuSHcUYJSw.1>

Meeting ID: 826 7617 9539

Passcode: 831697

Dial by your location

253 215 8782 US (Tacoma)

***What is a City Council Workshop?*** *Workshops are intended to allow for preliminary discussions by the City Council and staff. Workshops are held to present information to the Council so that the Council is prepared for upcoming regular meetings. Workshops are subject to Oregon's public meeting law and must be noticed accordingly. No final City Council decisions are made during workshops. The public is encouraged to attend workshops but may not participate unless expressly asked.*

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*Note: Agenda item times are estimates and are subject to change.*

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## **1. CALL TO ORDER**

## **2. ROLL CALL**

Mayor: Charles McNeilly

Councilors: Penny Cheek, Kiley Konruff, Tom Martine, Mary McGinnis, Pat Ryan

## **3. COUNCIL BRIEFING/DISCUSSION**

- a. Emergency Management Program Presentation - Todd Hesse, Fire Chief (4:31 p.m.)
- b. Review of Draft Clean Water State Revolving Loan Fund Agreement No. RC0036 for Lower Jetty Creek Watershed Acquisition (4:50 p.m.)
- c. Review of Proposed Amendments to Code Chapter 113: Short Term Rentals (5:05 p.m.)

Rockaway Beach City Hall is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to the City Recorder Melissa Thompson at [cityrecorder@corb.us](mailto:cityrecorder@corb.us) or 503-374-1752.

- d. Review of NCAM Wayside Use Application (5:20 p.m.)
  - e. Other Regular Session Agenda Items Review (5:30 p.m.)
- 4. ADJOURNMENT (5:35 p.m.)**

**CLEAN WATER STATE REVOLVING FUND  
LOAN AGREEMENT  
No. RC0036**

**BETWEEN**

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

**AND**

**CITY OF ROCKAWAY BEACH**

DRAFT

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**THIS LOAN AGREEMENT (“Agreement”)** is made and entered into as of the date (“**Effective Date**”) it is fully executed by both parties (and in the case of the State, approved by the Attorney General's Office, if required) and is by and between the **State of Oregon, acting by and through its Department of Environmental Quality (“DEQ”)**, and the **Borrower** (as defined below). Unless the context requires otherwise, capitalized terms not defined below shall have the meanings assigned to them by ARTICLE 9 of this Loan Agreement. The reference number for the Loan made pursuant to this Loan Agreement is Loan No. RC0036.

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

### **ARTICLE 1: THE LOAN - SPECIFIC TERMS**

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

**(A) BORROWER:** City of Rockaway Beach

**(B) BORROWER'S ADDRESS:** 276 Highway 101  
Rockaway Beach, Oregon 97136

**(C) LOAN AMOUNT:** \$5,000,000

**(D) TYPE AND PURPOSE OF LOAN.** The Loan is made by DEQ pursuant to OAR Section 340-054-0065(1)(b) for the purpose of financing the Project and is secured by the Borrower’s pledge of its full faith and credit and taxing power.

**(E) PROJECT TITLE:** Lower Jetty Creek Acquisition

**(F) DESCRIPTION OF THE PROJECT:** City of Rockaway Beach will acquire fee title to 800 acres of forested Lower Jetty Creek watershed (“the Property”). The Loan will support all aspects of acquisition costs of the Property including but not limited to appraisal, price negotiation, parcel analysis, reasonable and necessary fees incurred in acquisition, closing and escrow costs, and future management plan development. Acquisition of the Property will protect the City's main surface water supply by using forests as green infrastructure to filter Wastewater Treatment Plant inflows. The City will develop and implement a sustainable forestry management plan for Property to increase water quality.

**(G) INTEREST RATE:** Two and 07/100 (2.07%) per annum. Calculation of interest is also discussed in ARTICLE 2(E) and in ARTICLE 2(F)(4) of this Agreement.

**(H) REPAYMENT PERIOD:** Ending no later than (a) thirty (30) years after the Completion Date or (b) thirty (30) years after the estimated Completion Date set forth in ARTICLE 3(A)(10), whichever date is earlier.

**(I) TERMS OF REPAYMENT:** An interest-only payment within six months after the estimated Project Completion Date set forth in ARTICLE 3(A)(10) and thereafter semi-annual

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payments of principal and interest in accordance with APPENDIX A and ARTICLE 2(F) of this Agreement.

**(J) PLEDGE:** The Borrower hereby pledges its full faith and credit and taxing power within the limitations of Article XI, Sections 11 and 11b, of the Oregon Constitution to pay the amounts due under the Loan Agreement, which are payable from and secured by all legally available funds of the Borrower.

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

**(L) LOAN FORGIVENESS:** If the Borrower completes the Project, and provided there is no default of any of the terms hereof, DEQ shall forgive fifty percent (50%) of the Loan or \$2,000,000, whichever is less (the portion of the Loan that is forgiven being referred to as the “Forgivable Loan”), on the date the first repayment is due hereunder. The amount of the Loan forgiveness will be determined when the Final Loan Amount is calculated.

## **ARTICLE 2: GENERAL LOAN PROVISIONS**

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

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

**(C) DISBURSEMENT OF LOAN PROCEEDS.**

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

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

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

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

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

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

(F) **LOAN REPAYMENT.**

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

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

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

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

(5) Final Payment. The Outstanding Loan Amount, all accrued and unpaid interest, and all unpaid fees and charges due hereunder are due and payable no later than (a) thirty (30) years after the Completion Date or (b) thirty (30) years after the estimated Completion Date set forth in ARTICLE 3(A)(10), whichever date is earlier.

**(G) PREPAYMENT.**

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

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

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

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

**(I) TERMINATION OF LOAN AGREEMENT.** Upon performance by the Borrower of all of its obligations under this Loan Agreement, including payment in full of the Final Loan Amount,

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all accrued interest and all fees, charges and other amounts due hereunder, this Loan Agreement will terminate, and DEQ will release its interest in any collateral given as security under this Loan Agreement.

**ARTICLE 3: GENERAL REPRESENTATIONS, WARRANTIES AND COVENANTS**

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

- (1)** It is a duly formed and existing public agency (as defined in ORS 468.423(4)) and has full power and authority to enter into this Loan Agreement.
- (2)** This Agreement has been duly authorized and executed and delivered by an authorized officer of the Borrower and constitutes the legal, valid and binding obligation of the Borrower enforceable in accordance with its terms.
- (3)** All acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Agreement have existed, have happened, and have been performed in due time, form and manner as required by law.
- (4)** Neither the execution of this Loan Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with any of the terms and conditions of this Loan Agreement will violate any provision of law, or any order of any court or other agency of government, or any agreement or other instrument to which the Borrower is now a party or by which the Borrower or any of its properties or assets is bound. Nor will this Loan Agreement be in conflict with, result in a breach of, or constitute a default under, any such agreement or other instrument, or, except as provided hereunder, result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower.
- (5)** This Loan Agreement does not create any unconstitutional indebtedness. The Loan Amount together with all of the Borrower's other obligations does not, and will not, exceed any limits prescribed by the Constitution, any of the statutes of the State of Oregon, the Borrower's charter, or any other authority.
- (6)** The Project is a project which the Borrower may undertake pursuant to Oregon law and for which the Borrower is authorized by law to borrow money.
- (7)** The Borrower has full legal right and authority and all necessary licenses and permits required as of the date hereof to own, operate and maintain the Facility and the Project, other than licenses and permits relating to the Facility or the Project which the Borrower expects to and shall receive in the ordinary course of business, to carry on its activities relating thereto, to execute and deliver this Agreement, to undertake and complete the Project, and to carry out and consummate all transactions contemplated by this Agreement.

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

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

(10) The estimated Completion Date of the Project is December 31, 2026. The Borrower agrees to complete the Project by the estimated Completion Date.

(11) The estimated total Costs of the Project are \$5,190,000.

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

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

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

#### **ARTICLE 4: CONDITIONS TO LOAN**

**(A) CONDITIONS TO CLOSING.** DEQ's obligations hereunder are subject to the condition that on or prior to January 31, 2026, the Borrower will duly execute and deliver to DEQ the following items, each in form and substance satisfactory to DEQ and its counsel:

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

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

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

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

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

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

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

(d) RESERVED; and

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

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

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

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

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

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

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

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

## **ARTICLE 5: COVENANTS OF BORROWER**

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

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

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

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

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

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

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

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

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

(9) Interest paid on this Loan Agreement is *not* excludable from gross income under Section 103(a) of the Internal Revenue Code of 1986, as amended (the "Code"). However, DEQ may have funded this Loan with the proceeds of State bonds that bear interest that is excludable from gross income under Section 103(a) of the Code. Section 141 of the Code requires that the State not allow the proceeds of the State bonds to be used by private entities (including the federal government) in such a way that the State bonds would become "private activity bonds" as defined in Section 141 of the Code. To protect the State bonds the Borrower agrees that it shall not use the Loan proceeds or lease, transfer or otherwise permit the use of the Project by any private person or entity in any way that that would cause this Loan Agreement or the State bonds to be treated as "private activity bonds" under Section 141 of the Code and the regulations promulgated under that Section of the Code.

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**(B) RESERVED**

**(C) LOAN RESERVE REQUIREMENT; LOAN RESERVE ACCOUNT.**

(1) Loan Reserve Requirement. The Loan reserve requirement equals one-half of the average annual debt service based on the final Payment Schedule. Until the Final Loan Amount is calculated, the Loan reserve requirement is \$67,865. The Borrower shall deposit the Loan reserve requirement amount into the Loan Reserve Account no later than the date the first payment is due hereunder.

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

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

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

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

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

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

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

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

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

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

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

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

**(G) DBE GOOD FAITH EFFORT.** The Borrower and its prime contractor(s) must comply with the Six Good Faith Efforts provided in 40 C.F.R. § 33.301 (set forth in APPENDIX C) and the recordkeeping requirements provided in 40 C.F.R. § 33.501. Borrower must submit documentation of Borrower and prime contractor(s)'s compliance with 40 C.F.R. §§ 33.301 and 33.501 to DEQ upon request.

Pursuant to 40 CFR part 33, Appendix A, the Borrower agrees to include, in its contract(s) with its prime contractor(s), the following language, which must not be altered in any way:

“The contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies.”

The Borrower also agrees to include in its contract(s) with its prime contractor(s), and shall cause each contract awarded by its prime contractor(s) to include, all applicable requirements of 40 CFR § 33.302 (the exact language may vary), including:

- (1) A prime contractor must pay its subcontractor(s) no more than 30 days from the prime contractor's receipt of payment from the Borrower.
- (2) The contractor must employ the Six Good Faith Efforts as described in 40 C.F.R. § 33.301 for soliciting and replacing subcontractors; and provide documentation of these efforts to the Borrower.

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

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

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

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

(1) The Borrower represents and warrants to DEQ that, as of the date of this Loan Agreement, the Costs of the Project actually incurred by the Borrower do not exceed -zero dollars (\$0.00)-.

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

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

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

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

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

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

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

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

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

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order before DEQ approves it, but the Borrower bears the risk that DEQ will not approve the change order.

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

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

(6) Operation and Maintenance Manual. The Borrower shall submit to DEQ a draft Facility operation and maintenance manual before the Project is fifty percent (50%) complete. The Borrower shall submit to DEQ a final Facility operation and maintenance manual that meets DEQ's approval before the Project is ninety percent (90%) complete.

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

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

(9) Project Initiation of Operations.

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

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

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

**(1) Prevailing Wage Requirements**

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

**(b)** When the federal Davis-Bacon Act applies to the Project, contractors and subcontractors on the Project must pay the prevailing rate of wage as determined by the United States Secretary of Labor under the Davis-Bacon Act (40 U.S.C. 3141 *et seq.*). The Borrower agrees that it will insert into any contract in excess of \$2,000 for construction, and will cause its subcontractors to insert in any sub-contract in excess of \$2,000 for construction, the Davis-Bacon language set forth in Part 1 of APPENDIX E and Part 2 of APPENDIX E as applicable.

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

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

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

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

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

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

**(E) AMERICAN IRON AND STEEL**  
The Borrower shall:

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

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

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

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

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

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

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

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

(A) **DISCLAIMER OF ANY WARRANTY.** DEQ EXPRESSLY DISCLAIMS ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, REGARDING THE PROJECT, THE QUALITY OF MATERIALS SUPPLIED TO AND THAT BECOME A PART OF THE PROJECT, THE QUALITY OF THE WORKMANSHIP PERFORMED UPON THE PROJECT, OR THE EXTENT AND STAGE OF COMPLETION OF THE PROJECT. No such warranty or guarantee shall be implied by virtue of any inspection or disbursement made by DEQ. Any inspection done by DEQ shall be for its sole benefit.

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

(C) **NONLIABILITY OF STATE.**

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

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

(3) Any findings by DEQ concerning the Project and any inspections or analyses of the Project by DEQ are for determining eligibility for the Loan and disbursement of Loan

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proceeds only. Such findings do not constitute an endorsement of the feasibility of the Project or its components or an assurance of any kind for any other purpose.

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

## **ARTICLE 8: DEFAULT AND REMEDIES**

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

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

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

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

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

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

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

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(7) The Borrower fails to cure non-compliance in any material respect with any other covenant, condition, or agreement of the Borrower hereunder, other than as set forth in (1) through (6) above within a period of thirty (30) days after DEQ provides notice of the noncompliance.

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

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

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

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

(4) Set and collect utility rates and charges;

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

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

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

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## ARTICLE 9: DEFINITIONS

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

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

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

- (1) Cost of labor and materials and all costs the Borrower is required to pay under the terms of any contract for the design, acquisition, construction or installation of the Project;
- (2) Engineering fees for the design and construction of the Project.
- (3) The costs of surety bonds and insurance of all kinds that may be required or necessary during the course of completion of the Project;
- (4) The legal, financing and administrative costs of obtaining the Loan and completing the Project; and
- (5) Any other costs approved in writing by DEQ.

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

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

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

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

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

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(I) **“GROSS REVENUES”** means all fees and charges resulting from operation of the Facility and any interest earnings thereon; provided however, Gross Revenues does not include: the proceeds of any grants; the proceeds of any borrowings for capital improvements; the proceeds of any liability insurance; or the proceeds of any casualty insurance which the Borrower intends to and does utilize for repair or replacement of the Facility or a part thereof.

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

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

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

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

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

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

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

(Q) **“NET REVENUES”** means the Gross Revenues less the Operating Expenses for the Facility.

(R) **“OPERATING EXPENSES”** means all direct and indirect expenses incurred for operation, maintenance and repair of the Facility, including but is not limited to administrative expenses, legal, financial and accounting expenses, insurance premiums, claims (to the extent that monies are not available from insurance proceeds), taxes, engineering expenses relating to operation and maintenance, payments and reserves for pension, retirement, health, hospitalization, and sick leave benefits, and any other similar expenses to be paid to the extent properly and directly attributable to operations of the Facility. Operating expenses include an appropriate amount for reserves for repair and replacement of the Facility based on the expected life of the collection, treatment and disposal facilities.

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

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

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

(V) “STATE” means the State of Oregon.

#### ARTICLE 10: MISCELLANEOUS

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

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

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

(B) **WAIVERS AND RESERVATION OF RIGHTS.**

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

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

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

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

**(E) NO THIRD PARTY BENEFICIARIES.** DEQ and the Borrower are the only parties to this Loan Agreement and are the only parties entitled to enforce the terms of this Loan Agreement. Nothing in this Loan Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right not held by or made generally available to the public, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Loan Agreement. Any inspections, audits, reports or other assurances done or obtained, or approvals or consents given, by DEQ are for its benefit only for the purposes of administering this Loan and the CWSRF Program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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**CITY OF ROCKAWAY BEACH**

By: \_\_\_\_\_  
Authorized Officer

\_\_\_\_\_  
Date

Typed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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

By: \_\_\_\_\_  
Jennifer Wigal, Administrator  
Water Quality Division

\_\_\_\_\_  
Date

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**APPENDIX A: PRELIMINARY REPAYMENT SCHEDULE**

OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY  
 CLEAN WATER STATE REVOLVING FUND LOAN PROGRAM  
**REPAYMENT SCHEDULE**

BORROWER:	City of Rockaway Beach	INTEREST RATE:	2.07%
SRF LOAN NO.:	RC0036	TERM IN YEARS:	30
LOAN AMOUNT:	\$ 5,000,000	PAYMENT AMOUNT:	\$ 68,197
		ANNUAL FEE:	0.50%

Due Date	Pmt#	PAYMENT				Principal Balance
		Principal	Interest	Fees	Total	
						3,000,000
8/1/2027	1	0	48,262	0	48,262	3,000,000
2/1/2028	2	37,147	31,050	15,000	83,197	2,962,853
8/1/2028	3	37,531	30,666	0	68,197	2,925,322
2/1/2029	4	37,920	30,277	14,627	82,824	2,887,402
8/1/2029	5	38,312	29,885	0	68,197	2,849,090
2/1/2030	6	38,709	29,488	14,245	82,442	2,810,381
8/1/2030	7	39,110	29,087	0	68,197	2,771,271
2/1/2031	8	39,514	28,683	13,856	82,053	2,731,757
8/1/2031	9	39,923	28,274	0	68,197	2,691,834
2/1/2032	10	40,337	27,860	13,459	81,656	2,651,497
8/1/2032	11	40,754	27,443	0	68,197	2,610,743
2/1/2033	12	41,176	27,021	13,054	81,251	2,569,567
8/1/2033	13	41,602	26,595	0	68,197	2,527,965
2/1/2034	14	42,033	26,164	12,640	80,837	2,485,932
8/1/2034	15	42,468	25,729	0	68,197	2,443,464
2/1/2035	16	42,907	25,290	12,217	80,414	2,400,557
8/1/2035	17	43,351	24,846	0	68,197	2,357,206
2/1/2036	18	43,800	24,397	11,786	79,983	2,313,406
8/1/2036	19	44,253	23,944	0	68,197	2,269,153
2/1/2037	20	44,711	23,486	11,346	79,543	2,224,442
8/1/2037	21	45,174	23,023	0	68,197	2,179,268
2/1/2038	22	45,642	22,555	10,896	79,093	2,133,626
8/1/2038	23	46,114	22,083	0	68,197	2,087,512
2/1/2039	24	46,591	21,606	10,438	78,635	2,040,921
8/1/2039	25	47,073	21,124	0	68,197	1,993,848
2/1/2040	26	47,561	20,636	9,969	78,166	1,946,287
8/1/2040	27	48,053	20,144	0	68,197	1,898,234
2/1/2041	28	48,550	19,647	9,491	77,688	1,849,684
8/1/2041	29	49,053	19,144	0	68,197	1,800,631
2/1/2042	30	49,560	18,637	9,003	77,200	1,751,071
8/1/2042	31	50,073	18,124	0	68,197	1,700,998
2/1/2043	32	50,592	17,605	8,505	76,702	1,650,406
8/1/2043	33	51,115	17,082	0	68,197	1,599,291
2/1/2044	34	51,644	16,553	7,996	76,193	1,547,647
8/1/2044	35	52,179	16,018	0	68,197	1,495,468
2/1/2045	36	52,719	15,478	7,477	75,674	1,442,749
8/1/2045	37	53,265	14,932	0	68,197	1,389,484
2/1/2046	38	53,816	14,381	6,947	75,144	1,335,668
8/1/2046	39	54,373	13,824	0	68,197	1,281,295
2/1/2047	40	54,936	13,261	6,406	74,603	1,226,359
8/1/2047	41	55,504	12,693	0	68,197	1,170,855
2/1/2048	42	56,079	12,118	5,854	74,051	1,114,776
8/1/2048	43	56,659	11,538	0	68,197	1,058,117
2/1/2049	44	57,245	10,952	5,291	73,488	1,000,872
8/1/2049	45	57,838	10,359	0	68,197	943,034
2/1/2050	46	58,437	9,760	4,715	72,912	884,597
8/1/2050	47	59,041	9,156	0	68,197	825,556
2/1/2051	48	59,652	8,545	4,128	72,325	765,904
8/1/2051	49	60,270	7,927	0	68,197	705,634
2/1/2052	50	60,894	7,303	3,528	71,725	644,740
8/1/2052	51	61,524	6,673	0	68,197	583,216
2/1/2053	52	62,161	6,036	2,916	71,113	521,055
8/1/2053	53	62,804	5,393	0	68,197	458,251
2/1/2054	54	63,454	4,743	2,291	70,488	394,797
8/1/2054	55	64,111	4,086	0	68,197	330,686
2/1/2055	56	64,774	3,423	1,653	69,850	265,912
8/1/2055	57	65,445	2,752	0	68,197	200,467
2/1/2056	58	66,122	2,075	1,002	69,199	134,345
8/1/2056	59	66,807	1,390	0	68,197	67,538
2/1/2057	60	67,538	699	338	68,575	0

TOTALS	3,000,000	1,071,925	251,074	4,322,999
REQUIRED LOAN RESERVE:	\$	67,865		



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## APPENDIX C: DBE GOOD FAITH EFFORTS

At a minimum the Borrower or its prime contractor must make good faith efforts whenever procuring construction, equipment, services and supplies by complying with the six steps outlined in 40 CFR Section 33.301. The six steps are:

- (a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
  - (b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
  - (c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
  - (d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
  - (e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.
  - (f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.
- The Borrower shall, and shall cause its contractors to, document compliance with the above requirements on forms found at Tab 6 of the Manual for Construction Projects.

Additional resources available to recipients and contractors include the following:

EPA Office of Small and Disadvantaged Business Utilization:

Phone: 206 – 553 – 2931

Web Site: <https://www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu>

Oregon Office of Minority, Women and Emerging Small Business

350 Winter Street N.E., Room 300

Salem, OR 97301-3878

Phone: 503 – 947 – 7922

Web Site: <https://www.oregon.gov/biz/programs/cobid/mbe-wbe/pages/default.aspx>

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## **APPENDIX D: APPLICABLE FEDERAL AUTHORITIES AND LAWS (“CROSS-CUTTERS”)**

### **ENVIRONMENTAL LEGISLATION:**

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

### **ECONOMIC LEGISLATION:**

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

### **SOCIAL LEGISLATION:**

The Age Discrimination Act of 1975, Pub. L. No. 94-135, 89 Stat. 713, 42 U.S.C. §6102 (1994).  
Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 252, 42 U.S.C. §2000d (1988).  
Section 13 of PL 92-500; Prohibition against Sex Discrimination under the Federal Water Pollution  
Control Act.  
Rehabilitation Act of 1973, Pub. L. No. 93-1123, 87 Stat. 355, 29 U.S.C. §794 (1988), including  
Executive Orders 11914 and 11250).

### **MISCELLANEOUS AUTHORITY:**

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

## **APPENDIX E: DAVIS-BACON PROVISION**

### Part 1

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(1) Minimum wages.

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

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

Subrecipients may obtain wage determinations from the U.S. Department of Labor's web site, [www.dol.gov](http://www.dol.gov).

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

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

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

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

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the subrecipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the

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subrecipient (s) to the State award official. The State award official will transmit the request, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

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

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

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

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

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

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(3) Payrolls and basic records.

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

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

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

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

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under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

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

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

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

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

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

(4) Apprentices and trainees--

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

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

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

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

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

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

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lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

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

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

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

(10) Certification of eligibility.

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

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

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

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Part 2  
**Contract Provision for Contracts in Excess of \$100,000.**

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

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

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

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

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

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

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

## 5. Compliance Verification

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

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

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

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

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

DRAFT

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## APPENDIX F

### EQUAL EMPLOYMENT OPPORTUNITY

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

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will comply with all applicable requirements of the Civil Rights Act of 1964, as amended, including without limitation all applicable provisions and requirements of Title VI and Title VII. The contractor will ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin and that the contractor's employment actions do not have a disproportionate, adverse effect on a protected group in violation of Title VII. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, such notices as may be required by the Equal Employment Opportunity Commission setting forth the rights of employees and/or applicants.
- (2) The contractor will ensure in its hiring that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin and may include a statement to that effect in the solicitations or advertisements for employees placed by or on behalf of the contractor.
- (3) The contractor will comply with all applicable provisions of the Civil Rights Act of 1964, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor, United States Department of Justice, and the Equal Employment Opportunity Commission, to the extent applicable.
- (4) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part, and such other sanctions may be imposed and remedies invoked by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

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

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

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Borrower, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

Signed \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Recipient \_\_\_\_\_

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## APPENDIX H: AMERICAN IRON AND STEEL (“AIS”) REQUIREMENT

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



## City of Rockaway Beach, Oregon

276 S. Highway 101, PO Box 5

Rockaway Beach, OR 97136

503.374.1752

### STAFF REPORT

**Date:** January 7, 2025  
**To:** City Council  
**From:** Luke Shepard, City Manager  
**Subject:** **Proposed Amendments to Chapter 113 — Short-Term Rentals**

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### BACKGROUND

This staff report presents the proposed amendments to Chapter 113 governing short-term rentals (STRs). The purpose of these amendments is to strengthen compliance, clarify administrative requirements, and improve transparency for STR owners, operators, renters, and the City. The revisions reflect issues identified during the City Council's 2025 workshop and integrate Council's consensus direction for improving data collection, posting standards, and verification of active STR use.

### SUMMARY OF KEY AMENDMENTS

#### Fee Structure Clarification

- Confirms that all application, renewal, and administrative fees are established by City Council resolution.

#### Identification and Posting Requirements

- Requires all STRs to use City-provided artwork for the required 24/7 hotline sign.
- Requires posting of the City's fireworks prohibition notice.

#### Use Requirement and Guest Registry Requirement

- Introduces new guest registry requirements focused on recording rental history for short-term rentals (STRs). For short-term rental owners utilizing online hosting platforms such as Airbnb or VRBO, guest registries are relatively easy to generate, simplifying the registry process to reduce burdens on owners and property managers.
- **Establishes a minimum of 30 annual rental-day requirement for STR license renewal**
- Compliance will be verified by audit as needed, using the required guest registry which must be provided to the City upon request.

### CONCLUSION NEXT STEPS

The proposed amendments to Chapter 113 will improve accountability, standardize administrative practices, and enhance compliance within the STR program. Staff recommends that the City Council review the proposed changes and provide direction on adoption.

**ATTACHMENT**

DRAFT Amendments to Ch 113 STRs redline

## CHAPTER 113: SHORT-TERM RENTALS

## Section

- 113.01 Definitions
- 113.02 Short-term rental license application and application procedures
- 113.03 Application and license fees
- 113.04 Short-term rental standards
- 113.05 Violations and penalties

## § 113.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**DWELLING UNIT.** A building or portion thereof which contains separate living facilities, including provisions for sleeping, eating, cooking and sanitation. A DWELLING UNIT is evidenced by 1 or more of the following features:

- (1) Refrigeration and cooking capabilities;
- (2) A sink intended for meal preparation, not including a wet-bar;
- (3) A dishwashing machine;
- (4) A separate and distinct entrance door; or
- (5) A separate utility meter.

**CONDOMINIUM.** A building or complex containing a number of individually owned apartments or houses which share a common point of access.

**LOCAL AGENT.** Any person who has been contracted by the owner and has full authority to act on the owner's behalf.

**OFF-STREET PARKING.** A parking space designated to the dwelling unit not located in the public right-of-way or street and located within the property lines of the licensed property.

**OVERNIGHT.** A stay at a short-term rental that lasts for the duration of the evening/night.

**OWNER.** Any person who, alone or jointly, has title to or an ownership interest in any dwelling unit to be used as a short-term rental.

**PERSON.** Every natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit.

**RENTAL UNIT.** A single dwelling unit that provides complete and independent living facilities.

**RENTER.** A person or group of persons renting a dwelling unit for a period of less than 30 consecutive days.

**SHORT-TERM RENTAL.** The use of a residential dwelling unit by any person or group of persons entitled to occupy the dwelling unit for rent for a period of less than 30 consecutive days.

**SHORT-TERM RENTAL LICENSE.** A permit to operate a short-term rental in accordance with this chapter. The licensing year is July 1 to June 30 of the following year and the fee of which is not subject to proration.

(Ord. 22-442, passed 8-10-2022)

#### § 113.02 SHORT-TERM RENTAL LICENSE APPLICATION AND APPLICATION PROCEDURES.

(A) Eligibility to apply for license. A property owner who holds title or a recorded land sale contract to a property with a dwelling unit may apply for a short-term rental license. A license application shall not be accepted or processed until fines related to any violation of the city code related to the subject property are paid in full. A license application shall not be accepted or processed until all corrective actions related to any violation of the city code related to the subject property are completed to the city's satisfaction. No person shall occupy, use, operate or manage, or offer or negotiate to use, lease or rent, a dwelling unit for short-term rental unless issued a short-term rental license by the city.

(B) Application. An application packet for a short-term rental license shall be completed and submitted to the city by the owner of the dwelling unit on forms provided by the city. If the dwelling unit is owned by a corporation or other entity, legal documentation, acceptable to the city, detailing the names of all persons with any ownership interest in the entity shall be submitted with the application. At the time of application, an application fee as determined by resolution of the City Council shall be paid to the city. Incomplete application packets shall not be accepted or processed. After one resubmittal, all additional resubmittals for the same property shall require payment of additional application fees. Failure of the owner to supply complete information for the short-term rental application process within 30 days of the initial application submission shall result in the expiration of the application. Applicants can request in writing for a one-time only 30-day extension after receiving communication of an incomplete application.

(C) Separate licenses. Each dwelling unit shall have a separate short-term rental license. More than one license may be issued for dwelling units on a single property. The short-term rental license is issued to the owner and may be transferred with the sale or conveyance of the property. All short-term rental license holders must report to the city any change of ownership of their short-term rental, in whatever form, before the transfer of ownership. New owners must notify the city of change of ownership within 30 days of closing to effect a short-term license transfer.

(D) License renewals. All short-term rental licenses must apply for renewal annually for the period of one year from July 1 of the current year to June 30 of the following year. If an owner seeks renewal, the license will remain valid during the pendency of the renewal process. Renewals will be issued so long as all requirements in this chapter continue to be met, a renewal application is submitted, and applicable fees are paid. If the owner is out of compliance with the provisions of this chapter or other city code regulation or requirement related to the licensed property, the city will not renew the license and the property shall no longer be used as a short-term rental. A license shall not be renewed if fines related to a violation of this chapter or transient lodging taxes related to the licensed property are outstanding. A license shall not be renewed until all corrective actions related to any violation of the city code related to the licensed property are completed to the city's satisfaction.

(E) Number of licenses available.

(1) The City Council shall establish the total number of licenses available by Council resolution. Except for licenses that may be granted to owners under divisions (F) or (H) below, the city will not issue more licenses than the total number of licenses established by the City Council.

(2) For license renewals each year, priority will be given to existing licenses seeking renewal, so long as a complete renewal application and payment is received by the city by July 31, or the next business day if July 31 falls on a day City Hall is closed. After July 31, if existing licenses are below the total number of licenses established by the City Council, new applications will be accepted from the new license waiting list.

(F) License availability exception. Notwithstanding the number of licenses established under division (E) above, an owner of a dwelling unit may obtain a short-term rental license under the following conditions: (1) the applicant was under contract to purchase the dwelling unit before the effective date of the 2024 amendments to this section; (2) the applicant took ownership of the dwelling unit within 180 days after the effective date of the 2024 amendments to this section; and (3) the applicant applies for a short-term rental license for the dwelling unit within 270 days after the effective date of the 2024 amendments to this section. In addition to a standard application packet for a short-term rental license, an application submitted under this division (F) shall also include copies of the following materials related to the dwelling unit: (1) the property purchase contract executed prior to the effective date of the 2024 amendments to this section; and (2) the recorded deed or land sale contract conveying the dwelling unit to the applicant executed within six months after the effective date of the 2024 amendments to this section. An eligible owner that submits a complete application meeting the requirements of divisions (B) and (F) of this section may obtain a short-term rental license without regard to the number of licenses available under division (E) above. Licenses issued under this division (F) shall not count against the number of licenses established by division (E) above and the owner issued a license under this division (F) may renew the license in subsequent consecutive years. Failing to timely renew a license in any one year will forfeit the ongoing renewal preference.

(G) New license waiting list.

(1) Once the total number of allowed licenses have been issued by the city, the city will maintain a waiting list for those owners wishing to obtain a license. An owner of property may submit a waiting list request form with the city.

(2) The city will develop a form for this purpose, requesting basic information from the owner, including but not limited to the property address, the owner's name, and the owner's contact information. It is each owner's responsibility to maintain correct information on file with the city while on the waiting list.

(3) The city will time stamp each complete waiting list request form submitted to mark the date and time a complete form was received by the city. The order of owners on the waiting list will be set by the chronological order of the time stamp on each owner's completed waiting list request form. The City Council may establish a fee by resolution for submitting a waiting list request. The City Manager may develop policies for maintaining the waiting list. Positions on the waiting list are personal to an owner and non-transferrable.

(4) When the number of issued licenses falls below the total number of licenses allowed, owners on the waiting list will be contacted in the order in which their completed waiting list request forms were received. When contacted at the contact information provided by the owner, the owner will have ten business days to submit a complete license application. Failure to submit a complete application within ten business days will forfeit the owner's opportunity to submit an application, remove the owner from the waiting list, and cause the city to move to the next owner on the waiting list.

(H) Under-construction waiting list.

(1) Notwithstanding the new license waiting list, the city will also maintain a waiting list for residential properties under-construction. If, pursuant to a valid city zoning permit issued on or before March 29, 2024, an owner is actively constructing a residential structure that the owner intends to use as a short-term rental, the owner may submit a provisional application with the city and be placed on a waiting list created by the city for such provision applications. The city will time stamp each complete provisional application submitted to mark the date and time a complete provisional application was received by the city. It is each owner's responsibility to maintain correct information on file with the city while on the waiting list. The City Council may establish a fee by resolution for submitting a provisional application. The City Manager may develop policies for maintaining the under-construction waiting list. Positions on the under-construction waiting list are personal to an owner and non-transferrable.

(2) Once issued a certificate of occupancy, an owner on the under-construction waiting list may contact the city in writing and submit a complete short-term rental license application. Failing to contact the city within 30 days after obtaining a certificate of occupancy will void the provisional application and the owner will be removed from the under-construction waiting list. Once a short-term rental license application is submitted and deemed complete, notwithstanding the license cap established by division (E) above,

the city will issue the owner a license. Licenses issued to owners on the under-construction wait list may be renewed in subsequent consecutive years notwithstanding the license cap established by division (E) above. Failing to timely renew a license in any one year will forfeit the ongoing renewal preference.

(3) An owner on the under-construction waiting list must obtain a certificate of occupancy for the applicable property and must and submit a complete short-term rental license application and pay the application fee by March 29, 2026. After March 29, 2026, the under-construction waiting list will lapse and any remaining owners on the list will be transferred to the new license waiting list according to the time their provisional application was received by the city.

(Ord. 22-442, passed 8-10-2022; Am. Ord. 2024-01, passed 2-14-2024; Am. Ord. 2024-05, passed 5-8-2024)

#### § 113.03 APPLICATION AND LICENSE FEES.

An annual license fee ~~of \$250~~ is due prior to issuance of a short-term rental license or renewal. ~~By Council resolution,~~ the City Council shall establish by Council resolution the annual license fee, an application fee, a renewal application fee, and any other appropriate administrative charges for the implementation and operation of this chapter.

(Ord. 22-442, passed 8-10-2022)

#### § 113.04 SHORT-TERM RENTAL STANDARDS.

Owners shall cause each rental unit to meet the following standards:

(A) House number. Each rental unit must have either a house number or address identifier visible from the street.

(B) On-line database. The owner or local agent shall provide and maintain with the city either an email address or a contact telephone number for the owner or local agent. The city shall make this information publicly available through an on-line database. The contact information of all owners and local agents shall be kept current with the city.

(C) Identification sign. The owner or local agent shall provide and maintain a sign which lists the City's 24/7 telephone complaint hotline phone number using artwork for the sign provided by the City. ~~short-term rental license number, email address and a contact telephone number for the owner or local agent~~. Such signage shall be visible from the street, legible from 10 feet away and shall be no smaller than 93.5 square inches nor larger than 154 square inches. The contact information of all owners and local agents shall be kept current with the city. If the rental unit is within a condominium, the identification sign shall be placed on the main entrance door of the unit and be visible to other building occupants.

(D) Parking. Each dwelling unit must provide the minimum off-street parking spaces shown in the chart below, based upon the date the building was constructed or legally converted to its current use. Parking spaces shall measure no smaller than 9 feet x 18 feet each. Such spaces shall not be blocked and shall be available to people using the short-term rental at all times. Location and design of parking spaces shall comply with all applicable city standards. Spaces in a garage may count but they must be available for the renter to park in at all times the rental unit is rented. Trailers for boats and all-terrain vehicles may be allowed, but must fit within an off-street parking space allocated to the rental unit used by the owner of the trailer. Renters shall not block nearby driveways or designated fire lanes. A parking plan map and notice, identifying the number and location of parking spaces, shall be posted in a conspicuous place within each short-term rental. Language shall be included in the notice that parking shall not, under any circumstances, hinder the path of any emergency vehicle or block neighboring driveways and that renters may be cited and fined if this requirement is not satisfied. A diagram of the parking plan and map shall be required as part of a license application. The maximum number of parking spaces available to the renter shall be conveyed to each renter before the visit.

Date constructed or legally converted	Number of spaces required
Prior to 7/30/1974	No off-street parking requirements
7/30/1974 - 3/24/1980	One off-street per dwelling unit
On and after 3/25/1980	Two off-street per dwelling unit

(E) Garbage. During periods of rental unit occupancy, the owner shall provide adequate covered and secured garbage containers in conformance with all related guidelines established by the city. Cans must be secured to prevent animals from knocking them over or getting into them. All garbage must fit within the can and cannot overflow. Owner shall provide the city with evidence that the dwelling unit receives garbage service with each application. Garbage shall be removed a minimum of once per week. The owner or local agent shall notify renters that all garbage must be kept in the secured containers provided for that purpose. No garbage or rubbish may be permitted to leak from containers or vehicles or be strewn upon or scattered over the streets, sidewalks, or other public ways of the city.

(F) Noise. Renters shall not create or cause noise that is offensive to a person of ordinary sensibilities located on the property line of the licensed property between the hours of 10:00 p.m. and 7:00 a.m. on weekdays, and 10:00 p.m. and 10:00 a.m. on weekends.

(G) RVs and other temporary shelters. No recreational vehicle is permitted to be used as a short-term rental unless the recreational vehicle or temporary shelter has been properly permitted as a dwelling unit in the RMD zone. No recreational vehicle, travel trailer or other temporary shelter shall be inhabited or used in conjunction with a short-term rental.

(H) Owner and local agent responsibilities. The owner or local agent shall be able to respond via phone within 30-minutes to complaints and other issues and be able to access the short-term rental. Once a complaint or issue is reported by phone or email, the owner or local agent shall immediately make direct contact with the renter or appropriate entity by phone to resolve the reported problem. If the problem cannot be resolved or an immediate resolution is not achieved by phone, the owner or local agent shall make an in-person visit to the short-term rental to rectify the situation within 30-minutes. The owner or local agent shall maintain a telephone number listed within the rental unit and at the city by which to be reached 24 hours a day, 7 days a week, year-round.

(I) Proof of liability insurance coverage. The owner shall provide the city with proof of liability insurance covering the licensed property. The liability insurance coverage shall remain active and in effect during the entire time that the property is licensed as a short-term rental.

(J) Emergency information. The owner shall post in the dwelling unit information to assist renters in dealing with natural disasters, power outages and other emergencies. The city shall list in the short-term rental license application the minimum information and equipment to be provided by the owner in each dwelling unit.

(K) License posting. The owner shall post in the dwelling unit a copy of the short-term rental license in a prominent location.

(L) Fireworks prohibited posting. The owner shall post in the dwelling unit a copy of the City's regulations prohibiting fireworks in a prominent location.

(L) Guest registry. The guest registry shall be available for inspection by the City upon request. The guest registry shall include the following information:(1)For each booking:(A)The dates, and total number of days, rented;(B)Whether the rental was for the entire dwelling unit or guest rooms within the dwelling unit;(C)For bookings when individual guest rooms within the dwelling unit were rented rather than the entire dwelling unit, the number of individual guest rooms rented;(D)For bookings reserved through a booking service, the name of the booking service where the booking was reserved; and(2)For the entire year:(A)The total number of days individual guest rooms within the dwelling unit were rented; and(B)The total number of days the entire dwelling unit was rented.

(M) Use Required for Renewal. In addition to other requirements herein, to be eligible for renewal, the short-term rental property shall have been rented at least 30 days within the preceding 12 months. Owners shall be required to provide the guest registry as proof of this requirement upon request by the City.

(Ord. 22-442, passed 8-10-2022)

§ 113.05 VIOLATIONS AND PENALTIES.

(A) It is a violation of this chapter for any person so required to fail or refuse to apply for a license, or operate without a license as required in this chapter. Any person who violates any provisions of this chapter is subject to a civil penalty of up to \$500 per violation, with each day of a continuing violation constituting a separate violation. The third violation within any consecutive 12 month period shall result in revocation of the short-term rental license for 12 months, after which time the owner may reapply for a new license.

(B) Revocation of a short-term rental license shall not constitute a waiver of short-term rental fees and taxes due at the time of revocation.

(Ord. 22-442, passed 8-10-2022)



# Event Application Staff Review

Organization Name: NCAM

Event: NCAM MUSIC FESTIVAL

Date(s): 8/13/2026 - 8/17/2026

Drawing/Map clearly denoting event set-up including: portable restrooms, dumpsters, barricades, vendors, etc.

Comment/Conditions: APPLICATION STATES, "WE WILL CLOSE WAYSIDE 8/13/2026 ON THURSDAY BETWEEN 10PM & 11PM FOR STAGE DELIVERY FRIDAY 8/14."  
- AND - "STAGE PICKUP IS MONDAY MORNING."

Estimated # of People Attending: 150 - 200

Dumpster Required  YES  NO  
Recommended size/capacity: 1 Yard DE

APPLICATION STATES, "PORTA POTM AND DUMPSTER WILL BE PROVIDED."

Restrooms Required  YES  NO  
Recommended quantity: PORTA POTM (2) Recommended DE

Other Comments/Conditions: APPLICANT MUST PROVIDE CERTIFICATE OF LIABILITY INSURANCE AS WELL AS CERTIFICATE OF LIABILITY INSURANCE AND OLCC PERMIT FOR ANY VENDORS SERVING ALCOHOL.

All applications contingent on City Council approval.

Application Reviewed by: a. Paul reynolds  
Name

12/15/2025  
Date

Dan Emerson  
Name

12/15/25  
Date



City of Rockaway Beach, Oregon

276 S. Highway 101, PO Box 5
Rockaway Beach, Oregon 97136
(503) 374-1752 FAX (503) 355-8221
www.corb.us \* cityhall@corb.us



APPLICATION USE PERMIT FOR CITY WAYSIDE AT ANCHOR STREET PARK

Submit Completed Application in person or via email cityhall@corb.us

Choose One: [X] City Wayside

[ ] Anchor Street Park - Event Area Only

[X] Portable Restrooms will be provided at event [X] Dumpster will be provided at event

Organization Name: NCAM
Contact Person: Robin Swain
Address: [redacted] State: OR Zip: 97136
Phone #: [redacted] Email: [redacted]
Deposit Paid: \$300 Date: 8/28/2016

Name of Event: NCAM Music Fest
Date(s) of Event: 8/13/2016 to 8/17/2016
Times of Event: 10am to 10pm Sat 12:00pm to 10pm Sun 12:00

Estimated # of People Attending: 150 - 200
Number of Vendors: 20

Contact Person(s): Robin Swain
Contact Phone Number(s): [redacted]
Contact Email: Robinsncam@gmail.com

If traffic control is needed, please explain: We will need to close wayside <sup>Thurs</sup> Friday morning for stage and vendor set up on Friday. we will close wayside 8/13/2016 between 10pm till 10am for stage delivery Friday night. Our insurance is on file which it renews in June when a new certificate will be issued.

POSTA parking and dumpster will be placed stage side up to market morning. once it is gone we will open up wayside

- 1. \$2,000,000 General Liability insurance listing the City of Rockaway Beach as an additional insured is required.
2. \$300.00 cleaning deposit will be paid at time of application.
3. Hours of availability are between 7:00 AM and 10:00 PM.
4. Property must be clean and cleared of all trash, papers, cans, bottles, etc.

5. Property to be barricaded by applicant. Arrangements for barricades to be made with Public Works by applicant. Public Works: 503-374-0586.
6. Any property damage during event is the responsibility of the applicant.
7. No stakes, nails or any pavement or fixture penetrating device will be used to tie down canopies, tents, etc.
8. Any markings denoting spaces shall be done in street chalk.
9. Application must be submitted 45 days prior to the event.
10. Must attach a drawing denoting area of Wayside or Anchor St. Park which will be used and manner of use.
11. Contact Tillamook County Dispatch for after-hours concerns: 503-815-1911.
12. Anchor Street Park Only: Applicant to ensure restrooms, playground and parking outside of event space remains open and accessible by the general public.
13. Deposit to be returned only after post event inspection and authorization from Public Works Department.

APPLICANT: I have read and understand my, or my organization, responsibility regarding these City facilities, and will adhere to the rules set forth.

[Redacted Signature]

8/8/25

Signature of Applicant

Date

FOR OFFICE USE ONLY

Pre-Event

Date Received: 12/8/2025 Received by: LARRY REIFENSTAL

DEPOSIT Amount Paid: \$300.00 Date Paid: 12/8/2025 Cash/Check #: 1066

Insurance  Drawing/Map  Pre-Event Inspection  Deposit Collected  Dumpster Required  Portable Restroom Required

Post-Event

Date approved by City Council \_\_\_\_\_

Disposition of Deposit: \_\_\_\_\_

Deposit Returned Date: \_\_\_\_\_

Amount Retained: \_\_\_\_\_ (Work order and invoice attached)

Post-Event Inspection: Authorized to return deposit  Yes  No PW Signature: \_\_\_\_\_





## RESTROOMS

Band Hospitality Tent  
Equipment Trailers

## LOADING

Parking Lot Closed to Vehicles!  
TEMPORARY PARKING ONLY FOR  
LOADING AND UNLOADING BAND GEAR

## VENDORS

All booths are 10x10, choose numbered spot  
Renaissance Artists and Tie Dye Tees  
have the designated 10x20 areas