
Ordinance No. 89-319

The Council of the Metropolitan Service District

An ordinance establishing a plan for the financing from time to time of various components of the Metropolitan Service District's solid and liquid waste disposal system; authorizing the issuance of one or more series of revenue bonds for such purpose under the provisions of supplemental ordinances adopted pursuant hereto; and establishing and determining other matters in connection therewith.

Enacted on November 21, 1989

Prepared by:

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Metropolitan Service District
Counties of Multnomah, Clackamas and Washington
State of Oregon

Ordinance No. 89-319

An ordinance establishing a plan for the financing from time to time of various components of the Metropolitan Service District's solid and liquid waste disposal system; authorizing the issuance of one or more series of revenue bonds for such purpose under the provisions of supplemental ordinances adopted pursuant hereto; and establishing and determining other matters in connection therewith.

Be it enacted by the Council of the Metropolitan Service District:

Section A. Findings. The Council (the "Council") of the Metropolitan Service District, a political subdivision organized and existing under the laws of the State of Oregon (the "Issuer"), hereby finds and determines as follows:

(a) Pursuant to and in accordance with the provisions of Oregon Revised Statutes Chapter 268 (the "Act") and related provisions of the Oregon Revised Statutes, the Issuer is responsible for and now operates a solid and liquid waste disposal system (as more particularly described herein, the "System") for the purpose of managing and disposing of solid and liquid waste (as such terms are used in the Act) generated within and without the Service Area (as defined herein).

(b) In order to meet the present and continuing needs of the Issuer within the Service Area for solid and liquid waste management and disposal it is and will be necessary to construct, acquire, reconstruct, improve, better and extend from time to time the System and to issue revenue bonds, including refunding bonds, in one or more series from time to time for the purpose of financing in whole or in part the costs of such capital expansion and to provide working capital and other moneys needed in connection therewith.

(c) Pursuant to the provisions of the Act and other applicable provisions of law, the Issuer is authorized to issue revenue bonds to finance and refinance landfills, transfer facilities, resources recovery facilities and other

improvements, facilities and equipment necessary or desirable for the System regardless of whether such improvements, facilities and equipment are to be owned by the Issuer or any other person and regardless of whether such improvements, facilities or equipment are to be located within or without the jurisdictional boundaries of the Issuer.

(d) The Issuer has determined to enact this Ordinance pursuant to the Act to provide for the issuance of its waste disposal system revenue bonds and other obligations (as more particularly described herein, the "Bonds"): (i) for the purpose of financing, by means of Project Bonds, System Bonds or a combination of the foregoing, such capital costs of the System as may be incurred from time to time; (ii) for the purpose of refunding any Bonds or other obligations as may be issued from time to time under this Ordinance; and (iii) for the purpose of providing working capital for the System and other moneys that may be needed from time to time in connection with the System.

ARTICLE I

DEFINITIONS

Section 101. Definitions. As used in this Ordinance, unless the context shall otherwise require, the following terms shall have the following respective meanings set forth below:

"Account" or "Accounts" shall mean one or more of the special trust accounts, including System Accounts and Project Accounts, created and established pursuant to this Ordinance or any Supplemental Ordinance.

"Accountant's Opinion" shall mean an opinion signed by an independent certified public accountant or a firm of independent certified public accountants selected by the Issuer.

"Accreted Value" shall mean, as of the date of computation with respect to any Capital Appreciation Obligations, an amount equal to the principal amount of such Capital Appreciation Obligations (the issue price at the date of issuance) plus the interest accrued on such Capital Appreciation Obligations from the date of original issuance of such Capital Appreciation Obligations to the Interest Payment Date next preceding the date of computation or the date of computation if an Interest Payment Date, such interest to accrue at an approximate rate *per annum* of the Capital Appreciation Obligations, set forth in the Supplemental Ordinance providing for the issuance of such Capital Appreciation Obligations or in the Financing Agreement or Issuer Agreement giving rise to such Capital Appreciation Obligations, compounded at such intervals as shall be specified in the Supplemental Ordinance pursuant to which such Capital Appreciation Obligations are issued or in the Financing Agreement or Issuer Agreement giving rise to such Capital Appreciation Obligations, plus, with respect to matters related to the payment upon redemption of such Capital Appreciation Obligations, if such date of computation shall not be an Interest Payment Date, a portion of the difference between the Accreted Value as of the immediately preceding Interest Payment Date (or the date of original issuance if the date of computation is prior to the first Interest Payment Date succeeding the date of original issuance) and the Accreted Value as of the immediately succeeding Interest Payment Date, calculated based on the assumption that Accreted Value accrues during any period in equal daily amounts on the basis of a year of twelve 30-day months. A table of Accreted Values for each Series of System Bonds issued as Capital Appreciation Obligations shall be incorporated in a Supplemental Ordinance enacted by the Issuer upon issuance of any Capital Appreciation Obligations and a table of Accreted Values for each Issuer Financial Obligation which constitutes Capital Appreciation Obligations shall be incorporated in the Financing Agreement or Issuer Agreement giving rise to such Issuer Financial Obligation.

"Act" shall mean Oregon Revised Statutes Chapter 268, as amended, and other applicable provisions of the laws of the State of Oregon.

"Additional Bonds" shall mean, with respect to a particular Series of Bonds, Bonds authenticated and delivered pursuant to the provisions of the Supplemental Ordinance under which such Series is issued and which constitute a part of such Series of Bonds:

"Alternate Credit Facility" means with respect to a particular Series of Bonds, any Credit Facility meeting the applicable requirements of the Supplemental Ordinance under which such Series of Bonds is issued and which is given in substitution for or replacement of an existing Credit Facility securing such Series of Bonds.

"Annual Budget" shall mean the annual budget of the Issuer, as amended or supplemented, adopted or in effect for a particular Fiscal Year as provided in Section 702(g) hereof.

"Annual Debt Service" shall mean:

(i) with respect to any Series of System Bonds, the amount required to be deposited in the then current or any succeeding Fiscal Year into the System Debt Service Account as provided in this Ordinance for the payment of the Outstanding System Bonds; *provided, however, that:*

(a) there shall be credited against such sum any interest capitalized from System Bond proceeds;

(b) the amount of System Term Obligations subject to mandatory redemption in any Fiscal Year pursuant to a Mandatory Redemption Schedule shall be deemed to mature in the Fiscal Year in which such System Term Obligations are subject to such mandatory redemption and only the principal amount of such System Term Obligations scheduled to remain Outstanding on the maturity date thereof shall be included in determining the Annual Debt Service for System Bonds in the Fiscal Year in which such maturity date occurs;

(c) for purposes of determining Annual Debt Service for the Outstanding System Bonds which constitute Option Obligations, any such Option Obligations outstanding at the time of such determination shall be assumed to mature on their stated dates of maturity;

(d) for purpose of computing Annual Debt Service for the Outstanding System Bonds which constitute Variable Rate Obligations, such Variable Rate Obligations shall be deemed to bear at all times to maturity thereof at the Estimated Average Interest Rate applicable thereto;

(e) for purposes of computing Annual Debt Service on Outstanding System Bonds which constitute Capital Appreciation Obligations, the principal and interest portion of the Accreted Value becoming due at maturity or by virtue of a scheduled mandatory redemption prior to maturity shall be included in the calculations of accrued and unpaid interest and principal requirements; and

(f) for purposes of computing Annual Debt Service on any Series of System Bonds which constitute Balloon Indebtedness, it shall be assumed that the principal of such Balloon Indebtedness, together with interest thereon at the rate applicable to such Balloon Indebtedness, shall be amortized in equal annual installments over a term equal to the lesser of:

(1) twenty five (25) years; or

(2) the average weighted useful life (expressed in years and rounded to the next highest integer) of the properties and assets constituting the Project (if any) financed out of the proceeds of such Balloon Indebtedness; and

(ii) with respect to any Issuer Financial Obligation, the amount of such Issuer Financial Obligation coming due in the then current or any succeeding Fiscal Year; *provided, however, that:*

(a) there shall be credited against such sum any interest capitalized from the proceeds of the Financing Agreement giving rise to such Issuer Financial Obligation;

(b) for purposes of determining Annual Debt Service for any Issuer Financial Obligation which constitutes Option Obligations, such Option Obligations outstanding at the time of such determination shall be assumed to mature on their stated dates of maturity;

(d) for purpose of computing Annual Debt Service for any Issuer Financial Obligation which constitute Variable Rate Obligations, such Variable Rate Obligations shall be deemed to bear at all times to maturity thereof at the Estimated Average Interest Rate applicable thereto;

(e) for purposes of computing Annual Debt Service on any Issuer Financial Obligation which constitute Capital Appreciation Obligations, the principal and interest portion of the Accreted Value becoming due at maturity or by virtue of a scheduled mandatory redemption prior to maturity shall be included in the calculations of accrued and unpaid interest and principal requirements; and

(f) for purposes of computing Annual Debt Service on any Issuer Financial Obligation which constitutes Balloon Indebtedness, it shall be assumed that the principal of such Balloon Indebtedness, together with interest thereon at the rate applicable to such Balloon Indebtedness, shall be amortized in equal annual installments over a term equal to the lesser of:

(1) twenty five (25) years; or

(2) the average weighted useful life (expressed in years and rounded to the next highest integer) of the properties and assets constituting the Project (if any) financed out of the proceeds of such Balloon Indebtedness;

(iii) with respect to a particular Series of Project Bonds, the amount determined pursuant to and in accordance with the applicable provisions of the Supplemental Ordinance pursuant to which such Series of Project Bonds is issued.

"Authorized Denominations" means, with respect to a particular Series of Bonds, the denominations in which the Bonds of such Series are authorized to be issued as provided in the Supplemental Ordinance under which such Series of Bonds is issued.

"Authorized Issuer Representative" shall mean the Executive Officer of the Issuer or any person designated by the Executive Officer in writing to act on behalf of such Executive Officer for purposes of this Ordinance.

"Balloon Indebtedness" shall mean any Series of System Bonds or Issuer Financial Obligation more than twenty five percent (25%) of the principal of which, in accordance with the terms of such System Bonds or

Issuer Financial Obligation, is due and payable in any one Fiscal Year either by reason of the stated maturity date of such System Bond or pursuant to a Mandatory Redemption Schedule; *provided that* with respect to any System Bonds issued as Term Bonds, such Bonds shall only be treated as Balloon Indebtedness if more than twenty five percent (25%) of the principal thereof is due in any one Fiscal Year pursuant to the applicable Mandatory Redemption Schedule or upon the stated maturity date thereof (assuming that the only principal due on the stated maturity date thereof will be the principal remaining outstanding after all redemptions have been made pursuant to the applicable Mandatory Redemption Schedule).

"Bond" or "Bonds" shall mean all bonds or other obligations issued, authenticated and delivered under and pursuant to any Supplemental Ordinance enacted pursuant to this Ordinance.

"Bond Counsel" shall mean Stoel Rives Boley Jones & Grey or an attorney or firm of attorneys of recognized national standing in the field of law relating to municipal bonds selected by the Issuer.

"Bond Registrar" shall mean, with respect to a particular Series of Bonds, any bank, trust company or national banking association, which may include the Master Trustee (in the case of System Bonds) or the related Trustee (in the case of Project Bonds) or their respective successor or successors, authorized by the Issuer pursuant to a Supplemental Ordinance to act as bond registrar for such Series of Bonds and having the duties, responsibilities and rights provided for in this Ordinance and such Supplemental Ordinance, and its successor or successors and any other corporation or association which at any time may be substituted in its place pursuant to this Ordinance or the applicable provisions of any Supplemental Ordinance.

"Bond Year" means, with respect to a particular issue of Bonds or Issuer Financial Obligation, each one year period commencing on: (i) the date of issuance and delivery of the Bonds of such issue or the date upon which such Issuer Financial Obligation is incurred, as the case may be; or (ii) such other date as the Issuer may elect in accordance with the application provisions of Section 148(f) of the Code and the regulations thereunder.

"Calculation Period" means, with respect to a particular issue of Bonds or Issuer Financial Obligation, the period elected by the Issuer in accordance with and pursuant to the regulations promulgated pursuant to Section 148(f) of the Code (or any successor thereto) for calculating the Rebate Amount with respect to such issue or Issuer Financial Obligation.

"Capital Appreciation Obligations" shall mean those Bonds issued under this Ordinance and any Supplemental Ordinance and those Issuer Financial Obligations as to which interest is compounded periodically on each of the applicable periodic dates designated for compounding and payable in an amount equal to the then current Accreted Value only at the maturity or earlier redemption thereof, all as so designated in a Supplemental Ordinance of the Issuer providing for the issuance thereof or in the Financing Agreement or Issuer Agreement giving rise to such Issuer Financial Obligation, including any Bonds or Issuer Financial Obligation which accrue and compound interest thereon as aforesaid for a period of time, after which period such Bonds or Issuer Financial Obligation commence paying interest on a periodic basis.

"Capital Costs" shall mean and include all costs of acquisition, construction, reconstruction, improvement, betterment or extension of the System or any part thereof or any Project, including, without limitation, the costs of:

- (a) any demolitions or relocations necessary in connection with the acquisition, construction, reconstruction, improvement, betterment and extension of the System or any Project and any renewals, replacements, alterations, improvements, additions, machinery and equipment, facilities, paving, grading, excavation, blasting or removals deemed by the Issuer to be necessary or useful or convenient in connection therewith;

(b) obligations incurred for labor and materials and payments made to contractors, builders and materialmen in connection with the acquisition, construction, reconstruction, improvement, betterment and extension of the System or any Project, and for the restoration of property damaged or destroyed in connection therewith;

(c) fees and expenses of the related Trustee during construction, the cost of surety bonds to secure moneys in the Construction Fund, payments, taxes or other governmental charges lawfully levied or assessed during construction or on any property acquired, and premiums on insurance (if any) during such construction or acquisition or reimbursement to the appropriate person for such premium payments;

(d) fees and expenses for studies, surveys and reports, engineering, borings, testings, estimates of costs and revenues, preparation of plans and specifications and inspecting or supervising construction or acquisition, as well as for the performance of all other duties of engineers or architects in connection with the acquisition, construction, reconstruction, improvement, betterment or extension of the System or any Project or required by this Ordinance;

(e) expenses of administration properly chargeable to the acquisition, construction, reconstruction, improvement, betterment or extension of the System or any Project, including legal expenses and fees, financing charges, costs of audits and fiscal advice, the fees and expenses of any related Fiduciary and other similar administrative costs incurred during the construction period in connection with the related Bonds but only to the extent such fees, expenses and costs have been capitalized, and all other items of expense not elsewhere in this definition specified, incident to the acquisition, construction, reconstruction, improvement, betterment or extension of the System or any Project, including the acquisition of real estate, franchises and rights-of-way therefor, and abstracts of title and title insurance;

(f) the cost and expense of acquiring by purchase or condemnation or by leasing such property, lands, rights-of-way, franchises, easements, and other interests in land as may be deemed necessary or convenient for the acquisition, construction, reconstruction, improvement, betterment or extension of any part of the System or any Project, and options and partial payments thereon, and the amount of any damages incident to or consequent upon the same;

(g) any obligation or expense heretofore or hereafter expended or incurred by the Issuer or any other person and any amounts heretofore or hereafter advanced by the Issuer or any other person for any of the foregoing purposes;

(h) any Costs of Issuance incurred in connection with a Series of Bonds; and

(i) interest on the related Bonds during the period of construction, installation, acquisition and testing of a Project.

"Code" means the Internal Revenue Code of 1986, as amended, and the rules and regulations promulgated or applicable thereunder.

"Completion Bonds" shall mean, with respect to a particular Series of Bonds or Issuer Financial Obligation, Bonds issued or an Issuer Financial Obligation incurred under and pursuant to the provisions of Section 205(b) hereof (in the case of System Bonds or Issuer Financial Obligation) or the applicable provisions of the Supplemental Ordinance authorizing such Series of Bonds (in the case of a Series of Project Bonds) for the purpose of providing funds to finance the completion of a Project and which constitute a part of such Series of Bonds or Issuer Financial Obligation, as the case may be.

"Consulting Engineer" shall mean such firm or firms of engineers as shall be appointed from time to time by the Issuer to serve as Consulting Engineer for purposes of this Ordinance.

"Costs of Issuance" shall mean, with respect to a particular Series of Bonds, all costs necessary or attributable to the issuance of such Series which are not Capital Costs described in subparts (a) through (g) and (i) of the definition of "Capital Costs" set forth above, and which include, but are not limited to, legal fees and expenses, fees and expenses of any consulting engineer and financial advisors, cost of audits, advertising and printing expenses, fees and expenses of the Fiduciaries, costs of Bond ratings, costs of premiums on insurance on the Bonds, the initial fees, expenses and other amounts payable to any indexing agent, depository, remarketing agent, tender agent or any other person whose services are required with respect to the issuance of any Bonds, and also including discounts to the underwriters or other purchasers of the Bonds incurred in the issuance and sale of the Bonds, notes or other evidences of indebtedness from time to time issued, the proceeds of which have been or will be required to be applied to one or more purposes for which Bonds could be issued.

"Counsel" shall mean an attorney, or firm of attorneys, admitted to practice law before the highest court of any state in the United States of America or the District of Columbia.

"Credit Agreement" shall mean an agreement with a Credit Provider pursuant to which a Credit Facility is issued or given as security for a particular Series of Bonds or a particular Issuer Financial Obligation.

"Credit Facility" shall mean a letter of credit, a municipal bond insurance policy, a surety bond, standby bond purchase agreement or other credit enhancement device given, issued or posted as security for one or more Series of Bonds or any Bonds of a Series or any Issuer Financial Obligation, including any Alternate Credit Facility.

"Credit Provider" shall mean, with respect to a particular Series of Bonds, the person or entity, if any, providing a Credit Facility as security for such Series or any Bonds of such Series or any Issuer Financial Obligation.

"Current Interest Bonds" shall mean those Bonds which bear interest payable periodically on each Interest Payment Date, including any Capital Appreciation Obligations from and after the date upon which interest becomes payable on a periodic basis prior to the maturity thereof, all as so designated in a Supplemental Ordinance providing for the issuance of such Bonds, and which may be either Serial Bonds or Term Bonds, including Variable Rate Obligations and Option Obligations.

"Debt Component" shall mean that portion of the payments required to be made by the Issuer under an Issuer Agreement which is specifically identified therein as consisting of the debt service payments required to be made with respect to any indebtedness incurred for the purpose of financing or refinancing the acquisition and/or construction of any facilities to be used pursuant to such Issuer Agreement for the purpose of providing transportation, recycling, disposal or other processing services (including resource recovery) with respect to Solid Waste generated within the Service Area.

"Depository" shall mean any bank or trust company organized under the laws of any state of the United States or any national banking association selected by the Issuer as a depository of moneys and securities held under the provisions of this Ordinance, and may include the Master Trustee and any Trustee.

"DEQ Loans" means the following loans made by the Oregon Department of Environmental Quality to the Issuer: (i) the loan pursuant to ORS 468.220 for Project Number SWC 118 pursuant to an Offer and Acceptance of State Financial Assistance dated May 18, 1981; and (ii) the loan pursuant to ORS 468.220 for Project Number SWC 115 pursuant to an Offer and Acceptance of State Financial Assistance dated April 21, 1977.

"Estimated Average Interest Rate" shall mean:

(i) as to any Outstanding System Bonds or Issuer Financial Obligation during any period in which such Bonds or Issuer Financial Obligation are Variable Rate Obligations, the higher of:

(a) to the extent such Variable Rate Obligations have been Outstanding for a period of 12 months or more, the higher of:

(1) the weighted average rate of interest applicable to such System Bonds or Issuer Financial Obligation, as the case may be, during the immediately preceding 12 month period, plus one percent; or

(2) the rate of interest applicable to such System Bonds or Issuer Financial Obligation, as the case may be, as of the date of determination; or

(b) to the extent such Variable Rate Obligations have not been Outstanding for a period of 12 months or more, the most current actual interest rate on such Variable Rate Obligations, plus one percent; and

(ii) as to any System Bonds or Issuer Financial Obligation which have been authorized to be issued or incurred pursuant to, but have not yet been issued or incurred under, a Supplemental Ordinance or an Issuer Agreement or Financing Agreement, as the case may be, 100% of the most recently published interest rate for municipal bonds with similar terms and credit ratings published in The Bond Buyer.

"Excess Earnings" means, with respect to a particular issue of System Bonds issued as Tax-Exempt Obligations and with respect to any Issuer Financial Obligation incurred under a Financing Agreement and which constitutes a Tax-Exempt Obligation, the amount of investment earnings derived from moneys on deposit from time to time in the System Debt Service Account, the System Reserve Account, the System Construction Account and any other System Account or System Fund or other fund or account established in connection therewith, to the extent that such investment earnings are required to be taken into account for purposes of determining the Rebate Amount for such Issuer Financial Obligation or issue of System Bonds, or the investment earnings derived from moneys on deposit in any other fund or account containing funds the investment earnings on which are required to be taken into account for purposes of determining the Rebate Amount for such Issuer Financial Obligation or issue of System Bonds, to the extent that such investment earnings exceed the amount that would have been earned on such moneys had such moneys been invested at a yield equal to the yield on the related Issuer Financial Obligation or issue of System Bonds (with the yield on the related Issuer Financial Obligation or issue of System Bonds being determined in accordance with the provisions of Section 148(f) of the Code); *provided that* the investment earnings on amounts on deposit from time to time in the System Debt Service Account or any "bona fide debt service fund" (within the meaning of Section 148(f) of the Code) established in connection with such Issuer Financial Obligation attributable to such Issuer Financial Obligation or issue of System Bonds shall not be taken into account to the extent that the gross investment earnings on such account for the Bond Year are less than \$100,000, all within the meaning of and as contemplated by Code Section 148(f)(4)(A)(ii); it being the intent of this definition that "Excess Earnings" shall be calculated so that the Rebate Amount is determined in accordance with the requirements with Section 148(f) of the Code (or any successor thereto).

"Executive Officer" shall mean the duly elected or appointed, qualified and acting Executive Officer of the Issuer, or any officer of the Issuer hereafter succeeding to the powers and duties of such Executive Officer with respect to the System.

"Fiduciary" shall mean any Trustee, any Bond Registrar, any Paying Agent, any Depository and any Remarketing Agent or Tender Agent for Bonds which constitute Variable Rate Obligations or Option Obligations, or

any or all of them, as may be appropriate.

"Financing Agreement" shall mean any lease-purchase agreement (that is, as financing lease as opposed to a "true" lease) or installment sale contract or similar financing agreement entered into by the Issuer for the purpose of financing or refinancing the acquisition and/or construction of any additions, extensions, improvements and betterments to and reconstructions of the System.

"Final Computation Date" shall mean "final computation date" as such phrase is used in the regulations promulgated pursuant to Section 148(f) of the Code (or any successor thereto).

"Fiscal Year" shall mean the fiscal year of the Issuer as prescribed by law, currently that period commencing on July 1 and continuing to and including the next succeeding June 30.

"Fund" or "Funds" means one or more of the special trust funds created and established pursuant to this Ordinance or any Supplemental Ordinance.

"General Account" shall mean the Account by that name established pursuant to Section 502 hereof.

"Government Obligations" shall mean, to the extent permitted by law for investment as herein contemplated, any general obligations of the United States of America or any agency or instrumentality thereof.

"Gross Revenues" shall mean, to the extent the same are available to pay debt service on System Bonds and Issuer Financial Obligations under State law, any fees, charges or other income received by the Issuer for the use of the service and facilities of the System or otherwise generated by the operation of the System; *provided that* unless expressly so provided in a Supplemental Ordinance, "Gross Revenues" shall not include any tax revenues (whether derived from an excise tax, *ad valorem* tax, or other tax of whatever nature) or any loan repayment, lease-purchase payments or similar payments required to be made by any person or entity to the Issuer in connection with and for the purpose of providing a source of payment for any Series of Project Bonds.

"Installment Computation Date" shall mean "installment computation date" as such phrase is used in the regulations promulgated pursuant to Section 148(f) of the Code (or any successor thereto).

"Interest Payment Date" shall mean, with respect to a particular Series of Bonds and with respect to a particular Issuer Financial Obligation, any date upon which interest and/or principal on Bonds of such Series or such Issuer Financial Obligation is due and payable in accordance with the terms of such Bonds or Issuer Financial Obligation, whether at maturity or upon redemption or prepayment prior to maturity.

"Investment Securities" shall mean and include any of the following securities:

(i) Government Obligations;

(ii) direct obligations and fully guaranteed certificates of beneficial interest of the Export-Import Bank of the United States; senior debt obligations of the Federal Home Loan Banks; debentures of the Federal Housing Administration; guaranteed mortgage-backed bonds and guaranteed pass-through obligations of the Government National Mortgage Association; guaranteed Title XI financing of the U.S. Maritime Administration; mortgage-backed securities and senior debt obligations of the Federal National Mortgage Association; and participation certificates and senior debt obligations of the Federal Home Loan Mortgage Corporation (collectively, "Agency Obligations");

(iii) direct obligations of any state of the United States of America or any subdivision or agency

thereof whose unsecured general obligation debt is rated "A3" or better by Moody's and "A-" or better by S&P, or any obligation fully and unconditionally guaranteed by any state, subdivision or agency whose unsecured general obligation debt is rated "A3" or better by Moody's and "A-" or better by S&P;

(iv) commercial paper rated "Prime-1" by Moody's and "A-1" or better by S&P;

(v) obligations rated "A3" or better by Moody's and "A-" or better by S&P;

(vi) deposits, Federal funds or bankers acceptances of any domestic bank, including a branch office of a foreign bank which branch office is located in the United States, provided legal opinions are obtained by the Issuer and provided to the appropriate Fiduciary to the effect that full and timely payment of such deposit or similar obligation is enforceable against the principal office or any branch of such bank, which:

(a) has an unsecured, uninsured and unguaranteed obligation rated "Prime-1" or "A3" or better by Moody's and "A-1" or "A-" or better by S&P, or

(b) is the lead bank of a parent bank holding company with an uninsured, unsecured and unguaranteed obligation meeting the rating requirements in (a) above;

(vii) deposits of any bank or savings and loan association which has combined capital, surplus and undivided profits of not less than \$3 million, provided such deposits are fully insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation;

(viii) investments in a money-market fund rated "Am" or "Am-G" or better by S&P;

(ix) repurchase agreements with a term of one year or less with any institution with debt rated "AA" or commercial paper rated "A-1" (in each case by S&P);

(x) repurchase agreements collateralized by direct obligations of the United States of America and securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America or Agency obligations with any registered broker/dealer subject to the Securities Investors' Protection Corporation jurisdiction or any commercial bank if such broker/ dealer or bank has an uninsured, unsecured and unguaranteed obligation rated "Prime-1" or "A3" or better by Moody's and "A-1" or "A-" or better by S&P; provided:

(a) a master repurchase agreement or specific written, repurchase agreement governs the transaction; and

(b) the securities are held free and clear of any lien by the Trustee or an independent third party acting solely as agent for the Trustee, and such third party is:

(1) a Federal Reserve Bank;

(2) a bank which is a member of the Federal Deposit Insurance Corporation and which has combined capital, surplus and undivided profits of not less than \$25 million; or

(3) a bank approved in writing for such purpose by each related Credit Provider, and the related Trustee shall have received written confirmation from such third party that it holds such securities, free and clear of any lien, as agent for the related Trustee; and

(c) a perfected first security interest under the Uniform Commercial Code or book entry

procedures prescribed at 31 C.F.R. 306.1 et seq. or 31 C.F.R. 350.0 et seq. in such securities is created for the benefit of the Trustee; and

(d) the repurchase agreement has a term of thirty days or less, or the related Trustee will value the collateral securities no less frequently than monthly and will liquidate the collateral securities if any deficiency in the required collateral percentage is not restored within two business days of such valuation; and

(e) the repurchase agreement matures at least ten days (or other appropriate liquidation period) prior to an Interest Payment Date, and

(f) the fair market value of the securities in relation to the amount of the repurchase obligation, including principal and interest, is equal to at least 100%;

(xi) investment agreements with a bank or insurance company which has an unsecured, uninsured and unguaranteed obligation (or claims-paying ability) rated "A3" or better by Moody's and "A" or better by S&P or is the lead bank of a parent bank holding company with an uninsured, unsecured and unguaranteed obligation meeting such rating requirements, provided:

(a) moneys invested thereunder may be withdrawn without any penalty, premium, or charge upon reasonable notice, and

(b) the agreement is not subordinated to any other obligations of such insurance company or bank, and

(c) the related Trustee receives from the Issuer an opinion of counsel that such agreement is an enforceable obligation of such insurance company or bank; and

(xii) any Tax-Exempt Obligations which are rated in any of the 3 highest categories by Moody's or S&P.

"Issuer" shall mean the Metropolitan Service District, located within the Counties of Multnomah, Clackamas and Washington, a political subdivision duly organized and existing under the laws of the State of Oregon.

"Issuer Agreements" means all contracts, leases and agreements to which the Issuer is a party which bear upon or affect any obligation or responsibility of the Issuer with respect to the System under this Ordinance, or applicable law, including without limitation, any contract, lease or agreement providing, in connection with the System, for the design, construction, maintenance or operation, work, disposal service, property acquisition, sale or use, or energy or materials sales, and any other document which is defined to be an "Issuer Agreement" by the terms of a Supplemental Indenture enacted in connection with the issuance of any Series of Bonds; *provided that* in no event shall the term "Issuer Agreements" mean or include: (i) any Financing Agreement; or (ii) any loan agreement or Supplemental Ordinance or similar document or instrument entered into or enacted in connection with a Series of Project Bonds, but such term shall mean and include any agreement under which the Issuer is to be provided disposal services available through a Project notwithstanding the fact that such Project is financed in whole or in part out of the proceeds of a Series of Project Bonds.

"Issuer Contribution" shall mean any moneys, other than Bond proceeds and the interest earned thereon, which are to be applied to the payment of any Capital Cost relating to any Project or Series of Bonds, or to the defeasance or redemption of any Bonds, or to fund the Renewal and Replacement Account Requirement.

"Issuer Financial Obligation" shall mean:

- (i) the obligation of the Issuer to make lease-purchase or installment purchase payments under any Financing Agreement; and
- (ii) the Debt Component of any payments required to be made by the Issuer under any Issuer Agreement.

"Land Fill Closure Account" shall mean: (i) prior to July 1, 1990, the Issuer's St. John's Landfill Reserve Fund heretofore established; and (ii) from and after July 1, 1990, the Account by that name established pursuant to Section 502 hereof.

"Local Budget Law" means ORS 294.305 to 294.565, as amended, and the administrative rules promulgated thereunder.

"Mandatory Redemption Schedule" shall mean with respect to particular Term Bonds, the schedule pursuant to which such bonds are subject to mandatory redemption prior to maturity, all as set forth in the Supplemental Ordinance pursuant to which such Bonds are issued.

"Mass Composting Service Agreement" shall mean the Mass Composting Service Agreement dated as of August 16, 1989 between the Issuer and Riedel Oregon Compost, Inc.

"Master Project Account" shall mean the Account by that name established pursuant to Section 502 hereof.

"Master Trustee" shall mean United States National Bank of Oregon, and its successors and any other corporation which may at any time be substituted in its place as Master Trustee under this Ordinance.

"Minimum Authorized Denomination" shall mean with respect to a particular Bond, the minimum denomination in which such Bond is permitted to be issued as set forth in the Supplemental Ordinance authorizing the issuance of such Bond.

"Moody's" shall mean Moody's Investors Service, a corporation organized and existing under the laws of the State of Delaware, its successors and their assigns.

"Net Revenues" shall mean Gross Revenues remaining after deduction of Operating Expenses and Rebate Payments.

"Operating Expenses" shall mean the current expenses, paid or accrued, of operation, maintenance and ordinary current repairs of the System (including payment or reimbursement by the Issuer of such expenses if paid by a third party) and shall include, without limiting the generality of the foregoing: insurance premiums, administrative expenses and other overhead charges of the Issuer reasonably allocated to the System in accordance with the customary practices of the Issuer, billing and collection charges and legal fees incurred in connection with the collection thereof, payments to others for the collection, transfer, disposal or processing of solid and liquid waste, including without limitation all payments, fees, costs or damages, howsoever denominated, which are payable by the Issuer with respect to any obligations of the Issuer under the provisions of any Issuer Agreement (but not including the Debt Component of any amounts payable by the Issuer under an Issuer Agreement), fees and expenses incurred by the Issuer pursuant to any Credit Facility, expenses and compensation of any Fiduciary and such other reasonable current expenses as shall be in accordance with generally accepted accounting principles; *provided that* "Operating Expenses" shall not include: (i) any allowance for depreciation, amortization or capital assets, (ii) the cost of

preparation and closures of landfills, (iii) any extraordinary gain or loss on the extinguishment of debt, (iv) any debt service payments on any Project Bonds or any costs of operating or maintaining a Project financed in whole or in part out of the proceeds of a Series of Project Bonds, (v) the Debt Component of any payments required to be made by the Issuer under any Issuer Agreement, or (v) any Issuer Financial Obligation arising under a Financing Agreement; *and provided further that* notwithstanding the foregoing, "Operating Expenses" shall specifically include the Debt Component of the amounts payable by the Issuer under the Mass Composting Service Agreement and the amounts required to be paid by the Issuer with respect to the DEQ Loans.

"Operating Account" shall mean the Account by that name established pursuant to Section 502 hereof.

"Opinion of Bond Counsel" shall mean an opinion of Stoel Rives Boley Jones & Grey, attorneys of Portland, Oregon, or other Bond Counsel acceptable to the Issuer, addressed to the Issuer and the related Trustee, to the effect that the action proposed to be taken is authorized or permitted by this Ordinance or the applicable provisions of any Supplemental Ordinance and will not adversely affect the excludability for federal income tax purposes of the interest on any Bonds issued as, and which at the time of rendition of such opinion still are, Tax-Exempt Obligations from the gross incomes of the Owners thereof.

"Option Obligations" shall mean, with respect to a particular Series of Bonds and with respect to a particular Issuer Financial Obligation, Bonds of such Series or portions of such Issuer Financial Obligation which by their terms may be tendered by and at the option of the Owner or holder thereof for purchase prior to the stated maturity thereof.

"Ordinance" shall mean this Ordinance No. 89-319 enacted November 21, 1989, as from time to time amended, modified or supplemented by Supplemental Ordinances.

"Outstanding", when used with reference to Bonds of a particular Series or with reference to a particular Issuer Financial Obligation, shall mean, as of a particular date, all Bonds of such Series theretofore authenticated and delivered under this Ordinance and the Supplemental Ordinance pursuant to which such Series is issued or the unpaid amount of such Issuer Financial Obligation, as the case may be, except:

(1) Bonds theretofore cancelled by the related Trustee or delivered to the related Trustee for cancellation;

(2) Bonds (or portions of Bonds) for the payment or redemption of which moneys, equal to the principal amount or Redemption Price thereof, as the case may be, with interest to the date of maturity or redemption date, shall be held in trust under this Ordinance or any Supplemental Ordinance and set aside for such payment or redemption (whether at or prior to the maturity or redemption date), *provided that* if such Bonds (or portions of Bonds) are to be redeemed, notice of such redemption shall have been given or provision satisfactory to the related Trustee shall have been made for the giving of such notice as provided in this Ordinance or the applicable provisions of any Supplemental Ordinance;

(3) that portion of such Issuer Financial Obligation for the payment or prepayment of which moneys, equal to the principal amount or Redemption Price thereof, as the case may be, with interest to the date of maturity or prepayment date, shall be held in trust by a person other than the Issuer and set aside for such payment or redemption (whether at or prior to the maturity or prepayment date);

(4) Bonds in lieu of or in substitution for which other Bonds shall have been authenticated and delivered pursuant to Article III or Section 1106 hereof or the applicable provisions of any Supplemental Ordinance unless proof satisfactory to the Trustee is presented that any such Bonds are held by a *bona fide* purchaser in due course; and

(5) Bonds or the amount of such Issuer Financial Obligation paid or deemed to have been paid as provided in Section 1201.

In addition, Bonds of a Series held by or for the Issuer shall not be deemed to be Outstanding for the purposes and within the purview Article X and Article XI of this Ordinance.

"Owner" shall mean any person who shall be the registered owner of any Bond or Bonds as shown by the registration books maintained by the related Bond Registrar.

"Paying Agent" shall mean, with respect to a particular Series of Bonds, any bank, trust company or national banking association, which may include the Trustee or its successor or successors, authorized by the Issuer pursuant to a Supplemental Ordinance to pay the principal or Redemption Price of or interest due on such Series of Bonds and having the duties, responsibilities and rights provided for in this Ordinance and such Supplemental Ordinance and its successor or successors and any other corporation or association which at any time may be substituted in its place pursuant to this Ordinance or the applicable provisions of any Supplemental Ordinance.

"Permitted Investments" shall mean those Investment Securities in which, under the applicable laws of the State of Oregon, the Issuer is permitted to invest its funds, such Investment Securities currently being listed in ORS 294.035(1) through (9) (inclusive).

"Presiding Officer" shall mean the duly elected, appointed and acting presiding officer of the Council of the Issuer.

"Project" shall mean the acquisition and/or construction of any additions, extensions, improvements and betterments to and reconstructions of the System, whether owned by the Issuer or by third parties, to be financed, in whole or in part, from the proceeds of any Bonds or any Financing Agreement.

"Project Account" means the various subaccounts of the Master Project Account established pursuant to a Supplemental Ordinance in connection with the issuance of a Series of Project Bonds.

"Project Bonds" shall mean any Bonds issued under any Supplemental Ordinance which: (i) except as permitted under Section 205(f)(ii) hereof, are not secured by a pledge of Gross Revenues or Net Revenues; (ii) are designated as "Project Bonds" in the Supplemental Ordinance pursuant to which such Bonds are issued; and (iii) are secured by a pledge of the related Project Trust Estate.

"Project Construction Account" shall mean, with respect to a particular Series of Project Bonds, the subaccount of the Master Project Account established with the related Trustee as contemplated by Section 503 hereof.

"Project Debt Service Account" shall mean, with respect to a particular Series of Project Bonds, the subaccount of the Master Project Account established with the related Trustee as contemplated by Section 503 hereof.

"Project Event of Default" shall mean, with respect to a particular Series of Project Bonds, any of those events defined as Events of Default in the Supplemental Ordinance pursuant to which such Series is issued.

"Project Rebate Account" shall mean, with respect to a particular Series of Project Bonds, the subaccount of the Master Project Account established with the related Trustee as contemplated by Section 503 hereof.

"Project Reserve Account" shall mean, with respect to a particular Series of Project Bonds, the subaccount of the Master Project Account established with the related Trustee by Supplemental Ordinance as contemplated by Section 503 hereof.

"Project Reserve Requirement" means with respect to a particular Series of Project Bonds, the amount required to be deposited in and/or maintained on deposit in the related Project Reserve Account as set forth in the Supplemental Ordinance pursuant to which such Series of Project Bonds is issued.

"Project Trust Estate" shall mean, with respect to a particular Series of Project Bonds, the properties, assets and revenues pledged as security for the payment of the Bonds of such Series as more particularly described in the Supplemental Ordinance pursuant to which such Series is issued; but (except as permitted under Section 205(f)(ii) hereof) not including any Gross Revenues or Net Revenues nor any properties or assets included as part of the System Trust Estate.

"Rating Agency" shall mean: (i) with respect to any System Bonds then rated by S&P, S&P; (ii) with respect to any System Bonds rated by Moody's, Moody's; and (iii) with respect to any Series of Project Bonds, such term shall have the meaning assigned thereto in the Supplemental Ordinance pursuant to which such Bonds are issued.

"Rebate Amount" shall mean, with respect to a particular Series of Bonds or Issuer Financial Obligation, the sum of the Excess Earnings plus all investment earnings on such Excess Earnings; it being the intent of this definition that the Rebate Amount shall be calculated in accordance with the requirements of Section 148 of the Code (or any successor thereto).

"Rebate Analyst" shall mean any entity selected by the Issuer which is competent to perform the calculations required by Section 513 hereof, which entity may be any Trustee.

"Rebate Payment" shall mean the amounts required to be deposited each Fiscal Year in the System Rebate Account pursuant to Section 513 hereof.

"Rebate Report" shall mean a report for each Calculation Period prepared by the Issuer or a Rebate Analyst pursuant to Section 513 hereof calculating the Rebate Amount, all for the purpose of enabling the Issuer to comply with the requirements of Section 513 and Section 148 of the Code (or any successor thereto).

"Record Date" means, with respect to a particular Series of Bonds, a date which is the fifteenth day of the month immediately preceding the month in which each Interest Payment Date occurs, whether or not a business day, or such other date or dates established by Supplemental Ordinance with respect to a Series of Bond authorized by such Supplemental Ordinance.

"Redemption Price" shall mean, with respect to any System Bond and any Issuer Financial Obligation, the amount payable upon the redemption or prepayment thereof prior to maturity, including the principal of, premium (if any) and accrued or accreted interest thereon.

"Refunding Bonds" shall mean System Bonds issued pursuant to this Ordinance and any Issuer Financial Obligation incurred to the extent such Bonds or Issuer Financial Obligation are issued or incurred for the purpose of paying, whether at or prior to the stated maturity thereof, the principal of, premium (if any) and interest on any Outstanding System Bonds or any Issuer Financial Obligation previously incurred.

"Remarketing Agent" shall mean with respect to a particular Series of Bonds, the person or entity

designated to act in such capacity with respect to such Series of Bonds pursuant to the Supplemental Ordinance under which such Bonds are issued.

"Renewal and Replacement Account" shall mean the Account by that name established in Section 502 hereof.

"Renewal and Replacement Period" shall mean:

(i) the period commencing on the first day of the first calendar month next following the date upon which the first Series of Bonds are issued hereunder and ending on June 30, 1992; and

(ii) thereafter, each period of three Fiscal Years.

"Renewal and Replacement Account Requirement" shall mean:

(i) the amount determined for each Renewal and Replacement Period by the Consulting Engineer pursuant to Section 510 hereof as being the total amount which, in light of the reasonably anticipated needs of the System (to the extent such needs are permitted to be met from the moneys on deposit in the Renewal and Replacement Account as provided in Section 510 hereof), it is prudent for the Issuer to set aside in the Renewal and Replacement Account during such Renewal and Replacement Period; divided by

(ii) the number of whole calendar months in such Renewal and Replacement Period;

provided that if, in light of the reasonably anticipated needs of the System, the Consulting Engineer determines that the monthly Renewal and Replacement Account Requirements for a particular Renewal and Replacement Period, calculated as set forth above, will not produce sufficient moneys on deposit in the Renewal and Replacement Account (including anticipated investment earnings thereon) to meet such needs by the point in time during such Renewal and Replacement Period at which such needs are anticipated to arise, then and in such event the Consulting Engineer shall prepare a schedule of monthly deposits into the Renewal and Replacement Account during such Renewal and Replacement Period, which schedule shall be designed to provide sufficient moneys on deposit in the Renewal and Replacement Account (including anticipated investment earnings thereon) to meet such needs by the point in time during such Renewal and Replacement Period at which such needs are anticipated to arise, and the amounts set forth in such schedule shall constitute the monthly Renewal and Replacement Account Requirement for such Renewal and Replacement Period.

"Reserve Requirement" shall mean: (i) with respect to the System Bonds, the System Reserve Requirement; (ii) with respect to any Issuer Financial Obligation incurred under a Financing Agreement, the amount required to be maintained on deposit in a debt service reserve account established with respect to such Issuer Financial Obligation; and (iii) with respect to a particular Series of Project Bonds, the applicable Project Reserve Requirement.

"Revenue Fund" shall mean: (i) prior to July 1, 1990, the Issuer's Solid Waste Operating Fund heretofore established; and (ii) from and after July 1, 1990, the Fund by that name established pursuant to Section 502 hereof.

"S&P" shall mean Standard & Poor's Corporation, a corporation organized and existing under the laws of the State of New York, its successors and their assigns.

"Serial Bonds" shall mean the Bonds of a Series which shall be stated to mature in annual installments but not including Term Bonds.

"Series" shall mean all of the Bonds issued, authenticated and delivered pursuant to a Supplemental Ordinance on original issuance of a stipulated aggregate principal amount in a simultaneous transaction and any Bonds thereafter authenticated and delivered in lieu of or in substitution therefor pursuant to such Supplemental Ordinance regardless of variations in maturity, interest rate or other provisions, including: (i) any Additional Bonds issued under such Supplemental Ordinance; and (ii) any Refunding Bonds issued under such Supplemental Ordinance.

"Service Area" shall mean the area within the jurisdictional boundaries of Issuer within which the System operates to provide solid and liquid waste disposal services, all as contemplated by the Act.

"Solid Waste Debt Service Fund" shall mean the Issuer's Solid Waste Debt Service Fund heretofore established.

"Subordinated Debt" shall mean any bonds, notes or other obligations of the Issuer (including any Issuer Financial Obligations) which are secured by a pledge of and lien on the Net Revenues, which lien is second and subordinate in all respects to the lien on the Net Revenues granted hereunder as security for the payment of the System Bonds and which bonds, notes or other obligations are payable from the Net Revenues on a basis which is second and subordinate to the payment from Net Revenues of the amounts owing on the Outstanding System Bonds.

"Supplemental Ordinance" shall mean any ordinance supplemental to or amendatory of this Ordinance, entered into by the Issuer in accordance with this Ordinance.

"State" shall mean the State of Oregon.

"System" shall mean any and all facilities now or hereafter designated by the Issuer as part of its system for the management and disposal of solid and liquid waste, including, but not limited to recycling and other volume reduction facilities, sanitary landfills, or other disposal means, resource recovery facilities (including steam production and electrical generating facilities using solid waste as fuel), recycling and transfer stations, roads, water lines, wastewater lines and treatment facilities to the extent provided or operated to carry out the provisions of the Act, and all buildings, fixtures, equipment and all property, real and personal now or hereafter owned, leased, operated or used by the Issuer, all for the purpose of providing for solid and liquid waste disposal.

"System Account" shall mean any Account established by this Ordinance or any Supplemental Ordinance with respect to any Series of System Bonds issued hereunder, as authorized by Section 502.

"System Bonds" shall mean all Bonds issued under the provisions of this Ordinance and any Supplemental Ordinance which: (i) are secured by a pledge of Net Revenues and the System Trust Estate on an equal and ratable (*pari passu*) basis with all other Outstanding System Bonds; and (ii) are designated as "System Bonds" in the Supplemental Ordinance pursuant to which such Bonds are issued.

"System Construction Account" shall mean the Account by that name established with the Master Trustee pursuant to Section 502 hereof.

"System Debt Service Account" shall mean the Account by that name established in Section 502 hereof.

"System Event of Default" shall mean, with respect to the System Bonds, any of those events defined as System Events of Default in Section 801 hereof.

"System Rebate Account" shall mean the Account by that name established in Section 502.

"System Reserve Account" shall mean the Account by that name established pursuant to Section 502 hereof.

"System Reserve Requirement" shall mean, as of any date of calculation, the lower of:

- (a) an amount equal to the maximum Annual Debt Service for any future Fiscal Year; or
- (b) the maximum amount that will not result in a violation of the Tax Covenants;

provided that the Issuer may provide by Supplemental Ordinance authorizing a Series of System Bonds that the amount described in clause (a) of this definition shall be greater than required by this definition.

"System Trust Estate" shall mean the properties and assets hereafter pledged as security for the payment of the System Bonds pursuant to Section 201(c) hereof.

"Taxable Obligation" shall mean any bond, note or other debt obligation (including any Issuer Financial Obligation) issued or incurred by any person, including a Bond or a Series of Bonds, the interest on which is included in gross income for federal income tax purposes.

"Tax Covenants" shall mean, with respect to those Bonds issued as Tax-Exempt Obligations, the covenants of the Issuer to effect the Issuer's compliance with the Code to ensure the initial and continued exclusion from gross income for federal income tax purposes of the interest on such Bonds.

"Tax-Exempt Obligation" shall mean any bond, note or other obligation (including any Issuer Financial Obligation) issued or incurred by any person, including a Bond or a Series of Bonds, the interest on which is excluded from gross income for federal income tax purposes.

"Tender Agent" shall mean with respect to a particular Series of Bonds, the person or entity designated to act in such capacity with respect to such Series of Bonds pursuant to the Supplemental Ordinance under which such Bonds are issued.

"Term Bonds" shall mean the Bonds of an issue which shall be stated to mature on one date and which are subject to scheduled mandatory redemption prior to maturity pursuant to a Mandatory Redemption Schedule.

"Trustee" shall mean: (i) when used with respect to the System Bonds, the Master Trustee; and (ii) when used with respect to a Series of Project Bonds, the entity appointed to act in such capacity pursuant to the Supplemental Ordinance authorizing the issuance of such Series of Project Bonds.

"Trust Estate" shall mean: (i) when used with respect to the System Bonds, the System Trust Estate; and (ii) when used with respect to a particular Series of Project Bonds, the related Project Trust Estate pledged as security therefor.

"Variable Rate Obligations" shall mean any Issuer Financial Obligation and any Bonds, which may be either Serial Bonds, Term Bonds, Capital Appreciation Obligations or Option Obligations, issued with a variable, adjustable, convertible, or other similar interest rate which is not fixed in percentage for the entire term thereof at the date of issue.

Section 102. Miscellaneous Definitions and Conventions. Words of the masculine or feminine gender shall be deemed and construed to include correlative words of the masculine, feminine and neuter genders (as

the case may be). Except where the context otherwise requires, words importing the singular numbers shall include the plural number and *vice versa*, and words importing persons shall include firms, associations, corporations, districts, agencies and bodies as well as natural persons. All reference in this Ordinance to Articles, Sections, and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Ordinance, and the words herein, hereof, hereunder and other words of similar import refer to this Ordinance as a whole and not to any particular Article, Section subdivision of this Ordinance, and any Table of Contents appended to copies of this Ordinance, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Ordinance.

ARTICLE II

AUTHORIZATION AND ISSUANCE OF BONDS; PLEDGE OF SYSTEM TRUST ESTATE

Section 201. Authorization of Bonds in Series; Issuer Financial Obligations; Project Bonds and System Bonds; Designation.

(a) **Authorization of Bonds in Series; Issuer Financial Obligations.** In order to provide sufficient funds for the Capital Costs of the System and various Projects, to provide working capital for the System or any Project or to provide such other funds as may be necessary or appropriate in connection with the operation of the System or any Project, or for the purpose of refunding any Bonds, the Issuer, pursuant to and in accordance with the terms and provisions of this Ordinance and such Supplemental Ordinances as may hereafter be enacted as provided herein, may issue from time to time Bonds in one or more Series without limitation as to amount except as may be limited by law or the provisions of this Ordinance or any Supplemental Ordinance.

In addition, in order to provide sufficient funds for the Capital Costs of the System and various Projects, to provide working capital for the System or any Project or to provide such other funds as may be necessary or appropriate in connection with the operation of the System or any Project, or for the purpose of refunding or refinancing any Issuer Financial Obligation, the Issuer, subject to the limitations set forth in Section 205 hereof, may incur from time to time Issuer Financial Obligations without limitation as to amount except as may be limited by law or the provisions of Section 205 of this Ordinance or any Supplemental Ordinance; it being understood that such Issuer Financial Obligations need not be incurred pursuant to a Supplemental Ordinance nor shall the terms or conditions thereof be governed by this Ordinance or any Supplemental Ordinance except as expressly provided herein or in any Supplemental Ordinance.

(b) **Project Bonds and System Bonds; Designation.** All Series of Bonds issued hereunder shall be either System Bonds or Project Bonds, as shall be specified in the Supplemental Ordinance authorizing the issuance of such Series. Each Series issued as System Bonds shall be designated "Metropolitan Service District Waste Disposal System Revenue Bonds, *[insert calendar year in which such Series is issued]* Series *[insert series designation]*". Each Series issued as Project Bonds shall be designated "Metropolitan Service District Waste Disposal Project Revenue Bonds (*[insert name of Project]*), *[insert calendar year in which such Series is issued]* Series *[insert series designation]*".

(c) **Pledge of System Trust Estate.** As security for the payment of the principal of, premium (if any) and interest on all Outstanding System Bonds issued from time to time hereunder, the Issuer, pursuant to and in accordance with the provisions of the Act, does hereby pledge unto the Master Trustee all of the Issuer's right, title

and interest to, in and under the following:

(i) the Net Revenues;

(ii) the moneys and investments (including investment earnings thereon) on deposit from time to time in the System Construction Account, the System Debt Service Account and the System Reserve Account, including without limitation the Issuer's right, title and interest to, in and under any Credit Facility given for the purpose of meeting all or part of the System Reserve Requirement and any moneys drawn or paid under such Credit Facility;

(iii) any Credit Facility given as security for the payment of any amounts owing under or with respect to any System Bonds (other than any Credit Facility given for the purpose of meeting all or part of the System Reserve Requirement) together with all moneys drawn or paid thereunder; *provided that* with respect to any such Credit Facility which is given as security for some, but not all, of the Outstanding System Bonds, such Credit Facility together with the moneys drawn or paid thereunder shall be held by the Master Trustee solely as security for the System Bonds for which such Credit Facility was given as security and neither such Credit Facility nor any moneys drawn or paid thereunder shall secure the payment of any amounts owing under or with respect to any other System Bonds; and

(iv) such other properties and assets and interests in properties and assets as may hereafter be pledged to the payment of the System Bonds pursuant to any Supplemental Ordinance or which may be delivered, pledged, mortgaged or assigned by any person to the Master Trustee as security for the System Bonds.

The foregoing are herein collectively referred to as the "System Trust Estate".

Section 202. Contents of Supplemental Ordinance Authorizing Series of Bonds. Each Series of Bonds issued hereunder shall be authorized pursuant to a Supplemental Ordinance, which Supplemental Ordinance shall:

(a) Specify whether the Bonds of such Series are to be System Bonds or Project Bonds;

(b) If the Bonds of such Series are to be Project Bonds:

(i) pledge to the payment of such Bonds the related Project Trust Estate, describing in reasonable detail such Project Trust Estate;

(ii) appoint a Trustee, a Bond Registrar and a Paying Agent for such Series, which may but need not be the Master Trustee;

(c) Specify which, if any, of the Bonds of such Series are intended to be Tax-Exempt Obligations;

(d) Specify the aggregate principal amount of such Series, the maturity dates, the redemption provisions, the interest rates or method for determining the interest rates and other terms and conditions applicable to the Bonds of such Series;

(e) If the Bonds of such Series are to be Project Bonds, specify the terms and conditions under which Additional Bonds of such Series may be issued;

(f) Specify the manner in which the Bonds of such Series shall be sold;

(g) Direct the disposition of the proceeds of such Series and the required deposits into and, if the Bonds of such Series are to be Project Bonds, the procedures for disbursements from, the various Accounts established for such Series under the related Supplemental Ordinance;

(h) Specify whether the Bonds of such Series shall be supported or secured by a Credit Facility;

(i) Specify provisions for Variable Rate Obligations, Option Obligations, Current Interest Bonds, Capital Appreciation Obligations and any Credit Facilities and the appointment of Tender Agents and Remarketing Agents, if any;

(j) Specify the Authorized Denominations of, and the manner of dating, numbering and lettering, the Bonds of such Series;

(k) Specify the Project, if any, to be constructed or acquired with the proceeds of such Bonds;

(l) Set forth the forms of Bonds of such Series and of the Trustee's certificate of authentication;
and

(m) Set forth such other terms and provisions of such Series and other matters related thereto as shall be necessary or appropriate, which other terms and provisions shall not be inconsistent with the applicable provisions of this Ordinance (if such Bonds are a Series of System Bonds) or with the provisions of Article II hereof (if such Bonds are a Series of Project Bonds).

Section 203. Conditions Precedent to Delivery of a Series of Bonds. After their authorization by a Supplemental Ordinance, Bonds of a Series may be executed by or on behalf of the Issuer and delivered to the Master Trustee (in the case of System Bonds) or the related Trustee (in the case of Project Bonds) for authentication and, upon compliance with the requirements, if any, set forth in the Supplemental Ordinance authorizing such Series, the Master Trustee (in the case of System Bonds) or the related Trustee (in the case of Project Bonds) shall thereupon authenticate and deliver such Bonds to or upon the order of the Issuer, but only upon the receipt by the Master Trustee (in the case of System Bonds) or the related Trustee (in the case of Project Bonds) of:

(a) an opinion of Bond Counsel to the effect that:

(i) the Issuer is a political subdivision of the State with the power to issue the Bonds of such Series;

(ii) the Bonds of such Series have been validity authorized and executed and have been issued for a purpose provided in and authorized by the Act, and any Supplemental Ordinance enacted by the Issuer in connection with the issuance of the Bonds of such Series has been duly enacted by the Issuer and is in full force and effect;

(iii) all of the conditions precedent to the issuance of the Bonds of such Series as set forth in or pursuant to this Ordinance and the related Supplemental Ordinance have been satisfied or duly waived; and

(iv) the Bonds of such Series constitute legal, valid and binding limited obligations of the Issuer enforceable in accordance with their terms and entitled to the benefit of the related Trust Estate;

it being intended that such opinion as to the enforceability of the Bonds of such Series and this Ordinance may be subject to the exercise of judicial discretion in accordance with general equitable principles and to

bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable;

(b) a written order as to the delivery of the Bonds of such Series, signed by an Authorized Issuer Representative;

(c) copies of this Ordinance and the related Supplemental Ordinance, certified by an Authorized Issuer Representative;

(d) a certificate of an Authorized Issuer Representative stating that the Issuer is not in default in the performance of any of the covenants, conditions, agreements or provisions contained in this Ordinance, the Supplemental Ordinance authorizing such Series or any other Supplemental Ordinance relating to, affecting or otherwise limiting the issuance of Bonds of such Series; and

(e) such other documents, instruments, agreements, opinions of counsel, certificates, money and securities as are necessary or appropriate or required by the provisions of this Ordinance and any Supplemental Ordinance.

Section 204. *Pari Passu* Series of Bonds; Credit Agreement Obligations.

(a) **Project Bonds.** Except as otherwise expressly provided herein or in a Supplemental Ordinance, all Project Bonds of a Series issued pursuant to a Supplemental Ordinance shall be payable *pari passu* with all other Project Bonds of the same Series issued under such Supplemental Ordinance and, except as otherwise expressly set forth in the Supplemental Ordinance authorizing such Series of Project Bonds, all of the covenants and other provisions of such Supplemental Ordinance shall be for the equal benefit, protection and security of the Owners of any Bonds of such Series, including, but not limited to any Additional Bonds of such Series and any Refunding Bonds of such Series. Except as otherwise expressly provided in a Supplemental Ordinance, all Project Bonds of a particular Series issued pursuant to a Supplemental Ordinance, regardless of time or times of their issuance, shall rank equally with respect to their lien on the related Project Trust Estate pledged as security for the payment of the Bonds of such Series, and their sources and security for payment therefrom, without preference of any Bonds of such Series over any other Bonds of such Series.

Notwithstanding anything expressed or implied herein or in any Supplemental Ordinance to the contrary, except as otherwise expressly provided in a duly enacted Supplemental Ordinance:

(i) Each Project Trust Estate shall secure only that Series of Project Bonds to which such Project Trust Estate is duly pledged pursuant to a Supplemental Ordinance;

(ii) No Project Trust Estate shall secure any System Bonds; and

(iii) Except as otherwise permitted under Section 205(f)(ii) hereof, no Project Bonds shall be secured by a pledge of or a lien on or security interest in all or any portion of the Gross Revenues or the Net Revenues or the System Trust Estate.

In connection with any Credit Agreement pursuant to which a Credit Facility is provided as security for all or some of the Outstanding Project Bonds of a particular Series (other than a Credit Facility provided in whole or in part for the purpose of meeting the related Project Reserve Requirement), the Issuer may provide in the Supplemental Ordinance authorizing the issuance of such Series of Project Bonds that the financial obligations arising under such Credit Agreement shall be equally and ratably secured by the related Project Trust Estate with all Outstanding Project Bonds of the same Series and be payable from the related Project Trust Estate *pari passu* with all Outstanding Project Bonds of the same Series, to the same extent and with the same force and effect as if the financial obligations under

such Credit Agreement were a Project Bond of such Series. In connection with any Credit Agreement pursuant to which a Credit Facility is provided for the purpose of meeting, in whole or in part, the related Project Reserve Requirement, the Issuer may provide in the Supplemental Ordinance authorizing the issuance of such Series of Project Bonds that the financial obligations arising under such Credit Agreement shall be secured by a lien on the related Project Trust Estate which is second and subordinate only to the lien on such Project Trust Estate securing the Outstanding Project Bonds of such Series and the financial obligations under any Credit Agreement described in the immediately preceding sentence and shall be payable from such Project Trust Estate on a basis which is second and subordinate only to the payment from such Project Trust Estate of the Outstanding Project Bonds of such Series and the financial obligations under any Credit Agreement described in the immediately preceding sentence.

(b) The System Bonds. Except as otherwise expressly provided herein or in a Supplemental Ordinance, all System Bonds issued pursuant to this Ordinance or any Supplemental Ordinance shall be payable *pari passu* with all other System Bond issued hereunder or under any other Supplemental Ordinance and, except as otherwise expressly set forth in the Supplemental Ordinance authorizing such Series of System Bonds, all of the covenants and other provisions relating to the System Bonds set forth herein or in any Supplemental Ordinance shall be for the equal benefit, protection and security of the Owners of any System Bonds, including, but not limited to any Additional Bonds and any Refunding Bonds issued as System Bonds. Except as otherwise expressly provided in a Supplemental Ordinance, all System Bonds issued pursuant to this Ordinance or any Supplemental Ordinance, regardless of time or times of their issuance, shall rank equally with respect to their lien on the System Trust Estate (other than any Credit Facility constituting a part of the System Trust Estate) pledged as security for the payment of the System Bonds, and their sources and security for payment therefrom, without preference of any System Bonds over any other System Bonds.

Notwithstanding anything expressed or implied herein or in any Supplemental Ordinance to the contrary, except as otherwise expressly provided in a duly enacted Supplemental Ordinance each Credit Facility given as security for some, but less than all, Outstanding System Bonds and any moneys drawn under such Credit Facility shall secure only those System Bonds for which such Credit Facility was given as security; *provided that* the foregoing provision shall not apply to any Credit Facility to the extent such Credit Facility is provided for the purpose of meeting all or part of the System Reserve Requirement.

In connection with any Credit Agreement pursuant to which a Credit Facility is provided as security for all or some of the Outstanding System Bonds (other than a Credit Facility which is provided for the purpose of meeting, in whole or in part, the System Reserve Requirement), the Issuer may provide in a Supplemental Ordinance that the financial obligations arising under such Credit Agreement shall be equally and ratably secured by the System Trust Estate with all Outstanding System Bonds and be payable from the System Trust Estate *pari passu* with all Outstanding System Bonds, to the same extent and with the same force and effect as if the financial obligations under such Credit Agreement were a System Bond. In connection with any Credit Agreement pursuant to which a Credit Facility is provided for the purpose of meeting, in whole or in part, the System Reserve Requirement, the Issuer may provide in a Supplemental Ordinance that the financial obligations arising under such Credit Agreement shall be secured by a lien on the System Trust Estate which is second and subordinate only to the lien on the System Trust Estate securing the Outstanding System Bonds and the financial obligations under any Credit Agreement described in the immediately preceding sentence and shall be payable from the System Trust Estate on a basis which is second and subordinate only to the payment from the System Trust Estate of the Outstanding System Bonds and the financial obligations under any Credit Agreement described in the immediately preceding sentence.

Section 205. Additional Bonds and Issuer Financial Obligations; Completion Bonds and Refunding Bonds.

(a) Additional System Bonds and Issuer Financial Obligations. Subject to the conditions set forth in this Section 205(a), the Issuer may from time to time issue one or more series of Additional Bonds as System Bonds and may incur from time to time Issuer Financial Obligations for one or more of the following purposes:

(i) the making of deposits into the System Construction Account or in any similar fund or account established in connection with an Issuer Financial Obligation to be applied to pay all or a portion of the Capital Costs of any Project;

(ii) the making of deposits into the System Reserve Account in the amounts, if any, required by this Ordinance or such Supplemental Ordinance to satisfy the System Reserve Requirement with respect to such Series or the making of deposits into any debt service reserve fund or account established in connection with an Issuer Financial Obligation for the purpose of meeting the applicable Reserve Requirement;

(iii) the making of deposits into the System Debt Service Account as and for accrued interest on System Bonds of the Series then to be issued or the making of deposits into any debt service fund or account established in connection with an Issuer Financial Obligation as and for accrued interest on such Issuer Financial Obligation;

(iv) to provide such working capital or other moneys for the System as is deemed necessary or appropriate by the Issuer;

(v) funding the Renewal and Replacement Account in any amounts up to the extent necessary to satisfy the Renewal and Replacement Account Requirement;

(vi) funding any special trust fund established by such Supplemental Ordinance and to be held by the Master Trustee or any special trust fund or account established in connection with an Issuer Financial Obligation, to provide for the payment to maturity or redemption prior to maturity of the principal or Redemption Price, if applicable, and interest due on specified System Bonds of any Series and maturity or any Issuer Financial Obligation or Subordinated Debt, with or without the effect of achieving the defeasance of such Bonds or Issuer Financial Obligation from the lien and/or provisions of this Ordinance as provided in Section 1201 hereof;

(vii) for any lawful purpose related to the System or the operation thereof for which Bonds may be issued or Issuer Financial Obligations incurred under the Act or other applicable law; and

(viii) any combination thereof.

The following shall be conditions precedent to the issuance of any Additional Bonds hereunder as System Bond and also to the incurrence of any Issuer Financial Obligation:

(A) Certificates of Issuer and Consulting Engineer. The Issuer shall cause to be delivered to the Master Trustee:

(1) Consulting Engineer's Certificate. A certificate of the Consulting Engineer:

(I) Project Costs. If all or a portion of the proceeds of such Additional Bonds or Issuer Financial Obligation are to be used to finance the acquisition, construction or

installation of a Project, setting forth an estimate of the amount of the Capital Costs expected to be incurred to complete such Project, which estimate may include costs which have been or will be paid from sources other than the proceeds of such Additional Bonds or Issuer Financial Obligation, and the estimated date of completion for such Project;

(II) Net Revenue Estimates. Either:

(a1) Projected. The estimates of Net Revenues to be derived from the System (including any Project to be financed from the proceeds of such Additional Bonds or Issuer Financial Obligation) for: (A1) each of the three Fiscal Years following the Fiscal Year in which such Additional Bonds or Issuer Financial Obligation are to be issued or incurred (if the proceeds of such Additional Bonds or Issuer Financial Obligation are not to be used to finance any Capital Costs of a Project), or (A2) each of the three Fiscal Years following the Fiscal Year through which interest on such Additional Bonds or Issuer Financial Obligation will be capitalized (if the proceeds of such Additional Bonds or Issuer Financial Obligation are to be used to finance any Capital Costs of a Project); or

(a2) Historic. The estimate of Net Revenues derived from the System during the most recently completed Fiscal Year or during any 12 consecutive months out of the last 18 months; and

(III) Annual Debt Service. (a1) Average Annual Debt Service. The average Annual Debt Service for all future Fiscal Years for the System Bonds and all Issuer Financial Obligations then Outstanding and the Additional Bonds proposed to be issued as System Bonds or the Issuer Financial Obligation proposed to be incurred, as the case may be; and

(a2) Maximum Annual Debt Service. The maximum Annual Debt Service for the System Bonds and Issuer Financial Obligations then Outstanding and the Additional Bonds or Issuer Financial Obligation proposed to be issued or incurred, during the three Fiscal Years following the Fiscal Year in which such Additional Bonds or Issuer Financial Obligation are to be issued or incurred (if the proceeds of such Additional Bonds or Issuer Financial Obligation are not to be used to finance the Capital Costs of a Project) or the three Fiscal Years following the Fiscal Year through which interest on such Additional Bonds or Issuer Financial Obligation will be capitalized (if the proceeds of such Additional Bonds or Issuer Financial Obligation are to be used to finance any Capital Costs of a Project);

(2) Issuer's Certificate. A certificate of an Authorized Issuer Representative:

(I) Project Costs, Operating Expenses and Annual Debt Service. If all or a portion of the proceeds of such Additional Bonds or Issuer Financial Obligation are to be used to finance the acquisition, construction or installation of a Project:

(a1) Sufficiency of Funds. Stating that the proceeds of such Additional Bonds or Issuer Financial Obligation, to the extent not designated for purposes other than the payment of the Capital Costs of a Project, together with any other specified amounts reasonably expected to be available for the payment

of the Capital Costs of the Project to be financed, will be sufficient to pay the Capital Costs of such Project as set forth in the certificate of the Consulting Engineer described in Section 205(a)(A)(1) above; and

(a2) Operating Expenses and Annual Debt Service. That she has reviewed and considered the impact of the proposed Project on the Operating Expenses and Annual Debt Service on all Outstanding System Bonds and Issuer Financial Obligations (including the Additional Bonds or Issuer Financial Obligation then proposed to be issued or incurred) for each of the three Fiscal Years following the Fiscal Year in which it is estimated that the Project will be completed and in service; and

(II) Rates and Charges. That the Issuer can reasonably levy, impose and collect fees, rates and charges with respect to the System sufficient to produce Net Revenues sufficient to pay Operating Expenses, Annual Debt Service on all Outstanding System Bonds and Issuer Financial Obligations and the Additional Bonds or Issuer Financial Obligation proposed to be issued or incurred and all other payments required by the terms of this Ordinance in each such Fiscal Year; and

(3) Opinion of Bond Counsel. An Opinion of Bond Counsel that the issuance of such Series of Additional Bonds as System Bonds or the incurrence of such Issuer Financial Obligation, as the case may be, will not impair the exclusion from gross income for federal income tax purposes of interest paid on any System Bonds or Issuer Financial Obligation then Outstanding which were issued or incurred as, and which at the time of issuance or incurrence of such Additional Bonds or Issuer Financial Obligation still are, Tax-Exempt Obligations; and

(B) Coverage Test. Either:

(1) Projected. In the event the certificate of the Consulting Engineer described in Section 205(a)(A) above contains the information described in Section 205(a)(A)(II)(a1) above, the Net Revenues to be derived from the System for each of the three Fiscal Years following the Fiscal Year through which interest on such Additional Bonds or Issuer Financial Obligation, as the case may be, will be capitalized (if the proceeds of such Additional Bonds or Issuer Financial Obligation are to be used to finance any Capital Costs of a Project) or for each of the three Fiscal Years following the Fiscal Year in which such Additional Bonds or Issuer Financial Obligation are to be issued or incurred (if the proceeds of such Additional Bonds or Issuer Financial Obligation are not to be used to finance any Capital Costs of a Project) will equal or exceed 110% of the greater of: the average Annual Debt Service for all Outstanding System Bonds and Issuer Financial Obligations (including the Additional Bonds or Issuer Financial Obligation then proposed to be issued or incurred) in any future Fiscal Year; or the maximum Annual Debt Service on all Outstanding System Bonds and Issuer Financial Obligations (including the Additional Bonds or Issuer Financial Obligation proposed to be issued or incurred) for the three Fiscal Years described above; all as estimated by and set forth in the certificate of the Consulting Engineer required pursuant to Section 205(a)(A)(1) above; or

(2) Historic In the event the certificate of the Consulting Engineer described in Section 205(a)(A) above contains the information described in Section 205(a)(A)(II)(a2) above, the Net Revenues derived from the System during the most recently completed Fiscal Year or during any 12 consecutive months out of the last 18 months equaled or exceeded:

(I) 110% of the greater of: the average Annual Debt Service for all Outstanding System Bonds and Issuer Financial Obligations (including the Additional Bonds or Issuer Financial Obligation then proposed to be issued or incurred) in any future Fiscal Year; or the maximum Annual Debt Service on all Outstanding System Bonds and Issuer Financial Obligations (including the Additional Bonds or Issuer Financial Obligation then proposed to be issued or incurred) for the three Fiscal Years described above, all as estimated by and set forth in the certificate of the Consulting Engineer required pursuant to Section 205(a)(A)(1) above; and

(II) 100% of the greater of: the average Annual Debt Service for all Outstanding System Bonds and Issuer Financial Obligations (including the Additional Bonds or Issuer Financial Obligation then proposed to be issued or incurred) in any future Fiscal Year; or the maximum Annual Debt Service on all Outstanding System Bonds and Issuer Financial Obligations (including the Additional Bonds or Issuer Financial Obligation then proposed to be issued or incurred) for the three Fiscal Years described above, all as estimated by and set forth in the certificate of the Consulting Engineer required pursuant to Section 205(a)(A)(1) above; *provided that* for purposes of this subparagraph, "Net Revenues" shall be determined without regard to any balance on deposit in the General Account during the period in question.

For purposes of Sections 205(a)(A)(1)(II)(a1) and 205(a)(B)(1) hereof, "Net Revenues" shall be calculated as follows:

1. amounts estimated to be on deposit in the General Account during the Fiscal Years in question shall not be included in calculating Net Revenues;

2. the Gross Revenues estimated to be derived during the Fiscal Years in question from any Project to be financed from the proceeds of such Additional Bonds or Issuer Financial Obligation less the Operating Expenses estimated to be incurred during such Fiscal Years in connection with such Project shall be included in calculating Net Revenues; and

3. Net Revenues during each of the Fiscal Years in question shall be adjusted to take account of any increase in Gross Revenues estimated to result from any increase in fees and charges for the use of the System that the Issuer has or will put into effect for such Fiscal Years.

For purposes of Section 205(a)(A)(1)(II)(a2) and 205(a)(B)(2) hereof and except as otherwise provided in Section 205(a)(B)(2)(II) above, "Net Revenues" may, at the Issuer's option, be calculated as follows:

A. amounts on deposit in the General Account during the Fiscal Year or 12 month period in question shall be included in calculating Net Revenues; and/or

B. Net Revenues during the Fiscal Year or 12 month period in question shall be adjusted to take account of: (i) any increase in Gross Revenues estimated to result from any increase in fees and charges for the use of the System that are or will be in effect at the time the Additional Bonds or Issuer Financial Obligation in question are issued or incurred; and (ii) the maximum annual increase in Operating Expenses estimated to occur during the three Fiscal Years following the Fiscal Year through which interest on such Additional Bonds or Issuer Financial Obligation has been capitalized (if the proceeds of such Additional Bonds or Issuer Financial Obligation are to be used to finance any Capital Costs of a Project) or during the three Fiscal years following the Fiscal Year in which such Additional Bonds or Issuer Financial Obligation are to be issued (if the proceeds of such Additional Bonds or Issuer Financial Obligation are not to be used to finance any Capital Costs of a Project); as if such increased fees and charges and maximum annual

increase in Operating Expenses had been in effect throughout such Fiscal Year or 12 month period.

(b) Completion Bonds. The Issuer may, from time to time and without regard to limitations otherwise imposed by Section 205(a) hereof, issue one or more series of Completion Bonds as System Bonds hereunder and may incur Issuer Financial Obligations for Completion Bond purposes, *provided that* the Issuer shall first file with the Master Trustee:

(i) an Opinion of Bond Counsel that the issuance of such Completion Bonds will not impair the exclusion from gross income for federal income tax purposes of interest paid on any System Bonds or Issuer Financial Obligations then Outstanding which were issued or incurred as, and which at the time of issuance of such Completion Bonds still are, Tax-Exempt Obligations; and

(ii) a certificate of the Consulting Engineer to the effect that, in the judgment of the Consulting Engineer, the proceeds of such Completion Bonds, together with any Issuer Contribution available for such purpose, will be sufficient to pay the remaining Capital Costs of the Project or Projects with respect to which such Completion Bonds are being issued and to fund any additions to the System Reserve Account or any debt service fund or account established in connection with the related Issuer Financial Obligation required in connection with the issuance of such Completion Bonds.

(c) Refunding Bonds. The Issuer may, from time to time and without regard to the limitations otherwise imposed by Section 205(a) hereof, issue one or more series of Refunding Bonds as System Bonds hereunder or incur Issuer Financial Obligations for Refunding Bond purposes; *provided that* the maximum Annual Debt Service for all Outstanding System Bonds and Issuer Financial Obligations (including the Refunding Bonds proposed to be issued but not including any System Bonds or Issuer Financial Obligations proposed to be refunded by means of such Refunding Bonds) during any future Fiscal Year in which any System Bonds and any Issuer Financial Obligations (other than any System Bonds and Issuer Financial Obligations proposed to be refunded by means of such Refunding Bonds) which were Outstanding immediately prior to the issuance of such Refunding Bonds will be Outstanding, is less than the maximum Annual Debt Service for any future Fiscal Year would be on all Outstanding System Bonds and Issuer Financial Obligations (including the System Bonds or Issuer Financial Obligations proposed to be refunded) during each such Fiscal Year if such Refunding Bonds were not issued; *provided further that* the Issuer shall first file with the Master Trustee an Opinion of Bond Counsel that the issuance of such Refunding Bonds will not impair the exclusion from gross income for federal income tax purposes of interest paid on any System Bonds or Issuer Financial Obligations then Outstanding which were issued as, and which at the time of issuance of such Refunding Bonds still are, Tax-Exempt Obligations.

(d) Multipurpose Additional Bonds and Issuer Financial Obligations. Additional Bonds may be issued at one time hereunder as System Bonds, and Issuer Financial Obligations may be incurred at one time hereunder, for any one or more of the purposes described in Section 205(a), Section 205(b) or Section 205(c) hereof, and in the event such Additional Bonds or Issuer Financial Obligations are issued or incurred for in part for one of the purposes described in Section 205(a), Section 205(b) or Section 205(c) hereof and in part for one of the purposes described in another of such Sections, the provisions of Section 205(a) shall govern the issuance of that portion of such Additional Bonds or Issuer Financial Obligations that are issued or incurred for one of the purposes described in Section 205(a), the provisions of Section 205(b) shall govern the issuance of that portion of such Additional Bonds or Issuer Financial Obligations that are issued or incurred for Completion Bond purposes, and the provisions of Section 205(c) shall govern the issuance of that portion of such Additional Bonds or Issuer Financial Obligations that are issued or incurred for Refunding Bond purposes, as the case may be.

(e) Provisions Not Applicable to First Series of System Bonds, Existing Issuer Financial Obligations and Certain Other System Bonds and Issuer Financial Obligations. The provisions of Section 205(a) hereof shall not apply to the issuance of the first Series of System Bonds to be issued hereunder or to any Issuer Financial Obligation incurred prior to the effective date of this Ordinance, nor shall Sections 205(a), (b) or

(c) apply to or in any way limit or restrict the ability of the Issuer to issue any Additional Bonds as System Bonds or to incur Issuer Financial Obligations at any point in time at which there are no other System Bonds Outstanding. In addition, the provisions of Sections 205(a), (b) (c) shall not apply to or in any way limit or restrict the ability of the Issuer to issue Refunding Bonds as System Bonds hereunder or to incur Issuer Financial Obligations for Refunding Bond purposes hereunder for the purpose of refunding all System Bonds which are Outstanding at the time of issuance of such Refunding Bonds.

In addition, in connection with any System Bonds or Issuer Financial Obligations which are Variable Rate Obligations the terms of which permit the Issuer or another party appointed for such purpose to elect to convert the rate(s) of interest applicable thereto to a rate or rates which are fixed and nonvariable through the maturity date thereof, then the provisions of Sections 205(a), (b) and (c) hereof shall not apply in the following situations:

(i) any such conversion of the rate(s) of interest applicable to such System Bonds or Issuer Financial Obligation to a rate or rates which are fixed and nonvariable through the maturity date thereof; or

(ii) in lieu of so converting the interest rate(s) as described in Section 205(e)(i) above, the Issuer elects to issue Refunding Bonds bearing rate(s) of interest fixed to the stated maturity dates thereof, *provided that*:

(A) the stated maturity dates of such Refunding Bonds and the principal amounts to mature on such dates are the same as the stated maturity dates of the Variable Rate Obligations being refunded thereby and the principal amounts thereof to mature on such dates, subject only to such increases in principal amounts of the Refunding Bonds to mature on such dates as are necessary to amortize any increase in the aggregate principal amount of such Refunding Bonds over the aggregate principal amount of the Variable Rate Obligations being refunded as a result of the funding of the items described in Section 205(e)(ii)(B) below; and

(B) the aggregate principal amount of such Refunding Bonds does not exceed the aggregate principal amount of the Variable Rate Obligations being refunded plus such amount as may be necessary:

(1) to pay interest accruing on the Variable Rate Obligations being refunded through the date upon which the same shall be redeemed or otherwise paid;

(2) to pay the Costs of Issuance incurred in connection with such Refunding Bonds; and

(3) to fund any additions to the System Reserve Account or any debt service reserve fund or account established with respect to such Issuer Financial Obligation necessary in connection with the issuance of such Refunding Bonds in order to cause the balance on deposit in the System Reserve Account or such debt service reserve fund or account to equal the System Reserve Requirement or the related Reserve Requirement, as the case may be.

For purposes of Section 205(e)(ii)(A) above, "stated maturity dates" shall include the dates upon which the System Bonds or the Issuer Financial Obligation in question are subject to redemption or prepayment pursuant to a Mandatory Redemption Schedule or pursuant to a similar schedule (in the case of an Issuer Financial Obligation) and "principal amounts to mature" on a particular date shall include the principal of the System Bonds or Issuer Financial Obligation in question which are subject to redemption pursuant to a Mandatory Redemption Schedule or pursuant to a similar schedule (in the case of an Issuer Financial Obligation).

(f) Subordinated Debt, Project Bonds and System Contracts. Nothing in this Ordinance is intended to in any way restrict or limit the ability of the Issuer:

(i) to issue or incur Subordinated Debt; or

(ii) to issue Project Bonds, including Project Bonds secondarily secured by a lien on the Net Revenues which is second and subordinate to the lien on the Net Revenues given as security for the payment of the System Bonds issued hereunder and secondarily payable from the Net Revenues on a basis which is second and subordinate to the payment from Net Revenues of the amounts owing on the System Bonds issued hereunder;

(iii) except to the extent the same give rise to an Issuer Financial Obligation (but not including any Issuer Financial Obligation which constitutes Subordinated Debt), to enter into contracts with any person or entity, public or private, regarding the acquisition, lease or lease purchase of assets or facilities for use in connection with the System or for provision of solid or liquid waste disposal services (including hazardous waste disposal) in connection with the operation of the System; or

(iv) except to the extent the same give rise to an Issuer Financial Obligation (but not including any Issuer Financial Obligation which constitutes Subordinated Debt), to enter into Issuer Agreements for the provision to the Issuer by any person or entity of solid or liquid waste disposal services or other services necessary or appropriate in connection with the operation of the System or any part thereof;

Provided that no such action on the part of the Issuer shall relieve it of any of its obligations, covenants and agreements hereunder and under any Supplemental Ordinance.

ARTICLE III

GENERAL TERMS AND PROVISIONS OF BONDS

Section 301. Limited Obligations; Medium of Payment; Form and Date; Letters and Numbers; Place of Payment.

(a) Payment of Bonds; Limited Obligations. The Bonds of each Series and any obligations under any Credit Agreement relating to a particular Series of Bonds shall be limited obligations of the Issuer payable solely and only from and secured by the Trust Estate specifically pledged thereto.

The Bonds and any obligations under any Credit Agreement shall not constitute a general obligation of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be limited obligations of the Issuer payable solely from, and secured solely by, the pledge and lien on the related Trust Estate as described above. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE ISSUER, THE STATE OF OREGON OR ANY OTHER POLITICAL SUBDIVISION THEREOF IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL, PREMIUM (IF ANY) OR INTEREST ON THE BONDS OR ANY OBLIGATIONS UNDER ANY CREDIT AGREEMENT AND NEITHER THE STATE OF OREGON NOR ANY POLITICAL SUBDIVISION THEREOF, OTHER THAN THE ISSUER, SHALL BE OBLIGATED TO PAY THE PRINCIPAL, PREMIUM (IF ANY) OR INTEREST THEREON.

(b) Medium of Payment. Except as may be otherwise set forth in a Supplemental Ordinance

authorizing the issuance of a Series of Bonds, the Bonds of each Series shall be payable, with respect to interest, principal and premium (if any), in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts, *provided, however, that* interest shall be paid on such Bonds by checks or drafts to the persons entitled thereto or by such other method of payment as may be specified in the Supplemental Ordinance authorizing the issuance of such Bonds.

(c) Registered Form. Except as may be otherwise set forth in a Supplemental Ordinance authorizing the issuance of a Series of Bonds, the Bonds of each Series shall be issued in the form of fully registered Bonds.

(d) Numbers and Dated Dates. Each Bond of a Series shall be lettered and numbered as provided in the Supplemental Ordinance authorizing their issuance so as to be distinguished from every other Bond. The Bonds of each Series shall be dated as provided in the Supplemental Ordinance authorizing their issuance.

(e) Place of Payment. Except as may be otherwise set forth in a Supplemental Ordinance authorizing the issuance of a Series of Bonds, the principal and premium (if any) of all fully registered Bonds of a Series shall be payable upon presentation and surrender of such Bond at the principal corporate trust office of the related Trustee or other Paying Agent, as the case may be, and payment of the interest on each fully registered Bond shall be made by the related Trustee or other Paying Agent, as the case may be, to the person appearing on each Record Date on the registration books of the Issuer for such Series as the Owner thereof, by check or draft mailed on the applicable Interest Payment Date, first-class postage prepaid, to such registered Owner at his address as it appears on such registration books or by such other method of payment as may be specified in the Supplemental Ordinance authorizing the issuance of such Bonds.

Section 302. Legends. The Bonds of each Series may contain or have endorsed thereon such provisions, specifications and descriptive words not inconsistent with the provisions of this Ordinance as may be necessary or desirable to comply with custom, the rules of any securities exchange or commission or brokerage board, or otherwise, as may be determined by the Issuer prior to the authentication and delivery thereof.

Section 303. Execution and Certificate of Authentication.

(a) Execution. The Bonds of each Series shall be executed in the name of the Issuer by the manual or facsimile signatures of the Presiding Officer of the Issuer and the Executive Officer of the Issuer and the Issuer's seal (or a facsimile thereof) shall be impressed, imprinted, engraved or otherwise reproduced thereon. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer before the Bonds so signed and sealed shall have been authenticated and delivered by the related Trustee, such Bonds may, nevertheless, be authenticated and delivered as herein provided, and may be issued as if the persons who signed or sealed such Bonds had not ceased to hold such offices. Any Bond may be signed and sealed on behalf of the Issuer by such persons as at the time of the execution of such Bonds shall be duly authorized or hold the proper office in the Issuer, although at the date borne by such Bonds or at the time of authentication of such Bonds such persons may not have been so authorized or have held such office.

(b) Certificate of Authentication. The Bonds of each Series shall bear thereon a certificate of authentication, in the form set forth in the related Supplemental Ordinance, executed manually by the related Trustee or its authorized agent. Only such Bonds as shall bear thereon such certificate of authentication shall be entitled to any right or benefit under this Ordinance or the related Supplemental Ordinance and no Bond shall be valid or obligatory for any purpose until such certificate of authentication shall have been duly executed by the related Trustee. The execution of any such certificate of authentication upon any Bond executed on behalf of the Issuer shall be conclusive evidence that the Bond so authenticated has been duly authenticated and delivered under this Ordinance and that the Owner thereof is entitled to the benefits of this Ordinance and the related Supplemental Ordinance.

Section 304. Interchangeability of Bonds. The Bonds of each Series, upon surrender thereof at the principal corporate trust office of the related Bond Registrar with a written instrument of transfer satisfactory to such Bond Registrar, duly executed by the Owner or his duly authorized attorney, may, at the option of the Owner thereof, and upon payment by such Owner of any charges which the related Bond Registrar may make as provided in Section 306 hereof, be exchanged for Bonds of the same Series, date, aggregate principal amount and maturity in any other Authorized Denominations.

Section 305. Transfer and Registry; Persons Treated as Owners. The Bond Registrar for each Series shall keep books for the registration of, and for the registration of transfers of, Bonds of such Series as provided in this Ordinance and the related Supplemental Ordinance. Except as otherwise provided in the Supplemental Ordinance authorizing a particular Series of Bonds, the Bonds of a particular Series shall be transferable only upon the books of the Issuer kept by the related Bond Registrar by the Owner thereof in person or by her attorney duly authorized in writing, upon surrender thereof together with a written instrument of transfer satisfactory to the related Bond Registrar, duly executed by the Owner or her duly authorized attorney. Upon the transfer of any such Bond, the Issuer shall issue in the name of the transferee a new Bond or Bonds of the same Series, maturity date and aggregate principal amount.

The Issuer and each Trustee, Paying Agent and Bond Registrar may deem and treat the person in whose name any Bond shall be registered upon the books kept by the related Bond Registrar as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal and premium, if any, of and interest on such Bond and for all other purposes, and all such payments so made to any such Owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the Issuer nor any Trustee, Paying Agent or Bond Registrar shall be affected by any notice to the contrary.

Section 306. Regulations With Respect to Exchanges and Transfers. In all cases in which the privilege of exchanging Bonds or transferring Bonds is exercised, the Issuer shall execute and the related Trustee or its authorized agent shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. All Bonds of a Series surrendered in any such exchanges or transfers shall forthwith be delivered to the related Bond Registrar and cancelled by such Bond Registrar in the manner provided in Section 309. For every such exchange or transfer of Bonds of any Series, the Issuer or the related Bond Registrar may make a charge against the Owner sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer. Unless otherwise provided by Supplemental Ordinance, neither the Issuer nor any Bond Registrar shall be required (a) to transfer or exchange Bonds for a period of 15 days next preceding any selection of Bonds of such Series to be redeemed or thereafter until after the mailing of any notice of redemption; or (b) to transfer or exchange any Bonds called for redemption.

Section 307. Bonds Mutilated, Destroyed, Stolen or Lost. If any Bond becomes mutilated or is lost, stolen or destroyed, the Issuer may execute and the related Trustee or its authorized agent shall authenticate and deliver a new Bond of like Series, maturity date, principal amount and interest rate *per annum* as the Bond so mutilated, lost, stolen or destroyed, *provided that:*

- (a) in the case of such mutilated Bond, such Bond is first surrendered to the related Trustee;
- (b) in the case of any such lost, stolen or destroyed Bond, there is first furnished evidence of such loss, theft or destruction satisfactory to the Issuer together with indemnity satisfactory to the Issuer and the related Trustee;
- (c) all other reasonable requirements of the Issuer and the related Trustee are complied with; and
- (d) expenses in connection with such transaction are paid by the Owner.

Any mutilated Bond surrendered for exchange shall be cancelled. Any new Bonds issued pursuant to this Section 307 in substitution for Bonds alleged to be destroyed, stolen or lost shall constitute original additional contractual obligations on the part of the Issuer, whether or not the Bonds so alleged to be destroyed, stolen or lost shall be at any time enforceable by anyone, and shall be equally secured by and entitled to equal and proportionate benefits with all other Bonds of the same Series to the lien of the Trust Estate pledged to such Series.

Section 308. Temporary Bonds. Until definitive Bonds of a Series are prepared, the Issuer may execute, in the same manner as is provided in Section 303, and upon the request of the Issuer, the related Trustee or its authorized agent shall authenticate and deliver, in lieu of definitive Bonds of such Series, but subject to the same provisions, limitations and conditions as the definitive Bonds of such Series, one or more temporary Bonds substantially of the tenor of the definitive Bonds of such Series in lieu of which such temporary Bond or Bonds are issued, in authorized denominations, and with such omissions, insertions and variations as may appropriate for temporary Bonds. Payment of debt service on such temporary Bonds of a Series shall be in the same manner as for definitive Bonds of the same Series. At its own expense the Issuer shall prepare and execute and, upon the surrender of such temporary Bonds for exchange and, upon the surrender of such temporary Bonds for exchange and the cancellation of such surrendered temporary Bonds, the related Trustee or its authorized agent shall authenticate and, without charge to the registered owner thereof, deliver in exchange therefor, definitive Bonds of the same Series and aggregate principal amount and maturity as the temporary Bonds surrendered. Until so exchanged, the temporary Bonds shall in all respects be entitled to the same benefits and security as definitive Bonds of the same Series.

All temporary Bonds surrendered in exchange either for another temporary Bond or Bonds or for a definitive Bond or Bonds shall be forthwith cancelled by the related Bond Registrar in the manner provided in Section 309.

Section 309. Cancellation and Destruction of Bonds. All Bonds paid or redeemed, either at or before maturity shall be delivered to the related Bond Registrar when such payment or redemption is made, and such Bonds, together with all Bonds purchased by the Issuer, or on its behalf, shall thereupon be promptly cancelled. Bonds so cancelled shall be destroyed by the related Bond Registrar, who shall execute from time to time certificates of destruction in duplicate by the signature of one of its authorized officers describing any Bonds so destroyed, and one executed copy of each such certificate shall be filed with the Issuer and the other executed copy of each such certificate shall be retained by the Bond Registrar.

Section 310. Book-Entry System. The provisions of this Article III may be modified as set forth in a Supplemental Ordinance authorizing the issuance of a Series of Bonds in order to implement and maintain a book-entry system of registration of the Bonds of such Series.

ARTICLE IV

REDEMPTION OF BONDS

Section 401. Redemption Provisions to be Specified in Supplemental Ordinance. The Bonds of a particular Series shall be subject to mandatory, optional, extraordinary or other redemption prior to maturity on such terms and conditions, on such dates and at such redemption prices as shall be specified in the Supplemental Ordinance authorizing the issuance of such Series of Bonds. Except as may be otherwise expressly provided in a Supplemental Ordinance with respect to Bonds of a particular Series, the particular Bonds of a Series to be redeemed shall be selected and notice of any such redemption shall be given in the manner set forth in this Article IV.

Section 402. Selection of Bonds to be Redeemed. If less than all of the Bonds of a like Series and maturity shall be called for redemption, the particular Bonds or portions of Bonds of such Series to be redeemed shall be selected by the related Trustee in such manner as such Trustee in its discretion may deem fair and appropriate; *provided, however, that* unless otherwise provided by the Supplemental Ordinance authorizing such Series of Bonds, for purposes of any redemption in part, each portion of any Bond equal to the Minimum Authorized Denomination for such Bond shall be treated as a separate Bond for purposes of such redemption and may be called for redemption separately from any other portion of such Bond so long as following such redemption all unredeemed Bonds remaining Outstanding shall be in an Authorized Denomination for such Bond. The related Trustee shall promptly notify the Issuer in writing of the Bonds so selected for redemption.

Section 403. Notice of Redemption. Unless otherwise provided by a Supplemental Ordinance authorizing a Series of Bonds, the related Trustee shall give notice, in the name of the Issuer, of the redemption of Bonds of such Series, which notice shall specify the Series and maturities of the Bonds to be redeemed, the redemption date and the place or places where amounts due upon such redemption will be payable and, if less than all of the Bonds of such Series of the same maturity are to be redeemed, the letters and numbers or other distinguishing marks of such Bonds so to be redeemed, and, in the case of Bonds to be redeemed in part only, such notice shall also specify the respective portions of the principal amount thereof to be redeemed. Such notice shall further state that on such date there shall become due and payable upon each Bond to be redeemed the Redemption Price thereof, or the Redemption Price of the specified portions of the principal thereof in the case of Bonds to be redeemed in part only, together with interest accrued to the redemption date, and that from and after such date interest thereon shall cease to accrue and be payable.

Unless otherwise provided by the Supplemental Ordinance authorizing such Series of Bonds, the related Trustee shall file a copy of such notice with the Issuer and shall mail or cause to be mailed a copy of such notice, by first class mail, postage prepaid, not less than forty (40) days nor more than sixty (60) days before the redemption date to the Owners of any Bonds or portions of Bonds which are to be redeemed, at their last addresses appearing upon the registration books held by the Bond Registrar immediately prior to the date on which such notice is mailed. Such mailing shall be a condition precedent to such redemption, but failure of any Owner of any Bond to receive such notice shall not affect the validity of the proceedings for the redemption of such Bonds. Notwithstanding the foregoing and unless otherwise expressly provided in a Supplemental Ordinance with respect to a particular Series of Bonds, in the event that any Bond to be redeemed was not issued in registered form (including book-entry), then and in such event notice of such redemption shall be published at least once not less than thirty (30) days prior to the redemption date in a newspaper of general circulation in any of the cities of New York, New York, San Francisco, California or Chicago, Illinois.

In addition to the foregoing notice, further notice in the form described in the first paragraph of this Section 403 shall be given by the related Trustee as set out below, but no defect in said further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if notice thereof is given as above prescribed:

(a) Notice of redemption shall be sent at least 40 days before the redemption date by registered or certified mail or overnight delivery service to all registered securities depositories then in the business of holding substantial amounts of obligations of types comprising the Bonds (such depositories now being Depository Trust Company of New York, New York, Midwest Securities Trust Company of Chicago, Illinois, Pacific Securities Depository Trust Company of San Francisco, California and Philadelphia Depository Trust Company of Philadelphia, Pennsylvania) and to one or more national information services that disseminate notices of redemption of obligations such as the Bonds (such as Financial Information, Inc.'s Financial Daily Called Bond Service, Kenny Information Service's Called Bond Service, Moody's Municipal and Government Called Bond Service and Standard & Poor's Called Bond Record).

(b) Notice of redemption shall be published one time in the Bond Buyer of New York, New York

or, if such publication is impractical or unlikely to reach a substantial number of the owners of the Bonds, in some other financial newspaper or journal which regularly carries notices of redemption of other obligations similar to the Bonds, such publication to be made at least 30 days prior to the date fixed for redemption.

(c) Upon the payment of the Redemption Price of Bonds being redeemed, each check or other transfer of funds issued for such purpose shall bear the CUSIP number identifying, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

Section 404. Payment of Redeemed Bonds. Notice having been given in the manner provided in Section 403, the Bonds or portions thereof so called for redemption shall become due and payable on the redemption date so designated at the Redemption Price and, upon presentation and surrender thereof at the office specified in such notice, such Bonds, or portions thereof, shall be paid at the Redemption Price. If there shall be selected for redemption less than all of a Bond, the Issuer shall execute and the related Trustee or its authorized agent shall authenticate and the related Bond Registrar shall deliver, upon the surrender of such Bond, without charge to the Owner thereof, for the unredeemed balance of the principal amount of the Bonds so surrendered Bonds of the same Series and maturity in any of the Authorized Denominations at the option of the Owner thereof. If, on the redemption date, moneys sufficient to pay the Redemption Price of all the Bonds or portions thereof to be redeemed shall be held by the related Trustee so as to be available therefor on said date and if notice of redemption shall have been given as aforesaid, then from and after the redemption date interest on the Bonds or portions thereof so called for redemption shall cease to accrue and become payable. If said moneys shall not be so available on the redemption date, such Bonds or portions thereof shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption.

ARTICLE V

DEPOSITS OF GROSS REVENUES AND BOND PROCEEDS; ESTABLISHMENT OF FUNDS AND ACCOUNTS AND APPLICATION THEREOF

Section 501. Application of Gross Revenues; Continuation and Abolition of Existing Funds.

(a) **Application of Gross Revenues.** The Issuer hereby covenants and agrees, with and for the benefit of the Master Trustee and the Owners from time to time of the System Bonds issued hereunder (but not for the benefit of the Owners of any Project Bonds), that from and after the issuance of the first Series of Bonds hereunder (including any Series of Project Bonds) and so long as any System Bonds are Outstanding hereunder, all Gross Revenues shall be deposited, as and when received by the Issuer, in the Revenue Fund and applied for the following purposes and in the order of priority set forth below:

(i) **First,** to any Rebate Payments required by this Ordinance and any Supplemental Ordinance to be made into the System Rebate Account and to any Rebate Payments required in connection with any Issuer Financial Obligation;

(ii) **Second,** to make deposits into the Operating Account in the amounts and at the times required pursuant to Section 507 hereof;

(iii) **Third**, to: (A) make any deposits into the System Debt Service Account required by this Ordinance or any Supplemental Ordinance, including (without limitation) the payment of any amounts owing under a Credit Agreement as a result of amounts having been drawn under a Credit Facility given as security for the payment of any amounts owing under or with respect to any System Bonds (other than any Credit Facility which is provided for the purpose of meeting in whole or in part the System Reserve Requirement); and (B) pay when due all Outstanding Issuer Financial Obligations (but not including any Issuer Financial Obligations which constitute Subordinated Debt or the Debt Component of the payments required to be made by the Issuer under the Mass Composting Service Agreement), including (without limitation) the payment of any amounts owing under a Credit Agreement as a result of amounts having been drawn under a Credit Facility given as security for the payment of any amounts owing under or with respect to any Issuer Financial Obligation (other than any Credit Facility which is provided for the purpose of meeting in whole or in part the related Reserve Requirement);

(iv) **Fourth**, to: (A) make any deposits into the System Reserve Account which are necessary in order to maintain on deposit therein an amount equal to the System Reserve Requirement, including (without limitation) the payment of any amounts owing under a Credit Agreement as a result of amounts having been drawn under a Credit Facility given for the purpose of meeting in whole or in part the System Reserve Requirement, which deposits shall be made at the times and in the amounts provided in Section 509; and (B) make any deposits into any debt service reserve fund or account established in connection with any Issuer Financial Obligation which are necessary in order to maintain on deposit therein an amount equal to the applicable Reserve Requirement, including (without limitation) the payment of any amounts owing under a Credit Agreement as a result of amounts having been drawn under a Credit Facility given for the purpose of meeting in whole or in part the related Reserve Requirement;

(v) **Fifth**, to the payment of any amounts owing under or with respect to any Subordinated Debt, including (without limitation) the payment of any amounts owing under a credit agreement as a result of amounts having been drawn under a credit facility given as security for the payment of any amounts owing under or with respect to any Subordinated Debt or which is provided for the purpose of meeting in whole or in part any reserve requirement established in connection with such Subordinated Debt;

(vi) **Sixth**, to make any deposits into the Renewal and Replacement Account required to be made by the provisions of this Ordinance or any Supplemental Ordinance;

(vii) **Seventh**, to make such deposits into the Landfill Closure Account as the Issuer shall from time to time determine; and

(viii) **Eighth**, the balance of the Gross Revenues shall be deposited in the General Account.

(b) **Continuation and Abolition of Existing Funds.** In enacting this Master Ordinance, it is the intent of the Issuer to ensure full compliance with the requirements of the Local Budget Law for the Issuer's 1989-90 Fiscal Year and each Fiscal Year thereafter. Therefore, the Issuer hereby acknowledges, finds and determines the following:

(i) that the Annual Budget relating to the System for the 1989-90 Fiscal Year has heretofore been duly adopted in accordance with the Local Budget Law, which Annual Budget is intended to remain in tact for the remainder of such Fiscal Year notwithstanding any provisions of this Master Ordinance to the contrary, except as said Annual Budget may otherwise be amended or supplemented in accordance with the requirements of the Local Budget Law; and

(ii) during the remainder of the 1989-90 Fiscal Year, all expenditures to be made by the Issuer with respect to any Project to be financed in whole or in part out of the proceeds of any Bonds issued hereunder are to be made solely and only out of:

(A) moneys duly appropriated in accordance with the Local Budget Law, as set forth in the Annual Budget relating to the System for the 1989-90 Fiscal Year; and

(B) the proceeds of Bonds issued hereunder.

However, the Issuer also intends that, to the full extent not inconsistent with the foregoing, the provisions of this Master Ordinance shall be fully implemented and in full force and effect from and after the issuance of the first Series of Bonds hereunder. Therefore:

(I) to the extent that any provisions of this Master Ordinance are inconsistent with, or under the Local Budget Law would otherwise require an amendment of or supplement to, the Annual Budget relating to the System for the 1989-90 Fiscal Year, the provisions of such Annual Budget shall govern and control in all respects;

(II) to the full extent not inconsistent with or, under the Local Budget Law, requiring an amendment of or supplement to the Annual Budget relating to the System for the 1989-90 Fiscal Year, the provisions of this Master Ordinance shall be fully implemented and in effect from and after the issuance of the first Series of Bonds hereunder (including any Series of Project Bonds);

(III) the Issuer's Solid Waste Operating Fund, Solid Waste Debt Service Fund, Solid Waste Capital Fund and St. John's Reserve Fund, each as heretofore established by the Issuer, shall remain in existence and be continued through (but not including) July 1, 1990 and integrated into the plan for the System Funds and Accounts as set forth in this Master Ordinance;

(IV) the Issuer's Solid Waste Operating Fund, Solid Waste Debt Service Fund, Solid Waste Capital Fund and St. John's Reserve Fund shall be discontinued and abolished effective as of July 1, 1990, to be fully replaced by the System Funds and Accounts established under this Master Ordinance; and

(V) commencing with the Annual Budget relating to the System for the 1990-91 Fiscal Year and continuing each Fiscal Year thereafter until the later to occur of the repeal of this Master Ordinance by the Issuer or the retirement in full of all Bonds issued hereunder, each Annual Budget relating to the System shall be prepared, adopted and implemented in accordance with the requirements of this Master Ordinance.

(c) No Operating Expense to be Granted Priority Over Any Other Operating Expense. The Issuer hereby covenants and agrees that, so long as any System Bonds remain Outstanding hereunder, it shall not, by contract or otherwise, agree to grant any Operating Expense a priority of payment out of Gross Revenues over any other Operating Expense, it being the intent of the foregoing covenant that, except to the extent otherwise required or provided by law, all Operating Expenses shall be payable out of Gross Revenues, in accordance with the priorities set forth in Section 501(a) above, on an equal and ratable (*pari passu*) basis with all other Operating Expenses.

Section 502. Establishment of System Funds and Accounts.

(a) System Accounts Established with Master Trustee. Upon the issuance of the first Series of System Bonds hereunder, the following System Accounts shall be established with and shall be held by the Master Trustee, which System Accounts shall be subaccounts of the Revenue Fund:

- (i) The System Construction Account;
- (ii) The System Debt Service Account;
- (iii) The System Reserve Account; and
- (iv) The System Rebate Account.

The Issuer may determine from time to time by Supplemental Ordinance to create and establish within the System Construction Account, the System Debt Service Account, the System Reserve Account or the System Rebate Account such Accounts as the Issuer may deem necessary or appropriate, which Accounts shall constitute a part of the Account in which they are created.

(b) System Funds and Accounts Established with Issuer. Upon the issuance of the first Series of System Bonds hereunder, the following System Funds and Accounts shall be established with and shall be held by the Issuer:

- (i) The Revenue Fund, which Revenue Fund is intended to be, and shall constitute, an "Enterprise Fund" under and within the meaning of the Local Budget Law;
- (ii) The Operating Account, which shall be a subaccount of the Revenue Fund;
- (iii) The Renewal and Replacement Account, which shall be a subaccount of the Revenue Fund;
- (iv) The Landfill Closure Account, which shall be a subaccount of the Revenue Fund; and
- (v) The General Account, which shall be a subaccount of the Revenue Fund.

The Issuer may also determine from time to time by Supplemental Ordinance to create and establish within the Revenue Fund, the Operating Account, the Renewal and Replacement Account, the Landfill Closure Account or the General Account such other Accounts as it may deem necessary or appropriate from time to time, which Accounts shall constitute a part of the Fund or Account in which they are created.

In addition, there is hereby established as a subaccount of the Revenue Fund the Master Project Account, which Master Project Account is established solely for the purpose of facilitating compliance by the Issuer with the requirements of the Local Budget Law and the special subaccounts within said Master Project Account which are hereafter created pursuant to Supplemental Ordinances in connection with the issuance of a Series of Project Bonds hereunder shall be held by the related Trustee as provided in such Supplemental Ordinances.

Section 503. Establishment of Project Funds and Accounts. In connection with the issuance of each Series of Project Bonds hereunder, the Supplemental Ordinance authorizing the issuance of such Series of Project Bonds shall establish the following Accounts which shall be held by the related Trustee, which Project Accounts shall be special subaccounts of the Master Project Account:

- (a) The Project Construction Account;
- (b) The Project Debt Service Account;
- (c) If necessary, the Project Reserve Account; and
- (d) If necessary, the Project Rebate Account.

The Issuer may determine from time to time by Supplemental Ordinance to create and establish such other Funds and Accounts with respect to a Series of Project Bonds as may be necessary or appropriate and to create and establish within such Accounts such additional subaccounts as may be necessary or appropriate, which subaccounts shall constitute a part of the Fund or Account within which they are created. .

In the Supplemental Ordinance creating any Project Funds or Accounts, the Issuer shall assign each such Project Fund or Account a distinctive name which identifies the particular Project or Series of Project Bonds to which such Account relates.

Section 504. Deposits of Bond Proceeds to Certain Funds and Accounts.

(a) Proceeds of Project Bonds. The Supplemental Ordinance authorizing each Series of Project Bonds shall make provision for the disposition and deposit of the proceeds derived from the issuance and sale of such Series of Project Bonds into the various Project Funds or Accounts established in connection with such Series and for the disbursement and application of the moneys and investments held from time to time in such Project Funds or Accounts.

(b) Proceeds of System Bonds. The proceeds of sale of any Series of System Bonds shall, as soon as practicable upon the delivery thereof to the Master Trustee, be applied as follows:

(i) the amount, if any, stipulated by the Supplemental Ordinance authorizing the issuance of such Series of System Bonds to be deposited into any System Reserve Account shall be deposited in the System Reserve Account (or in lieu of all or part of any such money deposit, the amount which may be drawn upon under any Credit Facility then provided for the purpose of meeting in whole or in part the System Reserve Requirement shall be credited to the System Reserve Account);

(ii) the amount, if any, stipulated by Supplemental Ordinance to be deposited into the System Construction Account shall be deposited in the System Construction Account;

(iii) the amount, if any, of accrued interest paid by the initial purchasers of such Series of System Bonds shall be deposited into the System Debt Service Account; and

(iv) the amount, if any, stipulated by Supplemental Ordinance to be deposited into any other System Funds or Accounts.

Section 505. The System Construction Account.

(a) Deposits. Upon the issuance and sale of each Series of System Bonds there shall be paid into the System Construction Account:

(i) the amounts, if any, required to be paid into the System Construction Account by the provisions of the Supplemental Ordinance authorizing the issuance of a Series of System Bonds; and

(ii) at the option of the Issuer, any Issuer Contribution to be used for the purpose of financing a portion of the items sought to be financed out of the proceeds of such Series of System Bonds.

(b) Disbursements from System Construction Account. Except as otherwise expressly provided in a Supplemental Ordinance authorizing the issuance of a Series of System Bonds, amounts on deposit in the System

Construction Account shall be applied to pay the Capital Costs of the related Project upon written requisition of the Issuer, signed by an Authorized Issuer Representative and given to the Master Trustee. Such payments for Capital Costs shall be made by the Master Trustee only upon compliance with any applicable conditions or requirements that may be set forth in any Supplemental Ordinance and upon receipt of such written requisition, which requisition shall state with respect to each payment to be made:

- (i) the requisition number;
- (ii) the name and address of the person, firm or corporation to whom payment is due or to whom a reimbursable advance, if any, has been made;
- (iii) the amount to be paid;
- (iv) that each obligation mentioned therein has been properly incurred, is currently due and payable, is a proper charge against the System Construction Account, is unpaid or unreimbursed, and has not been the basis of any previous withdrawal;
- (v) that such requisition contains no item representing payment of any retained percentage which the Issuer is as of the date of such requisition entitled, and has determined, to retain;
- (vi) that there has not been filed with or served upon the Issuer notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the moneys payable to any of the persons named in such requisition which has not been released or will not be released simultaneously with the payment of such obligation, other than materialmen's or mechanics' liens accruing by mere operation of law; and
- (vii) that in the best judgment of the Issuer, the amount remaining in the System Construction Account together with other moneys of the Issuer available or to be available therefor during the construction period, after such disbursement will be sufficient to pay all unpaid or unreimbursed costs of the completion of the related Project.

(c) Additional Requirements Imposed By Supplemental Ordinance. The Issuer may impose by Supplemental Ordinance additional procedures and covenants to be followed in connection with the withdrawal of amounts from the System Construction Account or any Accounts thereof. Any such additional procedures and covenants may be made applicable to all moneys on deposit from time to time in the System Construction Account or only to moneys on deposit from time to time in various Accounts established within the System Construction Account.

(d) Master Trustee May Rely on Written Instructions. All requisitions and written instructions received by the Master Trustee, as required by this Section 505 in connection with the payment of moneys from the System Construction Account and any Account thereof, may be relied upon by the Master Trustee in making such payments, without need to verify or investigate matters set forth in such instruments. The Master Trustee shall retain copies of all such requisitions and written instructions for a period of five (5) years from the dates of receipt.

(e) Completion Certificate. The completion of the acquisition and construction and, if applicable, acceptance testing, of any Project financed out of the proceeds of a Series of System Bonds shall be evidenced by a certificate of the Authorized Issuer Representative, which shall be filed promptly with the Master Trustee, stating the date of such completion and the amount, if any, required in the opinion of the Authorized Issuer Representative for the payment of any remaining part of the Capital Costs of such Project, and that such Project has been completed in accordance with the plans and specifications therefor and the terms of any construction contract applicable thereto. Upon the filing of such certificate, the balance in the System Construction Account (or in any separate Accounts

thereof) in excess of the amount, if any, stated in such certificate and to the extent not then held for the purpose of paying the Capital Costs of any other Project:

(i) as directed by the Issuer, shall be deposited in the System Debt Service Account and applied to the retirement of the related Series of System Bonds by purchase or redemption at the earliest date permissible under the terms of this Ordinance without the payment of a call premium or penalty on a date as determined by the certificate of an Authorized Issuer Representative delivered to the Master Trustee, *provided that*, if such Bonds are Tax-Exempt Obligations, then prior to any such application, the Issuer shall cause to be delivered to the Master Trustee an Opinion of Bond Counsel that such application will not adversely affect any the excludability of the interest on such Bonds from gross income for federal income tax purposes; and

(ii) if such Bonds are Tax-Exempt Obligations, shall be invested at a yield not in excess of the yield on the related System Bonds unless the Issuer causes to be delivered to the Master Trustee an Opinion of Bond Counsel to the effect that the failure to invest such moneys at a yield not in excess of the yield on the related System Bonds will not adversely affect the excludability of the interest on such Bonds from gross income for federal income tax purposes;

provided, however, that such amounts may, at the request of an Authorized Issuer Representative and, if such Bonds are Tax-Exempt Obligations, upon receipt by the Master Trustee of an Opinion from Bond Counsel to the effect that such use of such amounts will not adversely affect the excludability of the interest on such Bonds from gross income for federal income tax purposes, be:

(1) retained in the System Construction Account and applied to the payment of any Capital Costs of any other Project; or

(2) withdrawn from the System Construction Account and transferred to the System Renewal and Replacement Account and/or the Landfill Closure Account.

Section 506. Revenues and Revenue Fund. Following the issuance of the first Series of Bonds hereunder (including any Series of Project Bonds), all Gross Revenues shall be deposited in the Revenue Fund as provided in Section 501 hereof, and the Gross Revenues so deposited shall be used and applied from time to time in the manner, in the order of priority and for the purposes provided in said Section 501. In furtherance of the provisions of Section 501(b) hereof, on July 1, 1990 all moneys then remaining on deposit in the issuer's Solid Waste Operating Fund shall be transferred to and deposited in the Revenue Fund.

Section 507. The Operating Account. Following the issuance of the first Series of Bonds hereunder (including any Series of Project Bonds), there shall be deposited in the Operating Account, as required pursuant to Section 501 hereof, such amounts as shall be necessary in order to pay Operating Expenses, and the moneys so deposited shall be used and applied from time to time for the purpose of paying all Operating Expenses.

Section 508. The System Debt Service Account. Commencing on the first Business Day of the month next following the month in which the first Series of System Bonds are issued hereunder, there shall be deposited in the System Debt Service Account, as provided in Section 501 hereof, the following amounts:

(a) An amount which, when added to any amounts on deposit in the System Debt Service Account which are available for such purpose, shall, for each System Bond then Outstanding, equal the interest due on such System Bond on the next Interest Payment Date therefor multiplied by a fraction, the numerator of which shall be one, and the denominator of which shall be the greater of:

(i) one; or

(ii) the number of whole months between the date of such deposit and such Interest Payment Date minus:

(A) one (if such number of whole months is two or greater); or

(B) zero (if such number of whole months is less than two) ;

provided that to the extent that interest on any System Bonds has been capitalized, then to such extent the deposit into the System Debt Service Account shall be made by means of a transfer of such capitalized interest from the System Construction Account to the System Debt Service Account pursuant to a written requisition of the Issuer meeting the requirements of Section 505 hereof; and

(b) An amount which, when added to any amounts on deposit in the System Debt Service Reserve Account which are available for such purpose, shall, for each System Bond then Outstanding, equal the principal coming due on each Outstanding System Bond (other than any such System Bond which is a Capital Appreciation Obligation) on the next principal payment date therefor which is not more than 12 months from the date of such deposit (including the principal due pursuant to any applicable Mandatory Redemption Schedule) plus the Accreted Value of such System Bond (if issued as a Capital Appreciation Obligation) coming due on the next principal payment date therefor which is not more than 12 months from the date of such deposit (including the Accreted Value due pursuant to any mandatory Redemption Schedule), in each case multiplied by a fraction, the numerator of which shall be one, and the denominator of which shall be the greater of:

(i) one; or

(ii) the number of whole months between the date of such deposit and such principal payment date minus:

(A) one (if such number of whole months is two or greater); or

(B) zero (if such number of whole months is less than two) .

For purposes of Section 508(a) above, the deposits required to be made into the System Debt Service Account with respect to interest on any Variable Rate Obligations shall be calculated on the basis of the Estimated Average Interest Rate applicable thereto. Notwithstanding the foregoing, the Issuer shall, on the Business Day prior to each date upon which any principal, Accreted Value or interest on any System Bonds is due and payable (including any principal or Accreted Value due pursuant to a Mandatory Redemption Schedule), deposit into the System Debt Service Account, as provided in Section 501 hereof, an amount which, together with any other amounts then on deposit in the System Debt Service Account which are available for such purpose, will be sufficient to pay all amounts of principal, Accreted Value and interest due on such System Bonds on such payment date.

In addition, there shall be deposited into the System Debt Service Account any moneys delivered by or on behalf of the Issuer to the Master Trustee for the purpose of effecting the redemption of any System Bonds.

The moneys on deposit from time to time in the System Debt Service Account shall be used to pay when due the principal of, interest on, Accreted Value and Redemption Price of the Outstanding System Bonds, and the Master Trustee shall transfer such moneys to the appropriate Paying Agent(s) for application to the payment when due of the principal of, interest on and Redemption Price of the Outstanding System Bonds. Notwithstanding the foregoing or any other provision herein to the contrary, if any amount applied to the payment of principal of, interest on, Accreted Value or Redemption Price of any System Bonds that would have been paid from the System

Debt Service Account is paid instead by amounts drawn or paid under a Credit Facility, amounts on deposit in the System Debt Service Account, and allocable to such payment for said System Bonds, shall be paid to the extent required under the related Credit Agreement to the related Credit Provider.

Section 509. The System Reserve Account. In connection with each issuance of System Bonds hereunder, the Issuer shall cause to be deposited in the System Reserve Account an amount such that, when added to the amounts already on deposit in the System Reserve Account, will cause the balance on deposit in the System Reserve Account to at least equal the System Reserve Requirement. For purposes of the foregoing provision, there shall be deemed to be deposited in the System Reserve Account an amount equal to the amount available to be drawn by the Master Trustee under any Credit Facility given for the purpose of meeting in whole or in part the System Reserve Requirement. The Master Trustee shall hold to the credit of the System Reserve Account any Credit Facility given for the purpose of meeting in whole or in part the System Reserve Requirement and shall draw upon or demand payment under such Credit Facility and apply the moneys so drawn or paid in accordance with the provisions of this Section 509.

If, on any date upon which any amounts of principal of or interest on the Outstanding System Bonds are due and payable (including any amounts of principal due and payable pursuant to a Mandatory Redemption Schedule), the amounts on deposit in the System Debt Service Account, when added to moneys drawn or available to be drawn under any Credit Facility for such purpose, are insufficient to pay all amounts of principal of, premium (if any) and interest on the Outstanding System Bonds due on such date, then the Master Trustee shall withdraw from the System Reserve Account, in the order of priority set forth below, an amount equal to such deficiency and apply the amount so withdrawn to the payment of the amounts of principal of, premium (if any) and interest due on the Outstanding System Bonds on such date. Withdrawals from the System Reserve Account shall be made in the following order of priority:

First, from any cash on deposit in the System Reserve Account;

Second, from the liquidation proceeds of any investments made from moneys on deposit in the System Reserve Account, with the Master Trustee first liquidating those investments with the shortest term to maturity unless otherwise instructed by the Issuer; and

Third, from moneys drawn or paid under any Credit Facility given for the purpose of meeting in whole or in part the System Reserve Requirement.

The amounts on deposit in the System Reserve Account shall be determined by the Master Trustee:

(a) on July 1 of each year;

(b) as of the date of issuance of any System Bonds hereunder; and

(c) as of the date of any withdrawal from the System Reserve Account for the purpose of making up any deficiencies in the System Debt Service Account.

For purposes of determining the amounts on deposit from time to time in the System Reserve Account:

(1) all investments shall be valued at the lower of:

(A) the mean between the bid and asked price therefor as shown in the Wall Street Journal last published immediately prior to the date of such determination; or

(B) the amortized cost of such investment; and

(2) there shall be deemed to be on deposit in the System Reserve Account an amount equal to the amount available to be drawn by the Master Trustee under any Credit Facility given for the purpose of meeting in whole or in part the System Reserve Requirement.

If, on any July 1 of any year, the amounts on deposit in the System Reserve Account are in excess of the System Reserve Requirement (with investments on deposit therein being valued as provided herein), then the Master Trustee shall promptly inform the Issuer of such fact and, if so instructed by the Issuer, shall withdraw System Reserve Account an amount equal to such excess and transfer the amount so withdrawn to the System Debt Service Account.

In the event that any amounts are withdrawn from the System Reserve Account for the purpose of making up any deficiency in the System Debt Service Account as described above, the Issuer shall cause to be deposited in the System Reserve Account, from the moneys on deposit in the Revenue Fund and in accordance with the priorities set forth in Section 501 hereof, an amount such that the amount on deposit in the System Reserve Account shall at least equal the System Reserve Requirement, which deposits shall be made in not more than eighteen equal monthly installments commencing on the first day of the month next succeeding the date of the withdrawal from the System Reserve Account giving rise to such deficiency. In addition, in the event any amounts are drawn under a Credit Facility given for the purpose of meeting in whole or in part the System Reserve Requirement in order to make up any deficiency in the System Debt Service Account as described above, the Issuer shall, over a period of not to exceed eighteen months, cause the amount available to be drawn under such Credit Facility to be reinstated to an amount such that the total amount on deposit in the System Reserve Account shall at least equal the System Reserve Requirement. For purposes of this paragraph, the Master Trustee shall determine the amount on deposit in the System Reserve Account as of the date upon which the Issuer makes the last deposit in the System Reserve Account pursuant to the first sentence of this paragraph or as of the date upon which the Issuer has caused the Credit Facility to be reinstated in the amount required by the second sentence of this paragraph, as the case may be.

In the event the amounts on deposit in the System Reserve Account are less than the System Reserve Requirement solely as a result of changes in the market prices of the investments made from moneys deposited therein, the Issuer shall have no obligation to restore any such deficiency except under the circumstance described in the immediately preceding paragraph and in connection with the issuance of any System Bonds hereunder..

All amounts on deposit in the System Reserve Account may be applied to the final payment (whether at maturity, by prior redemption or by means of a defeasance as provided in Section 1201 hereof) of all Outstanding System Bonds.

Section 510. The Renewal and Replacement Account. Prior to the issuance of the first Series of Bonds hereunder, the Issuer shall cause the Consulting Engineer to provide it with a written determination of the Renewal and Replacement Account Requirement to be applicable during the first Renewal and Replacement Period. Thereafter, commencing with the Renewal and Replacement Period beginning on July 1, 1992 and continuing with each Renewal and Replacement Period thereafter, the Issuer, prior to the first day of such Renewal and Replacement Period, shall cause the Consulting Engineer to provide it with a written determination of the Renewal and Replacement Account Requirement to be applicable during such Renewal and Replacement Period.

Pursuant to and in accordance with the priorities set forth in Section 501 hereof, following the issuance of the first Series of Bonds hereunder the Issuer shall deposit into the Renewal and Replacement Account, on the first Business Day of each month, commencing with the first such Business Day following the issuance of the first Series of Bonds hereunder, an amount equal the Renewal and Replacement Account Requirement; *provided that* nothing herein shall preclude the Issuer from depositing in the Renewal and Replacement Account, in accordance with the priorities set forth in Section 501 hereof, amounts greater than the Renewal and Replacement Account Requirement; *and provided further that* if at any time during a Renewal and Replacement Period the Issuer shall have

theretofore deposited in the Renewal and Replacement Account an amount equal to the sum of the monthly Renewal and Replacement Account Requirement for such Renewal and Replacement Period, then and in such event the Issuer shall not be required to make any further deposits into the Renewal and Replacement Account during the remainder of such Renewal and Replacement Period.

Amounts in the Renewal and Replacement Account shall be applied to the payment of extraordinary repairs to or the replacement or renewal of capital assets of the System, for transfer to the Landfill Closure Account, and for payment of costs incurred for such extraordinary expenses peculiar to landfills such as, but not limited to, remedial action necessary to cure the results of landfill leachate; *provided, however, that* amounts in the Renewal and Replacement Fund shall be used for payment into the System Debt Service Account when the moneys in the Revenue Fund and the moneys in the System Reserve Account in the Debt Service Fund are insufficient therefor; *and provided further that* to the extent that, following any valuation of the investments on deposit in the Renewal and Replacement Account, the amounts on deposit in the Renewal and Replacement Account exceed the Renewal and Replacement Account Requirement, such excess may, at the discretion of the Issuer, be transferred to the General Account. Amounts in the Renewal and Replacement Account shall not be applied to the payment of costs of extensions, improvements or additions to capital assets of the System. The investments on deposit in the Renewal and Replacement Account may be valued from time to time by the Issuer, any such investments to be valued at the face value thereof (including accrued or accreted and unpaid interest) as of the valuation date.

Section 511. The Landfill Closure Account. Pursuant to and in accordance with the priorities set forth in Section 501 hereof, following the issuance of the first Series of System Bonds hereunder, the Issuer shall cause to be deposited in the Landfill Closure Account such amounts as the Issuer may from time to time determine. In addition and in furtherance of the provisions of Section 501(b) hereof, on July 1, 1990 all moneys on deposit in the Issuer's St. John's Reserve Fund shall be transferred to and deposited in the Landfill Closure Account. The amounts on deposit in the Landfill Closure Account shall be used for the purpose of paying from time to time the closure costs of the Issuer's landfills comprising a part of the System; *provided that* to the extent the Issuer determines that the all or a portion of the moneys on deposit in the Landfill Closure Account exceed the amounts the Issuer reasonably expects will be necessary to pay such landfill closure costs, then and to such extent the amounts on deposit in the Landfill Closure Account (other than any such amounts consisting of proceeds of a Series of System Bonds) may be transferred at the Issuer's discretion to the General Account or, with respect to any such amounts which consist of proceeds of a Series of System Bonds, to the System Debt Service Account (to be used to redeem System Bonds on the earliest possible date upon which System Bonds can be redeemed without premium or, if the Issuer so determines, on such earlier date upon which System Bonds can be redeemed at a premium), the System Construction Account or the Renewal and Replacement Account.

Section 512. The General Account. Pursuant to and in accordance with the priorities set forth in Section 501 hereof, following the issuance of the first Series of System Bonds hereunder, on the last day of each Fiscal Year the Issuer shall cause to be deposited in the General Account all moneys remaining on deposit in the Revenue Fund after making all deposits and payments required by Sections 501(a) through (g) hereof (inclusive). In addition and in furtherance of the provisions of Section 501(b) hereof, on July 1, 1990 all moneys on deposit in the Issuer's Solid Waste Capital Fund shall be transferred to and deposited in the General Account. The moneys on deposit from time to time in the General Account may be used and applied by the Issuer for any lawful purpose relating to the System.

Section 513. The System Rebate Account.

(a) Calculation of Rebate Amount; Deposits to and Withdrawals from System Rebate Account. The Issuer hereby covenants and agrees that, in accordance with the applicable provisions of the Code, it shall calculate, or cause to be calculated, the Rebate Amount accruing with respect to each issue of System Bonds and each Issuer Financial Obligation as provided herein. Within 25 days after the close of each Calculation Period for each issue of System Bonds and within 25 days after the final payment in full of all System Bonds of a particular issue, the Master Trustee shall provide the Issuer and the Rebate Analyst (if any) with detailed information concerning the investments made during the Calculation Period just ended with any moneys related to such issue of System Bonds held by the Issuer or the Master Trustee hereunder and the Issuer or the Rebate Analyst (if any) shall compute the Rebate Amount for such issue of System Bonds in accordance with the requirements of Section 148(f) of the Code and shall provide to the Master Trustee a Rebate Report setting forth such calculations. Within 25 days after the close of each Calculation Period for each Issuer Financial Obligation and within 25 days after the final payment in full of each issuer Financial Obligation, the Issuer or the Rebate Analyst (if any) shall compute the Rebate Amount for such Issuer Financial Obligation in accordance with the requirements of Section 148(f) of the Code and shall prepare a Rebate Report setting forth such calculations.

In the event a Rebate Report shows a positive Rebate Amount, the Issuer shall, pursuant to and in accordance with the priorities set forth in Section 501 hereof, make a Rebate Payment by, in the case of a Series of System Bonds, immediately depositing into the System Rebate Account an amount equal to such Rebate Amount and, in the case of an Issuer Financial Obligation, by setting aside in an appropriate manner an amount equal to such Rebate Amount.

In the event that a Rebate Report shows that the amounts on deposit in the System Rebate Account exceed the cumulative Rebate Amount with respect to all issues of System Bonds for all prior Calculation Periods, the Master Trustee is directed to transfer an amount equal to the amount of such excess from the System Rebate Account to the System Debt Service Account (but only to the extent of any amounts on deposit in the System Rebate Account).

Amounts on deposit from time to time in the System Rebate Account shall, to the extent practicable, be invested by the Master Trustee in such Government Obligations as the Issuer shall direct in writing.

(b) Payment of Rebate Amount to United States. Not later than 30 days after each Installment Computation Date for each Series of System Bonds, the Master Trustee shall pay to the United States of America, from moneys on deposit in the System Rebate Account or, if moneys on deposit in the System Rebate Account are insufficient or unavailable to make such payments, from moneys paid by the Issuer pursuant to and in accordance with the priorities set forth in Section 501 hereof, at least 90% of the Excess Earnings during the preceding five Bond Years and 100% of the investment earnings on such Excess Earnings. In addition, not later than 60 days after each Final Computation Date for each Series of System Bonds, the Master Trustee shall pay to the United States of America all amounts required to be paid thereto pursuant to Section 148(f) of the Code as set forth in the final Rebate Report, said payment to be made out of moneys on deposit in the System Rebate Account or, to the extent the moneys on deposit in the System Rebate Account are insufficient for such purpose, out of moneys paid by the Issuer pursuant to and in accordance with the priorities set forth in Section 501 hereof.

Not later than 30 days after each Installment Computation Date for each Issuer Financial Obligation, the Issuer shall pay or cause to be paid to the United States of America, from moneys paid or set aside by the Issuer pursuant to and in accordance with the priorities set forth in Section 501 hereof, at least 90% of the Excess Earnings during the preceding five Bond Years and 100% of the investment earnings on such Excess Earnings. In addition, not later than 60 days after each Final Computation Date for each Issuer Financial Obligation, the Issuer shall pay or cause to be paid to the United States of America all amounts required to be paid thereto pursuant to Section 148(f) of the Code as set forth in the final Rebate Report for such Issuer Financial Obligation, said payment to be made out of

moneys paid or set aside by the Issuer pursuant to and in accordance with the priorities set forth in Section 501 hereof.

Notwithstanding anything expressed or implied herein to the contrary, it is the intent that there shall be paid to the United States of America, out of moneys on deposit in the Rebate Account or payments made by the Issuer pursuant to and in accordance with the priorities set forth in Section 501 hereof, all amounts required to be paid pursuant to Section 148(f) of the Code at the times required thereby.

(c) Conformance to the Code Requirements; "Issue of System Bonds" Defined; Covenant to Survive Payment. Notwithstanding anything expressed or implied herein to the contrary: (i) the provisions of this Section 513 may be amended from time to time by the Issuer and the Master Trustee without the consent of or notice to any Owners in order to conform to the requirements of the Code regarding the payment of the Rebate Amount to the United States of America or the manner or time of calculating such Rebate Amount; and (ii) in no event shall the Issuer be deemed to be in default in respect of its obligations under this Section 513 so long as all actions taken by the Issuer with respect to the calculation of the Rebate Amount and the payment thereof to the United States of America conform to the requirements of the Code as such requirements may be changed, modified or amended from time to time.

As used in this Section 513 and as used in the definitions of the terms "Bond Year", "Calculation Period", "Excess Earnings" and "Rebate Amount" that appear in Article I hereof, the phrases "issue of System Bonds" and "each Issuer Financial Obligation" or any words of similar import shall mean all System Bonds of whatever Series and all Issuer Financial Obligations howsoever incurred which, for purposes of the arbitrage rebate provisions of the Code, are considered to be a single "issue" of obligations.

Notwithstanding anything expressed or implied herein or in any Supplemental Ordinance to the contrary, the covenants of the Issuer set forth in this Section 513 shall survive the payment in full and/or defeasance of all Outstanding System Bonds or any particular issue of System Bonds.

ARTICLE VI

DEPOSITARIES OF MONEYS, SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS

Section 601. Depositaries. All moneys held by any Trustee or any Paying Agent under the provisions of this Ordinance or any Supplemental Ordinance may be deposited with one or more Depositaries in trust for the related Trustee or any related Paying Agent and shall be applied only in accordance with the provisions of this Ordinance or the governing Supplemental Ordinance (as the case may be), and each of the Funds and Accounts shall be a trust fund for the purposes specified in the ordinance establishing such Fund or Account. 602. Deposits and Investments. Except as otherwise expressly provided in a Supplemental Ordinance or in this Ordinance, all moneys held by any Fiduciary under this Ordinance or any Supplemental Ordinance, to the extent not invested pursuant to the applicable provisions of a Supplemental Ordinance, may be placed in Permitted Investments, *provided that* such investments shall permit the moneys so held to be available for use at the time when needed. The Depositary shall not be liable for any loss or depreciation in value resulting from any investment made pursuant to this Ordinance or the applicable provisions of any Supplemental Ordinance. Any such investment consisting of a demand or time deposit may be made through the commercial or trust banking department of any Fiduciary, acting as a Depositary, which may honor checks and drafts on such deposit with the same force and effect as if it were not such Fiduciary.

Such moneys held by any Fiduciary, as such, may be deposited by such Fiduciary in its banking department on demand or, if and to the extent directed by the Issuer and acceptable to such Fiduciary, on time deposit, provided that such moneys on deposit be available for use at the time when needed. Such Fiduciary shall allow and credit on such moneys such interest, if any, as it customarily allows upon similar funds of similar size and under similar conditions or as required by law. The moneys on deposit from time to time in any System Fund or Account (other than the Master Project Account) may be commingled for purposes of investment with the moneys on deposit in any other System Fund or Account (other than the Master Project Account).

Section 603. Valuation and Sale of Investments. Obligations purchased as an investment of moneys in any Fund or Account created under the provisions of this Ordinance or any Supplemental Ordinance shall be deemed at all times to be a part of such Fund or Account and any profit realized from the liquidation of such investment shall be credited to such Fund or Account and any loss resulting from the liquidation of such investment shall be charged to the respective Fund or Account.

The amount on deposit in each Fund and Account created under the provisions of this Ordinance or any Supplemental Ordinance shall be computed at such periodic intervals as shall be specified pursuant to a Supplemental Ordinance. Except as otherwise expressly provided in this Ordinance or a Supplemental Ordinance, in computing the amount in any Fund or Account created under the provisions of this Ordinance or any Supplemental Ordinance for any purpose provided in this Ordinance or any Supplemental Ordinance, obligations purchased as an investment of moneys therein shall be valued at the lesser of market value or amortized cost of such obligations, exclusive of accrued interest.

Except as otherwise provided in a Supplemental Ordinance, the related Trustee shall sell at the best price reasonably obtainable, or present for redemption, any obligation so purchased as an investment whenever it shall be directed by the Issuer or another party authorized to give such direction so to do or whenever it shall be necessary in order to provide moneys to meet any payment or transfer from any Fund or Account held by it. The related Trustee shall not be liable or responsible for making any such investment in the manner provided above or for any loss resulting from any such investment.

ARTICLE VII

PARTICULAR COVENANTS OF THE ISSUER

Section 701. Covenants Applicable to All Bonds. The Issuer covenants and agrees with the Master Trustee, each Trustee for a Series of Project Bonds and the Owners of the Outstanding Bonds issued hereunder from time to time that, so long as any Bonds remain Outstanding:

(a) **Payment of Bonds.** The Issuer shall duly and punctually pay or cause to be paid, but solely from the Trust Estate pledged therefor, the principal of, premium, if any, and interest on every Bond and any obligations under any Credit Agreement at the dates and places and in the manner mentioned in the Bonds or any Credit Agreement, according to the true intent and meaning thereof, subject to the provisions of this Ordinance and the applicable provisions of any Supplemental Ordinance.

(b) **Extension of Payment of Bonds.** The Issuer shall not directly or indirectly extend or assent to the extension of the maturity of any of the Bonds or the time of payment of any interest on the Bonds. Nothing herein shall be deemed to limit the right of the Issuer to issue refunding bonds and such issuance shall not be deemed to constitute an extension of maturity of Bonds.

(c) Further Assurance. At any and all times the Issuer shall, as far as it may be authorized by law, comply with any reasonable request of any Trustee to pass, make, do, execute, acknowledge and deliver, all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable for the better assuring, pledging, assigning and confirming in all and singular the rights, the related Trust Estate and other moneys, securities and funds pledged or assigned as security for any Series of Bonds, or intended so to be, or which the Issuer may become bound to pledge or assign.

(d) Power to Issue Bonds and to Pledge the Trust Estate and Other Funds. The Issuer, at the time of enactment of this Ordinance and the issuance of the first Series of Bonds hereunder, is, and at the time of enactment of any Supplemental Ordinance and the issuance of any Series of Bonds thereunder, will be, duly authorized under all applicable laws to issue the Bonds and to enact this Ordinance and to pledge the Trust Estates and other moneys, securities and funds purported to be pledged as security for particular Series of Bonds in the manner and to the extent provided in this Ordinance and any Supplemental Ordinance. Except to the extent otherwise provided in this Ordinance or any Supplemental Ordinance, the Trust Estates and other moneys, securities and funds so pledged are and will be free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto prior to, or of equal rank with, the pledge created by this Ordinance or any Supplemental Ordinance, and all action on the part of the Issuer to that end has been and will be duly and validly taken. The Bonds and the provisions of this Ordinance and each Supplemental Ordinance are and will be the valid and legally enforceable obligations of the Issuer in accordance with their terms and the terms of this Ordinance and such Supplemental Ordinance. The Issuer shall at all times, to the extent permitted by law, defend, preserve and protect the pledges of the Trust Estates and other moneys, securities and funds pledged under this Ordinance and any Supplemental Ordinance and all the rights of the Owners of the Bonds and the Credit Providers, if any, under this Ordinance, any Supplemental Ordinance and any Credit Agreement, respectively, against all claims and demands of all persons whomsoever.

(e) General Tax Covenants. Except with respect to Bonds issued by the Issuer which are not Tax-Exempt Obligations, the Issuer will take all actions within its control required by the Code as necessary to preserve the exclusion of interest received on Bonds issued or, then to be issued, from gross income for federal income tax purposes.

The Issuer will not direct or permit any action within its control which would cause any Bond issued as a Tax-Exempt Obligation to be or become an "arbitrage bond" within the meaning of section 148 of the Code or direct or permit any action inconsistent with the applicable regulations thereunder as amended from time to time and as applicable to such Bond.

Except with respect to Bonds issued by the Issuer which are not Tax-Exempt Obligations, the Issuer shall at all times comply with the Tax Covenants.

(f) Performance of Covenants in General. The Issuer shall do and perform or cause to be done and performed all acts and things required to be done or performed by or on behalf of the Issuer under the provisions of the Act, this Ordinance and each Supplemental Ordinance. Upon the date of authentication and delivery of any of the Bonds, all conditions, acts and things required by law and this Ordinance and any applicable Supplemental Ordinance to exist, to have happened and to have been performed precedent to and in the issuance of such Bonds shall exist, have happened and have been performed and the issue of such Bonds, together with all other indebtedness of the Issuer, shall comply in all respects with the applicable laws of the State.

Section 702. Covenants Applicable Only to System Bonds. The Issuer covenants and agrees with the Master Trustee and the Owners of the Outstanding System Bonds issued hereunder from time to time that, so long as any System Bonds remain Outstanding:

(a) System Accounts and Reports. The Issuer shall keep or cause to be kept proper books of records and accounts (separate from all other records and accounts) in which complete and correct entries shall be made of its transactions relating to the System and each Fund and Account established under this Ordinance and relating to the System Bonds or other costs and charges relating to the System, from any source whatsoever, and which, together with all other books and papers of the Issuer, including insurance policies, relating to the System, shall at all times be subject to the inspection of the Master Trustee, the issuers of any Credit Facility for the System Bonds and the Owners of an aggregate of not less than 5% in principal amount of the System Bonds then Outstanding or their representatives duly authorized in writing.

Except as otherwise expressly provided in a Supplemental Ordinance authorizing the issuance of a Series of System Bonds, the Master Trustee shall advise the Issuer and the issuer of any Credit Facility for a Series of System Bonds within ten (10) days after the end of each month of the respective transactions during such month relating to each Fund and Account held by it under this Ordinance. The Issuer and the issuer of any Credit Facility for a Series of System Bonds shall have the right upon reasonable notice and during reasonable business hours to audit the books and records of the Master Trustee with respect to the Funds and Accounts held by the Master Trustee under this Ordinance.

Within one hundred eighty (180) days after the close of each Fiscal Year, the Issuer shall cause to be filed with the Master Trustee and the issuer of any Credit Facility for a Series of System Bonds, and otherwise as provided by law, a copy of an annual audit report for the System for such Fiscal Year, accompanied by an Accountant's Opinion, and including the following statements in reasonable detail: a statement of assets and liabilities as of the end of such Fiscal Year, to the extent relating to the System; a statement of Gross Revenues and Operating Expenses for such Fiscal Year; and a summary with respect to each Fund and Account established under this Ordinance for the System Bonds of the receipts therein and disbursements therefrom during such Fiscal Year and the amount held therein at the end of such Fiscal Year. Such Accountant's Opinion shall state whether or not, to the knowledge of the signer, the Issuer is in default with respect to any of the covenants, agreements or conditions on its part contained in this Ordinance, and if so, the nature of such default.

The Issuer shall file with the Master Trustee and the issuer of any Credit Facility for a Series of System Bonds:

(i) forthwith upon becoming aware of any System Event of Default or default in the performance by the Issuer of any covenant, agreement or condition contained in this Ordinance with respect to the System Bonds, a certificate of an Authorized Issuer Representative specifying such System Event of Default or default; and

(ii) simultaneous with the filing of the annual audit report described above, a certificate of an Authorized Issuer Representative stating that, to the best of the signer's knowledge and belief, the Issuer has kept, observed, performed and fulfilled its covenants and obligations contained in this Ordinance with respect to the System Bonds and there does not exist at the date of such certificate any default by the Issuer under this Ordinance with respect to the System Bonds or any System Event of Default or other event which, with the giving of notice or the lapse of time or both, would become a System Event of Default, or, if any such default or System Event of Default or other event shall so exist, specifying the same and the nature and status thereof.

The reports, statements and other documents required to be furnished to the Master Trustee pursuant to any provisions of this Ordinance shall be available for the inspection of Owners of the System Bonds at the office of the Master Trustee and shall be mailed to each such Owner who shall file a written request therefor with the Master Trustee. The Master Trustee shall charge each Owner requesting such reports, statements and other documents a reasonable fee to cover reproduction, handling and postage.

The covenants set forth in this Section 702(a) shall be applicable only from and after the issuance of the first Series of System Bonds hereunder.

(b) Acquisition and Construction of any Project and its Operation and Maintenance. The Issuer shall use its best efforts to cause any Project financed in whole or in part out of the proceeds of any System Bonds to be acquired and constructed in accordance with due diligence and in sound and economical manner. The Issuer shall use its best efforts at all times to cause each such Project to be operated properly and in an efficient and economical manner, and shall cause the same to be maintained, preserved, reconstructed and kept, with the appurtenances and every part and parcel thereof, in good repair, working order and condition, and shall from time to time cause to be made, all necessary and proper repairs, replacements and renewals so that at all times the operation of the System may be properly and advantageously conducted.

(c) Payment of Taxes and Charges. The Issuer from time to time duly will pay and discharge, or cause to be paid and discharged, all taxes, assessments and other governmental charges, or required payments in lieu thereof, lawfully imposed upon the System or any Project financed in whole or in part from the proceeds of any System Bonds or upon the rights, revenues, income, receipts, and other moneys, securities and funds of the Issuer when the same shall become due (including all rights, moneys and other property transferred, assigned or pledged under this Ordinance or any Supplemental Ordinance in connection with any System Bonds), and all lawful claims for labor and material and supplies, except those taxes, assessments, charges or claims which the Issuer shall in good faith contest by proper legal proceedings if the Issuer shall in all such cases have set aside on its books reserves deemed adequate with respect thereto.

(d) Power to Establish Charges and Collect Amounts. The Issuer has, and will have as long as any System Bonds or any obligations under any Credit Agreement relating to the System Bonds are outstanding, good right and lawful power to establish fees or other charges for the use of the services and facilities of the System and to cause such fees and charges to be collected. The Issuer shall take all necessary legal action to assure the collection of Gross Revenues.

(e) Creation of Liens. Except as otherwise provided in Section 205 hereof, the Issuer hereafter shall not issue any bonds, notes, debentures, or other evidences of indebtedness of similar nature payable out of or secured by the pledge or assignment of the System Trust Estate on a parity with or prior to the payment of the amounts owing under and with respect to the System Bonds and shall not create or cause to be created any lien or charge on the System Trust Estate equal or superior to the lien on the System Trust Estate securing the System Bonds; *provided, however, that* nothing contained in this Ordinance shall prevent the Issuer from issuing or incurring, if and to the extent permitted by law, indebtedness:

(i) payable out of moneys in the System Construction Account as part of the Capital Costs of any Project to be financed in whole or part out of the proceeds of any System Bonds;

(ii) payable out of, or secured by, a pledge and assignment of any part of the System Trust Estate to be derived on and after such date as the pledge of the System Trust Estate provided in this Ordinance shall be discharged and satisfied as provided in Section 1201 hereof;

(iii) payable out of, or secured by, a pledge or assignment of any part of the System Trust Estate which shall be, and shall be expressed to be, subordinate in all respects to the pledge of the System Trust Estate as security for the System Bonds; or

(iv) arising under any Credit Agreement pursuant to which a Credit Facility is given as security for some or all of the Outstanding System Bonds or for the purpose of meeting the System Reserve Requirement, it being expressly understood that the Issuer reserves the right to pledge the System Trust Estate as security for the obligations arising under such Credit Agreement as permitted under Section 204

hereof.

(f) Sale and Lease of Property. No part of the System shall be sold, exchanged, leased, mortgaged, pledged, encumbered or otherwise disposed of, in the aggregate amount of five percent (5%) of the total assets of System per each Fiscal Year except as follows:

(i) The Issuer may sell or exchange at any time and from time to time any property or facilities constituting part of the System only if:

(A) as determined by the Issuer, such sale or exchange of property or facilities will not have a material adverse effect on the Issuer's ability to meet its rate covenant as provided in Section 702(j) hereof; and

(B) as determined by the Issuer, such property or facility to be so disposed of is not necessary for, or is not useful in, the operation of the System, or such property or facility is not profitable in the operation of the System.

The proceeds of any such sale or exchange not used to acquire other property necessary or desirable for the safe or efficient operation of the System shall forthwith be deposited in the General Account.

(ii) The Issuer may lease or make contracts or grant licenses for the operation of, or make arrangements for the use of, or grant easements or other rights with respect to, all or any part of the System; *provided that* any such lease, contract, license, arrangement, easement or right:

(A) as determined by resolution duly adopted by the Issuer, will not have material adverse effect on the operation of the System; and

(B) as determined by resolution duly adopted by the Issuer, does not in any manner impair or adversely affect the rights or security of the Owners of the Outstanding System Bond under this Ordinance.

Except to the extent the same are pledged as a part of the Trust Estate for any Series of Project Bonds, any payments received by the Issuer under or in connection with any such lease, contract, license, arrangement, easement or right in respect of the System or any part thereof shall constitute Gross Revenues and shall be deposited into the Revenue Fund.

Notwithstanding the foregoing, no part of the System financed in whole or in part out of the proceeds of any System Bonds issued as, and which still are, Tax-Exempt Obligations shall be sold, exchanged, leased, mortgaged or otherwise disposed of unless the Issuer receives an Opinion from Bond Counsel to the effect that such sale, exchange, lease, mortgage or other disposition and the proposed use of the proceeds thereof will not adversely affect the exclusion of the interest payable on the System Bonds from gross income for federal income tax purposes as such exclusion may be applicable to the interest on the System Bonds.

(g) Annual Budget. On or before the fifteenth day of each Fiscal Year, the Issuer shall adopt and file with the Master Trustee and any issuer of any Credit Facility given as security for any System Bonds an Annual Budget for such Fiscal Year, which shall comply with all applicable laws. Each such Annual Budget shall set forth in reasonable detail an itemization of the estimated Gross Revenues and Operating Expenses of the System, and shall include estimated amounts to be deposited in such Fiscal Year in the Revenue Fund, the Operating Account, and the Renewal and Replacement Account, the System Reserve Account and the System Debt Service Account, amounts to be applied to pay the debt service on Subordinated Debt and the requirements, if any, for the amounts estimated to be expended from each System Fund and Account.

Such Annual Budget shall be structured so as to permit compliance by the Issuer with the Issuer's rate covenant set forth in Section 702(j). Such Annual Budget also shall set forth such detail with respect to such Gross Revenues, Operating Expenses and other expenditures and such deposits, as shall be required by law and may set forth such additional material as the Issuer may determine.

Following the end of each quarter of each Fiscal Year the Issuer shall review its estimates set forth in the Annual Budget for such Fiscal Year, and in the event such estimates do not substantially correspond with actual Gross Revenues, Operating Expenses, debt service or other requirements as set forth above, the Issuer shall, in accordance with the applicable requirements of law, revise such Annual Budget for the remainder of such Fiscal Year, a copy of which revised Annual Budget shall be filed with the Master Trustee. If there are at any time during any such Fiscal Year extraordinary receipts or payments of unusual costs, the Issuer shall, in accordance with the applicable requirements of law, revise such Annual Budget for the remainder of such Fiscal Year, a copy of which revised Annual Budget shall be filed with the Master Trustee.

(h) Limitations on Operating Expenses and Other Costs. The Issuer shall not incur Operating Expenses or other costs payable from the Operating Account in any Fiscal Year in excess of the reasonable and necessary amount of such expenses or costs, respectively.

(i) Operation and Maintenance. The Issuer shall at all times cause the System to be operated properly and in an efficient and economical manner, and shall cause the same to be maintained, preserved, reconstructed and kept, with the appurtenances and every part and parcel thereof, in good repair, working order and condition, and shall from time to time cause to be made, all necessary and proper repairs, replacements and renewals so that at all times the operation of the System may be properly and advantageously conducted.

(j) Rate Covenant. At all times, the Issuer shall establish, levy, impose, maintain and collect fees, rates and charges for the use of the service and facilities of the System as shall be required to provide Net Revenues in each Fiscal Year which at least equal to 110% of Annual Debt Service on all Outstanding System Bonds and Issuer Financial Obligations for such Fiscal Year.

For purposes of the foregoing rate covenant, "Annual Debt Service":

(I) with respect to any System Bonds or Issuer Financial Obligations which, during the Fiscal Year in question, were Variable Rate Obligations, shall be calculated by reference to the actual rates of interest borne by such Variable Rate Obligations during such Fiscal Year; and

(II) with respect to any Balloon Indebtedness, shall be calculated by reference to the actual amounts due and payable on such Balloon Indebtedness during such Fiscal Year.

If the Net Revenues for a particular Fiscal Year do not equal or exceed the amount required by the foregoing rate covenant, such failure shall not give rise to a default or System Event of Default hereunder if:

(A) the Net Revenues for such Fiscal Year, when added to the moneys on deposit in the General Account as of the last day of such Fiscal Year, equal or exceed 100% of the Annual Debt Service for such Fiscal Year; and

(B) within 30 days following the determination of such failure, the Issuer retains a Consulting Engineer to make written recommendations to the Issuer regarding the actions the Issuer should take in order to ensure compliance with the foregoing rate covenant in succeeding Fiscal Years and promptly proceeds to implement such written recommendations to the extent the Issuer determines such recommendations are reasonable and can be implemented by the Issuer under the circumstances then prevailing.

(k) No Free Service. Except to the extent the Issuer determines that free service will promote the efficient operation of the System or otherwise be beneficial to the System, the Issuer will neither furnish or supply, nor cause to be furnished or supplied, any use of the service and facilities of the System free of charge to any person, firm or corporation, public or private, and the Issuer will enforce the payment of any and all accounts owing to the Issuer by reason of its ownership, operation or any interest in the System.

(l) Maintenance of Insurance. The Issuer shall at all times keep or cause to be kept the properties of the System which are of an insurable nature and of the character usually insured by those constructing or operating properties similar to the System insured against loss or damage by fire and from other causes customarily insured against and in such relative amounts as are usually obtained. The Issuer shall maintain or cause to be maintained insurance or reserves against loss or damage from such hazards and risks to the person and property of others as are usually insured or reserved against by those constructing or operating properties similar to the properties of the System. The Issuer shall maintain or cause to be maintained any and all such insurance as may be required by law.

Any such insurance shall be:

(i) in the form of policies or contracts for insurance with insurers of good standing and shall be payable to the Issuer; or

(ii) in the form of self-insurance.

The Issuer agrees that it will, pursuant to a Supplemental Ordinance, establish such fund or funds or reserves as are necessary to provide for its share of any such self-insurance.

The Issuer shall file or cause to be filed with the Master Trustee annually, within 100 days after the close of each Fiscal Year, a certificate setting forth:

(A) a description in reasonable detail of the insurance then in effect, including any self-insurance fund maintained, pursuant to the requirements of this Section 702(l); and

(B) whether during such year any portion of the System has been damaged or destroyed and, if so, the amount of insurance proceeds, including the proceeds of any self-insurance fund, covering such loss or damage and specifying the reasonable and necessary costs of reconstruction or replacement thereof.

(m) Reconstruction; Application of Insurance or Condemnation Proceeds. If any useful portion of the System shall be damaged or destroyed or condemned through the power of eminent domain, the Issuer shall as expeditiously as possible, continuously and diligently prosecute or cause to be prosecuted the repair, reconstruction or replacement thereof, or the substitution of other facilities constituting a portion of the System for such portion damaged or destroyed or condemned. However, no such reconstruction, replacement or substitution shall be done if the Issuer shall decide not to so repair, reconstruct, replace or substitute in accordance with this Section 702(m).

The proceeds of any insurance or condemnation award, including the proceeds of any self-insurance fund, received on account of such damage or destruction (other than any business interruption loss insurance) shall be held by the Master Trustee in a special subaccount of the System Construction Account and made available for and to the extent necessary be disbursed and applied to the cost of such reconstruction, replacement or substitution in the same manner as other moneys on deposit in the System Construction Account are disbursed. Pending such application, such proceeds may be invested by the Master Trustee in Permitted Investments which mature not later than such times as shall be necessary to provide moneys when needed to pay such costs of reconstruction or replacement. Interest earned on such account or investments shall be retained in the special account.

The proceeds of any insurance or condemnation award, including the proceeds of any self-insurance, not applied within thirty-six (36) months after receipt thereof by the Issuer to repairing or replacing damaged or destroyed property, or substituting other property therefor, or in respect of which notice in writing of intention to apply the same to the work of repairing or replacing the property damaged or destroyed or substituting other property therefor shall not have been given to the Master Trustee by the Issuer within such thirty-six (36) months, or which the Issuer shall at any time notify the Master Trustee are not to be so applied, shall be:

(i) deposited into the General Account but only upon delivery to the Master Trustee of an Opinion of Bond Counsel to the effect that such disposition will not adversely affect the excludability of the interest on any System Bonds issued as, and which still are, Tax-Exempt Obligations from the gross incomes of the Owners thereof for federal income tax purposes; or

(ii) applied in such other manner as the Issuer and the Master Trustee shall be advised in an Opinion of Bond Counsel will not adversely affect the excludability of the interest on any System Bonds issued as, and which still are, Tax-Exempt Obligations from the gross incomes of the Owners thereof for federal income tax purposes.

Notwithstanding the foregoing, in the event that all or any part of the payments are made from the Renewal and Replacement Account for any such repairing or replacing of property damaged or destroyed prior to the availability of insurance or condemnation proceeds, including the proceeds of any self-insurance fund therefor, such proceeds when received shall be deposited in the Renewal and Replacement Account to the extent of such payments therefrom.

Notwithstanding any other provisions hereof, no substitution of other property or facilities for property or facilities damaged or destroyed shall be made without obtaining an Opinion of Bond Counsel that the substitution of such property will not impair the exclusion from gross income for federal income tax purposes of interest paid on any System Bonds then Outstanding issued as, and which still are, Tax-Exempt Obligations.

If any portion of the System shall have been damaged or destroyed or condemned and the Issuer, at any time, has determined that the operation of the System has not been materially affected (and has so notified the Master Trustee and delivered to the Master Trustee an Opinion of Bond Counsel that such failure to repair, reconstruct, replace or substitute will not impair the exclusion from gross income for Federal income tax purposes of interest paid on any System Bonds then Outstanding issued as, and which still are, Tax-Exempt Obligations) and the Issuer therefore has determined not to repair, reconstruct, replace or make substitution for that portion of the System so damaged or destroyed, the proceeds of insurance, if any, shall be:

(A) deposited into the General Account but only upon delivery to the Master Trustee of an Opinion of Bond Counsel to the effect that such disposition will not adversely affect the excludability of the interest on any System Bonds issued as, and which still are, Tax-Exempt Obligations from the gross incomes of the Owners thereof for federal income tax purposes; or

(B) applied in such other manner as the Issuer and the Master Trustee shall be advised in an Opinion of Bond Counsel will not adversely affect the excludability of the interest on any System Bonds issued as, and which still are, Tax-Exempt Obligations from the gross incomes of the Owners thereof for federal income tax purposes.

If the proceeds of insurance or condemnation, including the proceeds of any self-insurance fund, are insufficient for such purpose, the deficiency may be supplied out of moneys in the Renewal and Replacement Account to the extent, as shown by a certificate of an Authorized Issuer Representative filed with the Master Trustee, not needed to be reserved for the purposes provided therefor.

The proceeds of business interruption loss insurance, if any, received shall be paid into the Revenue Fund.

(n) Competitive Facilities; No Voluntary Withdrawal from Solid Waste Operations.

Except as otherwise required by law, the Issuer shall not hereafter construct, acquire or operate, or permit, or, to the extent permitted by law, consent to the construction, acquisition or operation of, any plants, structures, facilities or properties which may compete or tend to compete with the System; except that nothing in this Ordinance contained shall prevent the Issuer from constructing, acquiring or operating recycling or other volume reduction facilities or from giving its permission or consent to the construction, acquisition or operation in the Service Area by a person of facilities for solid waste disposal and resource recovery, including recycling and other volume reduction, which the Issuer shall determine are not feasible for it to construct or acquire at such time, but which, if constructed or acquired by the Issuer, would carry out the purposes of the Issuer and the System under the Act for recycling and volume reduction programs. Except for such recycling and other volume reduction programs, no such consent or permission shall be given unless the Issuer shall have separately determined by resolution duly adopted by the Issuer, that such competing facilities would have no material adverse economic impact on the System.

The Issuer shall not voluntarily withdraw from or abandon the provision of solid waste management and disposal services within the Service Area, and shall at all times while any System Bonds are Outstanding hereunder maintain such solid waste management and disposal services as shall be adequate to ensure the generation of sufficient Gross Revenues to fully comply with all of its covenants as set forth herein.

(o) Flow Control. As long as any System Bonds remain Outstanding under this Ordinance, the Issuer shall enact, maintain in effect and enforce an ordinance regulating the disposal of solid waste generated within the Service Area, the effect of which ordinance shall be to ensure that sufficient solid and liquid waste shall be disposed of through the System in a manner that will enable the Issuer to collect Gross Revenues in each Fiscal year in an amount sufficient to comply with the terms and provisions of this Ordinance.

ARTICLE VIII

SYSTEM EVENTS OF DEFAULT; PROJECT EVENTS OF DEFAULT; REMEDIES OF BONDHOLDERS

Section 801. System Events of Default. The occurrence of any one or more of the following events shall constitute a "System Event of Default":

(i) if default shall be made by the Issuer in the due and punctual payment of the principal of, premium (if any) or interest on any System Bond when and as the same shall become due and payable, whether at maturity or by call for redemption, or otherwise;

(ii) if default with respect to the System Bonds shall be made by the Issuer in the performance or observance of any other of the covenants, agreements or conditions on its part in this Ordinance, any Supplemental Ordinance or in the System Bonds contained, and such default shall continue for a period of sixty (60) days after written notice thereof to the Issuer by the Master Trustee or to the Issuer and to the Master Trustee by the Owners of not less than fifty percent (50%) in principal amount of the System Bonds outstanding;

(iii) if the Issuer shall file a petition or otherwise seek relief under any federal or state bankruptcy law or similar law;

(iv) if an order or decree shall be entered, with the consent or acquiescence of the Issuer, appointing a receiver or receivers of the System, or any part thereof (other than a Project financed out of the proceeds of a Series of Project Bonds or any facilities used as part of the System but not owned by the Issuer), or of the Gross Revenues therefrom, or if such order or decree having been entered without the consent or acquiescence of the Issuer, shall not be vacated or discharged or stayed within ninety (90) days after the entry thereof;

(v) written notice shall have been received by the Master Trustee from the issuer of a Credit Facility for any Series of System Bonds that an event of default has occurred under the related Credit Agreement or there shall have been a failure by said issuer to make said Credit Facility available or to reinstate the interest component of said Credit Facility in accordance with the terms of said Credit Facility, to the extent said notice or failure is established as an event of default under the terms of any Supplemental Ordinance executed and delivered in connection with the issuance of any Series of System Bonds; or

(vi) the occurrence of any other event that shall be expressly stated to constitute a System Event of Default under any Supplemental Ordinance relating to the System Bonds.

So long as a System Event of Default shall have occurred and be continuing, unless the principal of all the System Bonds shall have already become due and payable, the Master Trustee (by notice in writing to the Issuer) may, and upon the written request of the Owners of not less than fifty percent (50%) in principal amount of the System Bonds Outstanding (by notice in writing to the Issuer and the Master Trustee), shall declare the principal of all the System Bonds then Outstanding, and the interest accrued thereon, to be due and payable immediately, and upon any such declaration the same shall become and be immediately due and payable, anything in this Ordinance or in any Supplemental Ordinance contained to the contrary notwithstanding.

The right of the Master Trustee or of the Owners of not less than fifty percent (50%) in principal amount of System Bonds then Outstanding to make any such declaration as aforesaid, however, is subject to the condition that if, at any time after such declaration, but before the System Bonds shall have matured by their terms, all overdue installments of interest upon the System Bonds, together with interest on such overdue installments of interest to the extent permitted by law and the reasonable and proper charges, expenses and liabilities of the Master Trustee, and all other sums then payable by the Issuer or the Master Trustee under this Ordinance (except the principal of, and interest accrued since the next preceding Interest Payment Date on the System Bonds due and payable solely by virtue of such declaration) shall be paid for the account of the Issuer or provision satisfactory to the Master Trustee shall be made for such payment, and all defaults under the System Bonds or under this Ordinance (other than the payment of principal and interest due and payable solely by reason of such declaration) shall be cured or be secured to the satisfaction of the Master Trustee or provision deemed by the Master Trustee to be adequate shall be made therefor, then and in every such case the Master Trustee, by written notice to the Issuer and the Owners of the Outstanding System Bonds, or the Owners of fifty percent (50%) in principal amount of the System Bonds Outstanding, by written notice to the Issuer and to the Master Trustee, may rescind such declaration and annul such default in its entirety, but no such recession or annulment shall extend to or affect any subsequent default or impair or exhaust any right or power consequent thereon.

Section 802. Accounting and Examination of Records After Default and Assignment of Contracts. The Issuer covenants that if a System Event of Default shall have happened and shall not have been remedied, the books of record and accounts of the Issuer and all other records relating to the System shall at all times be subject to the inspection and use of the Master Trustee and of its agents and attorneys.

The Issuer covenants that if a System Event of Default shall have happened and shall not have been remedied, the Issuer, upon demand of the Master Trustee, will account, as if it were the trustee of an express trust, for all Gross Revenues and other moneys, securities and funds pledged or held under this Ordinance for such period as shall be stated in such demand.

Section 803. Application of Revenues and Other Moneys After Default. The Issuer covenants that if a System Event of Default shall happen and shall not have been remedied, the Issuer, upon the demand of the Master Trustee, shall cause to be paid over to the Master Trustee:

(a) forthwith, all moneys, securities and funds held by the Issuer or a Depository in any Fund or Account established under this Ordinance or any Supplemental Ordinance with respect to the System Bonds; and

(b) as promptly as practicable after receipt thereof, all Gross Revenues.

During the continuance of a System Event of Default, the Master Trustee shall apply all moneys, securities, funds and Gross Revenues received by the Master Trustee pursuant to any right given or action taken under the provisions of this Article or held by the Master Trustee in any Fund or Account established with respect to the System Bonds (other than the Rebate Fund) as follows and in the following order:

(i) **Rebate Payments:** to the payment of any amounts required to be rebated to the United States of America in accordance with the Rebate Covenants described in Section 513 hereof;

(ii) **Expenses of Fiduciaries:** to the payment of the reasonable and proper charges, expenses and liabilities of the Fiduciaries for the System Bonds;

(iii) **Operating Expenses:** to the payment of the amounts required for reasonable and necessary Operating Expenses and, as certified to the Master Trustee by the Consulting Engineer, for the reasonable renewals, repairs and replacements of the System necessary to prevent loss of Gross Revenues;

(iv) **Payment of System Bonds and Issuer Financial Obligations:** to the payment of the interest and principal then due on the Outstanding System Bonds and Issuer Financial Obligations (other than any Issuer Financial Obligations which constitute Subordinated Debt) and for payment of obligations under any Credit Agreement relating to a Credit Facility given as security for any Series of System Bonds or and Issuer Financial Obligation (other than any Issuer Financial Obligations which constitute Subordinated Debt), but not including a Credit Facility given for the purpose of meeting in whole or in part the related Reserve Requirement, as follows:

(A) unless the principal of all of the System Bonds shall have become or have been declared due and payable,

First: To the payment to the persons entitled thereto of all installments of interest then due on the Outstanding System Bonds and Issuer Financial Obligations (other than any Issuer Financial Obligation which constitutes Subordinated Debt) in the order of the maturity of such installments together with accrued and unpaid interest on the System Bonds and Issuer Financial Obligations (other than any Issuer Financial Obligation which constitutes Subordinated Debt) theretofore called for redemption or prepayment, and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably,

according to the amounts due thereon, to the persons entitled thereto, without any discrimination or preference;

Second: To the payment to the persons entitled thereto of the unpaid principal of any Outstanding System Bonds and Issuer Financial Obligations (other than any Issuer Financial Obligation which constitutes Subordinated Debt) which shall have become due, whether at maturity or by call for redemption or prepayment, in the order of their due dates, and, if the amount available shall not be sufficient to pay in full all the System Bonds and Issuer Financial Obligations (other than any Issuer Financial Obligation which constitutes Subordinated Debt) due on any date, then to the payment thereof ratably, according to the amounts of principal due on such date, to the persons entitled thereto, without any discrimination or preference;

Third: To the payment of any amounts owing to the issuer or issuers of any Credit Facility given as security for any Series of System Bonds or Issuer Financial Obligations (other than any Issuer Financial Obligation which constitutes Subordinated Debt) (other than a Credit Facility given for the purpose of meeting in whole or in part the related Reserve Requirement) entitled thereto, of the obligations due and payable, ratably according to the amounts due thereon, without any discrimination or preference; and

Fourth: To the payment of any amounts owing to the issuer or issuers of any Credit Facility given for the purpose of meeting in whole or in part the System Reserve Requirement or the Reserve Requirement for any Issuer Financial Obligation (other than any Issuer Financial Obligation which constitutes Subordinated Debt); and

(B) if the principal of all of the System Bonds shall have become or have been declared due and payable:

First: to the payment of the principal and interest then due and unpaid upon the Outstanding System Bonds and Issuer Financial Obligations (other than any Issuer Financial Obligation which constitutes Subordinated Debt) and for payment of obligations under any Credit Agreement relating to a Credit Facility given as security for any Series of System Bonds or Issuer Financial Obligation (other than any Issuer Financial Obligation which constitutes Subordinated Debt) (other than a Credit Facility given for the purpose of meeting in whole or in part the related Reserve Requirement), without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any System Bond or any such Issuer Financial Obligation or Credit Agreement over any other System Bond, Issuer Financial Obligation or Credit Agreement, ratably, according to the amounts due respectively of principal and interest, to the persons entitled thereto without any discrimination or preference except as to any difference in the respective rates of interest specified in the System Bonds, Issuer Financial Obligation or Credit Agreement, of the obligations due and payable, ratably according to the amounts due thereon, without any discrimination or preference; and

Second: to the payment of any amounts owing under a Credit Agreement

relating to a Credit Facility given for the purpose of meeting in whole or in part the related Reserve Requirement for any Outstanding System Bonds or Issuer Financial Obligation (other than any Issuer Financial Obligation which constitutes Subordinated Debt).

If and whenever all overdue installments of interest on all System Bonds, or under any Credit Agreement relating to a Credit Facility given as security for a Series of System Bonds, together with the reasonable and proper charges, expenses and liabilities of the Master Trustee, and all other sums payable for the account of the Issuer under this Ordinance shall be paid for by the account of the Issuer, or provision satisfactory to the Master Trustee shall be made for such payment, and all defaults under this Ordinance or the System Bonds or under any Credit Agreement relating to a Credit Facility given as security for a Series of System Bonds, shall be made good or secured to the satisfaction of the Master Trustee or provision deemed by the Master Trustee to be adequate shall be made therefor, the Master Trustee shall pay over all moneys, securities, and funds then remaining unexpended in the hands of the Master Trustee (except moneys, securities and funds deposited or pledged, or required by the terms of this Ordinance or any Supplemental Ordinance to be deposited or pledged, with the Master Trustee), and thereupon the Issuer and the Master Trustee shall be restored, respectively, to their former positions and rights under this Ordinance and all Supplemental Ordinances. No such payment by the Master Trustee nor such restoration of the Issuer and the Master Trustee to their former positions and rights shall extend to or affect any subsequent default under this Ordinance or any Supplemental ordinance relating to the System Bonds or impair any right consequent thereon.

Section 804. Appointment of Receiver. Upon the occurrence of a System Event of Default, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Master Trustee and of the Owners of the System Bonds under this Ordinance, the Master Trustee shall be entitled to make application for the appointment of a receiver or custodian of the System and of the Gross Revenues, with such power as the court making such appointment shall confer.

Section 805. Proceedings Brought by Master Trustee. If a System Event of Default shall happen and shall not have been remedied, then and in every such case, the Master Trustee, by its agents and attorneys, may proceed, and upon written request of the Owners of not less than twenty-five percent (25%) in principal amount of the System Bonds Outstanding shall proceed, to protect and enforce its rights and the rights of the Owners of the System Bonds or the issuer of any Credit Facility given as security for any Series of System Bonds, under this Ordinance forthwith by a suit or suits in equity or at law, whether for the specific performance of any covenant herein contained, or in aid of the execution of any power herein granted or any remedy granted under the Act, or for an accounting against the Issuer as if the Issuer were the trustee of an express trust, or in the enforcement of and other legal or equitable right as the Master Trustee, being advised by counsel, shall deem most effectual to enforce any of its rights or to perform any of its duties under this Ordinance.

All rights of action under this Ordinance may be enforced by the Master Trustee without the possession of any of the System Bonds or the production thereof on the trial or other proceedings, and any such suit or proceedings instituted by the Master Trustee shall be brought in its name.

The Owners of not less than a majority in principal amount of the System Bonds at the time Outstanding may direct the time, method and place of conducting any proceeding for any remedy available to the Master Trustee, or of exercising any trust or power conferred upon the Master Trustee, *provided that* the Master Trustee shall have the right to decline to follow any such direction if the Master Trustee shall not be provided adequate security and indemnity or shall be advised by counsel that the action or proceeding so directed may not lawfully be taken or shall be inconsistent with the provisions of this Ordinance, or if the Master Trustee in good faith shall determine that the action or proceeding so directed would involve the Master Trustee in personal liability or be unjustly prejudicial to the Owners of System Bonds not parties to such direction.

Upon commencing a suit in equity or upon other commencement of judicial proceedings by the Master

Trustee to enforce any right under this Ordinance, the Master Trustee shall be entitled to exercise any and all rights and powers conferred in this Ordinance and provided to be exercised by the Master Trustee upon the occurrence of any System Event of Default.

Regardless of the happening of a System Event of Default, the Master Trustee shall have power to, but unless requested in writing by the Owners of a majority in principal amount of the System Bonds then Outstanding, and furnished with reasonable security and indemnity, shall be under no obligation to, institute and maintain such suits and proceedings as it may be advised shall be necessary or expedient to prevent any impairment of the security under this Ordinance by any acts which may be unlawful or in violation of this Ordinance, and such suits and proceedings as the Master Trustee may be advised shall be necessary or expedient to preserve or protect its interests and the interests of the Owners of the Outstanding System Bonds.

Section 806. Restriction on System Bondholder's Action. No Owner of any System Bond shall have any right to institute any suit, action or proceeding at law or in equity for the enforcement of any provision of this Ordinance or the execution of any trust under this Ordinance or for any remedy under this Ordinance, unless such Owner shall have previously given to the Master Trustee written notice of the happening of a System Event of Default, as provided in this Article, and the Owners of at least 25% in principal amount of the System Bonds then outstanding shall have filed a written request with the Master Trustee, and shall have offered it reasonable opportunity, either to exercise the powers granted in this Ordinance or by the Act or by the laws of the State or to institute such action, suit or proceeding in its own name, and unless such Owners shall have offered to the Master Trustee adequate security and indemnity against the costs, expenses and liabilities to be incurred therein or thereby, and the Master Trustee shall have refused to comply with such request for a period of sixty (60) days after receipt by it of such notice, request and offer of indemnity, it being understood and intended that no one or more Owners of System Bonds shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the pledge created by this Ordinance, or to enforce any right under this Ordinance, except in the manner therein provided; and that all proceedings at law or in equity to enforce any provision of this Ordinance shall be instituted, had and maintained in the manner provided in this Ordinance and for the equal benefit of all Owners of the Outstanding System Bonds and, except as otherwise provided in a Supplemental Ordinance, the issuers of all Credit Facilities given as security for any System Bonds (other than a Credit Facility given for the purpose of meeting in whole or in part the System Reserve Requirement).

Nothing in this Ordinance or in the System Bonds shall affect or impair the obligation of the Issuer, which is absolute and unconditional, to pay, but solely and only from the System Trust Estate pledged therefor, at the respective dates of maturity and places therein expressed the principal of (and premium, if any) and interest on the System Bonds to the respective Owners thereof or the issuer of any Credit Facility given as security for any Series of System Bonds or affect or impair the right of action, which is also absolute and unconditional, of any Owner or the issuer of such Credit Facility to enforce such payment of his System Bond.

Section 807. Not Exclusive. No remedy by the terms of this Ordinance conferred upon or reserved to the Master Trustee or the Owners of the System Bonds is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Ordinance or existing at law, including under the Act, or in equity or by statute on or after the effective date of this Ordinance.

Section 808. Effect of Waiver and Other Circumstances. No delay or omission of the Master Trustee or any Owner of any System Bonds to exercise any right or power arising upon the happening of a System Event of Default shall impair any right or power or shall be construed to be a waiver of any such System Event of Default or be an acquiescence therein; and every power and remedy given by this Article to the Master Trustee or to the Owners of the System Bonds may be exercised from time to time and as often as may be deemed expedient by the Master Trustee or by the Owners of the System Bonds.

Prior to the declaration of maturity of the System Bonds as provided in Section 801, the Owners of not less

than a majority in principal amount of the System Bonds at the time Outstanding, or their attorneys-in-fact duly authorized, may on behalf of the Owners of all of the System Bonds waive any past default under this Ordinance and its consequences, except a default in the payment of interest on or principal of or premium (if any) on any of the System Bonds. No such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

Section 809. Termination of Proceedings. In case any proceeding taken by the Master Trustee on account of any System Event of Default shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Master Trustee, the Owners of the System Bonds or the issuer of any Credit Facility given as security for any System Bonds, the Issuer, the Master Trustee, the issuers of any Credit Facilities given as security for any System Bonds and the Owners of the System Bonds shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Master Trustee, the issuers of any Credit Facilities given as security for any System Bonds and the Owners of the System Bonds shall continue as if no such proceeding had been taken.

Section 810. Notice of Default. The Master Trustee shall notify the issuer of any Credit Facility given as security for any Series of System Bonds and the related Bond Registrars of the happening of a System Event of Default and the related Bond Registrars shall promptly mail written notice of the occurrence of any System Event of Default to each Owner of System Bonds then Outstanding at his address, if any, appearing upon the registry books of the Issuer.

Section 811. Credit Facility Issuer's Rights Upon Events of Default. Anything in this Ordinance to the contrary notwithstanding, if any System Event of Default hereof has occurred and is continuing while a Credit Facility securing all or a portion of the System Bonds Outstanding is in effect (other than a Credit Facility given for the purpose of meeting all or part of the System Reserve Requirement), the issuer of such Credit Facility, to the extent so authorized in the applicable Supplemental Ordinance, shall have the right, in lieu of the Owners of the System Bonds secured by said Credit Facility, by an instrument in writing, executed and delivered to the Master Trustee, to direct the time, method and place of conducting all remedial proceedings available to the Master Trustee under this Ordinance, or exercising any trust or power conferred on the Master Trustee by this Ordinance to the same extent and subject to the same conditions and limitations as if it were the Owner of the System Bonds secured by such Credit Facility.

Notwithstanding the foregoing, no issuer of a Credit Facility given as security for any System Bonds shall be entitled to exercise any rights under this Section 811 during any period where:

- (i) the Credit Agreement or Credit Facility to which such Credit Provider is a party shall not be in full force and effect;
- (ii) such Credit Provider shall have filed a petition or otherwise sought relief under any federal or state bankruptcy or similar law;
- (iii) such Credit Provider shall, for any reason, have failed or refused to honor a proper demand for payment under such Credit Facility; or
- (iv) an order or decree shall have been entered, with the consent or acquiescence of such Credit Provider, appointing a receiver or receivers of the assets of the Credit Provider, or if such order or decree having been entered without the consent or acquiescence of such Credit Provider, shall not have been vacated or discharged or stayed within ninety (90) days after the entry thereof.

Section 812. Project Events of Default. Each Supplemental Ordinance authorizing the issuance of a Series of Project Bonds shall specify those events which shall constitute "Project Events of Default" with respect to

such Series of Project Bonds and the remedies available to the related Trustee, Owners and Credit Providers upon the occurrence of such a Project Event of Default. Except as may be otherwise expressly provided in a Supplemental Ordinance, the occurrence and continuation of a Project Event of Default with respect to a particular Series of Project Bonds:

(i) shall not constitute a System Event of Default nor permit the Master Trustee or the Owners of any System Bonds to pursue any remedies available hereunder upon the occurrence of a System Event of Default; and

(ii) shall not constitute a Project Event of Default with respect to any other Series of Project Bonds nor permit the Trustees or the Owners of any other Series of Project Bonds to pursue any remedies available under the Supplemental Ordinance pursuant to which the Series of Project Bonds in respect of which such Project Event of Default exists were issued.

ARTICLE IX

CONCERNING THE FIDUCIARIES

Section 901. Acceptance of Duties by Master Trustee; Appointment of Trustees, Paying Agents and Bond Registrars. United States National Bank of Oregon, Portland, Oregon, is hereby appointed Master Trustee. The Master Trustee shall signify its acceptance of the duties and obligations imposed upon it by this Ordinance by executing and delivering to the Issuer a written acceptance thereof. Only one entity shall be appointed to act at any one time as Master Trustee.

In each Supplemental Ordinance authorizing the issuance of a Series of Project Bonds, the Issuer shall appoint a Trustee to serve in such capacity with respect to such Series of Project Bonds. Only one Trustee shall be appointed for each Series of Project Bonds, but the same entity need not serve as Trustee for all Series of Project Bonds.

The Issuer shall appoint one or more Paying Agents for each Series of Bonds in the Supplemental Ordinance with respect to such Series, and the Issuer may at any time or from time to time appoint one or more other Paying Agents having the qualifications set forth in Section 911 for a successor Paying Agent. Any Trustee may be appointed as a Paying Agent. Each Paying Agent shall signify its acceptance of the duties and obligations imposed upon it by this Ordinance or under any Supplemental Ordinance by executing and delivering to the Issuer and to the Trustee a written acceptance thereof.

The Issuer shall appoint one or more Bond Registrars for each Series of Bonds in the Supplemental Ordinance with respect to such Series, and the Issuer may at any time or from time to time appoint one or more other Bond Registrars having the qualifications set forth in Section 912 for a successor Bond Registrar. The Master Trustee and any Trustee may be appointed as a Bond Registrar. Each Bond Registrar shall signify its acceptance of the duties and obligations imposed upon it by this Ordinance by executing and delivering to the Issuer and to the Trustee a written acceptance thereof.

Section 902. Responsibilities of Fiduciaries. Any recitals of fact herein, in any Supplemental Ordinance and in the Bonds contained shall be taken as the statements of the Issuer and no Fiduciary assumes any responsibility for the correctness of the same. No Fiduciary makes any representations as to the validity or

sufficiency of this Ordinance, any Supplemental Ordinance or of any Bonds issued thereunder or as to the security afforded by this Ordinance or any Supplemental Ordinance, and no Fiduciary shall incur any liability in respect thereof. Each Trustee shall, however, be responsible for its representation contained in its certificate of authentication on the related Bonds. No Fiduciary shall be under any responsibility or duty with respect to the application of any moneys paid by such Fiduciary in accordance with the provisions of this Ordinance or any Supplemental Ordinance to any other Fiduciary. No Fiduciary shall be under any obligation or duty to perform any act which would involve it in any expense or liability or to institute or defend any suit in respect thereof, or to advance any of its own moneys, unless properly indemnified. Subject to the provisions of the second paragraph of this Section 902, no Fiduciary shall be liable in connection with the performance of its duties hereunder except for its own negligence, misconduct or default.

The Master Trustee, prior to the occurrence of a System Event of Default and after the curing of all System Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Ordinance. Each Trustee, prior to the occurrence of a Project Event of Default under the Supplemental Ordinance pursuant to which such entity is acting as a Trustee and after the curing of all such Project Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Ordinance and the Supplemental Ordinance pursuant to which such entity is acting as a Trustee. In case a System Event of Default or a Project Event of Default has occurred (which has not been cured) the Master Trustee (in the case of a System Event of Default) or the related Trustee (in the case of a Project Event of Default) shall exercise such of the rights and powers vested in it by this Ordinance and any applicable Supplemental Ordinance, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of her own affairs.

Section 903. Evidence on Which Fiduciaries May Act. Each Fiduciary, upon receipt of any notice resolution, request, consent, order, certificate, report, opinion, bond, or other paper or document furnished to it pursuant to any provision of this Ordinance or any Supplemental Ordinance, shall examine such instrument to determine whether it conforms to the requirements of this Ordinance or the applicable provisions of a Supplemental Ordinance and shall be protected in acting upon any such instrument believed by it to be genuine and to have been signed or presented by the proper party or parties. Each Fiduciary may consult with counsel, who may or may not be Bond Counsel, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it under this Ordinance in good faith and in accordance therewith.

Whenever any Fiduciary shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action under this Ordinance or any Supplemental Ordinance, such matter (unless other evidence in respect thereof be therein specifically prescribed) may be deemed to be conclusively proved and established by a certificate of the Issuer, and such certificate shall be full warrant for any action taken or suffered in good faith under the provisions of this Ordinance or such Supplemental Ordinance upon the faith thereof; but in its discretion the Fiduciary may in lieu thereof accept other evidence of such fact or matter or may require such further or additional evidence as to it may seem reasonable.

Except as otherwise expressly provided in this Ordinance or a Supplemental Ordinance, any request, order, notice or other direction required or permitted to be furnished pursuant to any provision thereof by the Issuer to any Fiduciary shall be sufficiently executed in the name of the Issuer by an Authorized Issuer Representative thereof.

Section 904. Compensation. The Issuer shall cause to be paid to each Fiduciary from time to time reasonable compensation for all services rendered under this Ordinance, and also all reasonable expenses, charges, counsel fees and other disbursements, including those of its attorneys, agents, and employees, incurred in and about the performance of their powers and duties under this Ordinance and any Supplemental Ordinance and each Fiduciary shall have a lien therefor on any and all funds at any time held by it under this Ordinance or any Supplemental Ordinance except with respect to any monies drawn under a Credit Facility.

Section 905. Certain Permitted Acts. Any Fiduciary may become the owner of any Bonds, with the same rights it would have if it were not a Fiduciary. To the extent permitted by law, any Fiduciary may act as depositary for, and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Bondholders or to effect or aid in any reorganization growing out of the enforcement of the Bonds or this Ordinance, whether or not any such committee shall represent the Owners of a majority in principal amount of the Bonds then Outstanding.

Section 906. Resignation of Master Trustee or Trustee. Except as otherwise expressly provided in a Supplemental Ordinance, the Master Trustee and any Trustee may at any time resign and be discharged of the duties and obligations created by this Ordinance or any Supplemental Ordinance by giving not less than sixty (60) days' written notice to the Issuer and the issuer of any related Credit Facility, and mailing notice thereof, postage prepaid, specifying the date when such resignation shall take effect, to each registered Owner of related Bonds then Outstanding at his address appearing upon the registry books of the Issuer, and such resignation shall take effect upon the latest to occur of the day specified in such notice or the date upon which the Issuer has appointed a successor and such successor has agreed to act in such capacity.

Section 907. Removal of Master Trustee or Trustee. Except as otherwise expressly provided in a Supplemental Ordinance, the Master Trustee and any Trustee may be removed at any time by an instrument in writing, filed with the Master Trustee or the appropriate Trustee (as the case may be), and signed by the Issuer.

The Issuer may appoint a successor Master Trustee or Trustee (as the case may be) upon such removal, but no such removal shall be effective until the Issuer has appointed a successor and such successor has agreed to act in such capacity.

Section 908. Failure of Issuer to Appoint Successor; Financial Qualifications of Trustee and Successor Trustee.

(a) The Master Trustee. If no appointment of a successor Master Trustee shall be made pursuant to the foregoing provisions of this Article IX within forty-five (45) days after the Master Trustee shall have given to the Issuer written notice as provided in Section 906 or after a vacancy in the office of the Master Trustee shall have occurred by reason of its inability to act, removal, or for any other reason whatsoever, the Master Trustee (in the case of its resignation under Section 906) or the Owner of any System Bond may apply to any court of competent jurisdiction to appoint a successor Master Trustee. Said court may thereupon, after such notice, if any, as such court may deem proper, appoint a successor Master Trustee.

The Master Trustee appointed under the provisions of this Article or any successor to the Master Trustee shall be a bank or trust company or national banking association, doing business and having its principal office in the State of Oregon, and shall have (or its parent company or holding company shall have) capital stock and surplus aggregating at least \$50,000,000, if there be such a bank or trust company or national banking association willing and able to accept the office on reasonable and customary terms and authorized by the law to perform all the duties imposed upon it by the Ordinance.

(b) The Trustees. Except as expressly provided in a Supplemental Ordinance, if no appointment of a successor Trustee for a Series of Project Bonds shall be made pursuant to the foregoing provisions of this Article IX within forty-five (45) days after such Trustee shall have given to the Issuer written notice as provided in Section 906 or after a vacancy in the office of such Trustee shall have occurred by reason of its inability to act, removal, or for any other reason whatsoever, such Trustee (in the case of its resignation under Section 906) or the Owner of any related Project Bond may apply to any court of competent jurisdiction to appoint a successor Trustee. Said court may thereupon, after such notice, if any, as such court may deem proper, appoint a successor Trustee.

Except as otherwise expressly provided in a Supplemental Ordinance, any Trustee for a Series of Project Bonds appointed under the provisions of this Article or any successor to a Trustee shall be a bank or trust company or national banking association, doing business and having its principal office in the State of Oregon, and shall have (or its parent company or holding company shall have) capital stock and surplus aggregating at least \$50,000,000, if there be such a bank or trust company or national banking association willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by this Ordinance.

Section 909. Transfer of Rights and Property to Successor Trustee. Any successor Trustee appointed under this Ordinance shall execute, acknowledge and deliver to its predecessor Trustee, and also to the Issuer, an instrument accepting such appointment, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become fully vested with all moneys, estates, properties, rights, power, duties and obligations of such predecessor Trustee, with like effect as if originally named as such Trustee; but the Trustee ceasing to act shall nevertheless, on the written request of the Issuer, or of the successor Trustee, execute, acknowledge, deliver, file and record such instrument of conveyance and further assurance and do such other things as may reasonably be required for more fully and certainly vesting and confirming in such successor Trustee any such lien, states, rights, power and duties, any and all such deeds, conveyances and instruments in writing shall, on request, and so far as may be authorized by law, be executed, acknowledged and delivered by the Issuer.

Section 910. Merger or Consolidation. Any company into which any Fiduciary may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which any Fiduciary may sell or transfer all or substantially all of its corporate trust business shall be the successor to such Fiduciary without the execution or filing of any paper or the performance of any further act, *provided that* such company shall be a bank or trust company organized under the laws of any state of the United States or a national banking association and shall be authorized by law to perform all the duties imposed upon it by this Ordinance.

Section 911. Resignation or Removal of Paying Agent and Appointment of Successor. Any Paying Agent may at any time resign and be discharged of the duties and obligations created by the Ordinance and any Supplemental Ordinance by giving at least sixty (60) days' written notice to the Issuer and the Master Trustee (in the case of a Paying Agent for the System Bonds) or the related Trustee (in the case of a Paying Agent for a Series of Project Bonds). Any Paying Agent may be removed at any time by an instrument filed with the Paying Agent and the Master Trustee (in the case of a Paying Agent for the System Bonds) or the related Trustee (in the case of a Paying Agent for a Series of Project Bonds) and signed by an Authorized Issuer Representative. Any successor Paying Agent shall be appointed by the Issuer with the approval of the Master Trustee (in the case of a Paying Agent for the System Bonds) or the related Trustee (in the case of a Paying Agent for a Series of Project Bonds), and shall be a bank or trust company organized under the laws of any state of the United States or a national banking association having capital stock and surplus aggregating at least \$25,000,000, and willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by this Ordinance or any applicable Supplemental Ordinance.

In the event of the resignation or removal of any Paying Agent, such Paying Agent shall pay over, assign and deliver any moneys held by it as Paying Agent to its successor, or if there be no successor, to the related Trustee. In the event that for any reason there shall be a vacancy in the office of such Paying Agent, the Master Trustee (in the case of a Paying Agent for the System Bonds) or the related Trustee (in the case of a Paying Agent for a Series of Project Bonds) shall act as such Paying Agent.

Section 912. Resignation or Removal of Bond Registrar and Appointment of Successor. Any Bond Registrar may at any time resign and be discharged of the duties and obligations created by this Ordinance and any Supplemental Ordinance by giving at least sixty (60) days' written notice to the Issuer and the Master Trustee (in the case of a Paying Agent for the System Bonds) or the related Trustee (in the case of a Paying Agent for a Series of Project Bonds). Any Bond Registrar may be removed at any time by an instrument filed with such

Bond Registrar and the Master Trustee (in the case of a Paying Agent for the System Bonds) or the related Trustee (in the case of a Paying Agent for the System Bonds) and signed by an Authorized Issuer Representative. Any successor Bond Registrar shall be appointed by the Issuer with the approval of the Master Trustee (in the case of a Paying Agent for the System Bonds) or the related Trustee (in the case of a Paying Agent for a Series of Project Bonds), and shall be a bank or trust company organized under the laws of any state of the United States or a national banking association, having capital stock and surplus aggregating at least \$25,000,000, and willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by this Ordinance.

In the event that for any reason there shall be a vacancy in the office of such Bond Registrar, the Master Trustee (in the case of a Paying Agent for the System Bonds) or the related Trustee (in the case of a Paying Agent for a Series of Project Bonds) shall act as such Bond Registrar.

Section 913. Adoption of Authentication. In case any of the Bonds contemplated to be issued under this Ordinance shall have been authenticated but not delivered, any successor to the related Trustee may adopt the certificate of authentication of any predecessor trustee so authenticating such Bonds and deliver such Bonds so authenticated; and in case any of the said Bonds shall not have been authenticated, any successor Trustee may authenticate related Bonds in the name of the predecessor Trustee, or in the name of the successor Trustee, and in all such cases such certificate shall have the full force which it is anywhere in said Bonds or in this Ordinance provided that the certificate of the Trustee shall have.

ARTICLE X

SUPPLEMENTAL ORDINANCES

Section 1001. Supplemental Ordinances Effective Without Consent of Owners. For any one or more of the following purposes and at any time, a Supplemental Ordinance of the Issuer may be enacted without the consent of Owners and shall be fully effective in accordance with its terms:

(1) To close this Ordinance against, or provide limitations and restrictions contained in this Ordinance on, the authentication and delivery of System Bonds or the issuance of other evidences of indebtedness;

(2) To add to the covenants and agreements of the Issuer in this Ordinance, other covenants and agreements to be observed by the Issuer which are not contrary to or inconsistent with this Ordinance as theretofore in effect;

(3) To add to the limitations and restrictions in this Ordinance, other limitations and restrictions to be observed by the Issuer which are not contrary to or inconsistent with this Ordinance as theretofore in effect;

(4) To authorize the issuance of any Series of Project Bonds and, in connection therewith, to specify and determine the matters and things referred to in Article II, and also any other matters and things relative to such Project Bonds which are not contrary to or inconsistent with the provisions of Article II of this Ordinance as theretofore in effect, or to amend, modify or rescind any such authorization, specification or determination at any time prior to the first authentication and delivery of such Project Bonds;

(5) With the prior Opinion of Bond Counsel that to do so will not adversely affect the prior status of any Bonds intended to be, and which still are, Tax-Exempt Obligations, to authorize, in compliance with all applicable law, Bonds of any Series to be issued in the form of coupon Bonds registrable as to principal only and, in connection therewith, specify and determine the matters and things relative to the issuance of such coupon Bonds, including provisions relating to the timing manner of provision of any notice required to be given hereunder to the holders of such coupon Bonds, including provisions relating to the timing and manner of provision of any notice required to be given hereunder to the holders of such coupon Bonds, which are not contrary to or inconsistent with the applicable provisions of this Ordinance or any Supplemental Ordinance as theretofore in effect, or to amend, modify or rescind any such authorization, specification or determination at any time prior to the first authentication and delivery of such coupon Bonds;

(6) To authorize, in compliance with all applicable law, Bonds of any Series to be issued in the form of Bonds issued and held in book-entry form on the books of any Fiduciary appointed for that purpose by the Issuer and in connection therewith, make such additional changes herein, not adverse to the rights of the Owners of the related Bonds, as are necessary or appropriate to accomplish or recognize such book-entry form Bonds and specify and determine the matters and things relative to the issuance of such book-entry form Bonds as are appropriate or necessary;

(7) To modify, amend or supplement this Ordinance or any Supplemental Ordinance in such manner as to permit the qualification hereof and thereof under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect or to permit the qualification of any Bonds for sale under the securities laws of any of the states of the United State of America;

(8) To add additional security as part of any Trust Estate subject to the pledge and lien of this Ordinance or any Supplemental Ordinance;

(9) To provide any of the Tax Covenants not provided by this Ordinance or to modify in any respect any Tax Covenant so as to conform to the then applicable requirements of the Code or to delete or restrict the applicability of any Tax Covenant which, under the Code as then in effect, is no longer applicable to all or any Bonds issued or to be issued hereunder;

(10) To surrender any right, power or privilege reserved to or conferred upon the Issuer by the terms of this Ordinance or any Supplemental Ordinance, but only if the surrender of such right, power or privilege is not contrary to or inconsistent with the applicable covenants and agreement of the Issuer contained in this Ordinance or any Supplemental Ordinance;

(11) To confirm, as further assurance, any security interest or pledge created under this Ordinance or any Supplemental Ordinance;

(12) To cure any ambiguity, supply any omission, or cure or correct any defect or inconsistent provision in this Ordinance or any Supplemental Ordinance;

(13) To insert such provisions clarifying matters or questions arising under this Ordinance or any Supplemental Ordinance as are necessary or desirable and are not contrary to or inconsistent with the applicable provisions of this Ordinance or any Supplemental Ordinance as theretofore in effect;

(14) Prior to the issuance of the first Series of System Bonds, to make any change whatsoever to the terms and provisions of this Ordinance that relate to the System Bonds;

(15) To modify any of the provisions of this Ordinance or any Supplemental Ordinance in any other respect whatever, *provided that*:

(i) no Bonds affected by such modification shall be Outstanding at the date of the adoption of such Supplemental Ordinance; or

(ii) (a) such modification shall be, and be expressed to be, effective only after all affected Bonds Outstanding at the date of the adoption of such Supplemental Ordinance shall cease to be Outstanding, and (b) such Supplemental Ordinance shall be specifically referred to in the text of all Bonds authenticated and delivered after the date of the adoption of such Supplemental Ordinance and of Bonds issued in exchange therefor or in place thereof;

(16) To make any change required by a Rating Agency as a precondition to the issuance of a rating on any Series of Bonds which is not to the prejudice of the Owners of the Bonds of any other Series;

(17) So long as a Credit Facility is in full force and effect with respect to the Bonds affected by such Supplemental Ordinance, to make any other change which is consented to in writing by the issuer of such Credit Facility other than any change which:

(A) would result in a downgrading or withdrawal of the rating then assigned to the affected Bonds by the Rating Agencies; or

(B) changes the Stated Maturity (except as expressly permitted herein), the Interest Payment Dates, interest rates, redemption and purchase provisions, and provisions regarding notices of redemption and purchase applicable to the affected Bonds or diminishes the security afforded by such Credit Facility; or

(18) To amend in any respect the provisions of Appendix A to this Ordinance.

Section 1002. Supplemental Ordinances Effective With Consent of Owners; Limitations.

At any time or from time to time, a Supplemental Ordinance may be enacted by the Issuer subject to consent by Owners in accordance with and subject to the provisions of Article XI, which Supplemental Ordinance, upon compliance with the provisions of said Article XI, shall become fully effective in accordance with its terms as provided in said Article XI.

Notwithstanding anything expressed or implied herein or in any Supplemental Ordinance to the contrary, any amendment or supplement to this Ordinance which affects only the System Bonds or a particular Series of Project Bonds need not be consented to by the Owners of all outstanding Bonds but such consent shall be effective if obtained from the requisite percentage of the Owners of the System Bonds (in the case of an amendment or supplement which affects only the System Bonds) or the Owners of the related Series of Project Bonds (in the case of an amendment or supplement which affects only a particular Series of Project Bonds).

Section 1003. General Provisions. The Ordinance shall not be modified or amended in any respect except as provided in and in accordance with and subject to the provisions of this Article X and Article XI hereof. Any Supplemental Ordinance referred to and permitted or authorized by Section 1001 may be enacted by the Issuer without the consent of any of the Owners, but shall become effective only on the conditions, to the extent and at the time provided in said Section. A copy of every Supplemental Ordinance shall be placed on file with the related Trustee and shall be accompanied by an Opinion of Bond Counsel stating that such Supplemental Ordinance:

(i) has been duly and lawfully enacted by the Issuer in accordance with the provisions of this Ordinance, is authorized or permitted by this Ordinance, and is valid and binding upon the Issuer and

enforceable in accordance with its terms; and

(ii) will not adversely affect the maintenance of any existing exclusion of interest payable on the affected Bonds from gross income for federal income tax purposes.

The Master Trustee (in the case of a Supplemental Ordinance which affects the System Bonds) or the related Trustee (in the case of a Supplemental Ordinance which affects a Series of Project Bonds) is hereby authorized to accept the delivery of a certified copy of any Supplemental Ordinance referred to and permitted or authorized by Section 1001 or 1002 and to make all further agreements and stipulations which may be therein contained, and the Master Trustee or the related Trustee (as the case may be), in taking such action, shall be fully protected in relying on an Opinion of Bond Counsel that such Supplemental Ordinance is authorized or permitted by the provisions of this Ordinance.

No Supplemental Ordinance shall change or modify any of the rights or obligations of any issuer of a Credit Facility or any Fiduciary, including any agent appointed by the Issuer in connection with issuance of Variable Rate Obligations or Options Bonds, without its written assent thereto.

ARTICLE XI

NOTICE OF AND CONSENT TO AMENDMENTS

Section 1101. Mailing of Notice. Any provision in this Article for the mailing of a notice or other paper to Owners shall be fully complied with if it is mailed by first class mail, postage prepaid, only (i) to each Owner of affected Bonds then Outstanding at his address appearing upon the registry books of the Issuer and (ii) to the Master Trustee (if the same relates to any System Bonds) or the related Trustee (if the same relates to a Series of Project Bonds), any related Paying Agent, any related Bond Registrar and any related Credit Provider.

Section 1102. Powers of Amendment. Any modification or amendment of this Ordinance and of the rights and obligations of the Issuer and of the Owners of the Bonds, in any particular other than for the purposes set forth in Section 1001, may be made by a Supplemental Ordinance with the written consent given as provided in Section 1103 of the Owners of at least a majority in principal amount of the affected Bonds Outstanding at the time such consent is given and any affected Credit Provider; *provided, however, that* if such modification or amendment will, by its terms, not take effect so long as any Bonds of like maturity remain Outstanding, the consent of the Owners of such Bonds and affected Credit Provider with respect to such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under Articles X or XI hereof.

No such modification or amendment shall permit a change in the terms of redemption or maturity of the principal of any Outstanding Bond or of any installment of interest thereon or a reduction in the principal amount or the redemption premium (if any) thereof or in the rate of interest thereon or diminish the security afforded by any Credit Facility, or shall reduce the percentages or otherwise affect the classes of Bonds the consent of the Owners of which is required to effect any such modification or amendment, without the consent of the Owner of each Bond affected thereby, or shall change or modify any of the rights or obligations of any Fiduciary without its written assent thereto.

For the purposes of this Section 1102, Bonds of a particular maturity shall be deemed to be affected by a modification or amendment of this Ordinance if the same adversely affects or diminishes the rights of the Owners of Bonds of such maturity. The Trustee may in its discretion determine whether or not in accordance with the foregoing powers of amendment Bonds of any particular maturity would be affected by any modification or amendment of this Ordinance, any may rely upon the advice of Bond Counsel, and any such determination shall be binding and conclusive on the Issuer and all Owners of Bonds.

Section 1103. Consent of Owners. The Issuer may at any time enact a Supplemental Ordinance making a modification or amendment permitted by the provisions of Section 1102 to take effect at the time provided in such Supplemental Ordinance (if the consent of the Owners of the affected Bonds and the issuers of any affected Credit Facilities is not required) or when and as provided in this Section 1103 (if the consent of the Owners of the affected Bonds and the issuers of any affected Credit Facilities is required). If consent of any Owners or Credit Providers is required in connection therewith, a brief summary of such Supplemental Ordinance, together with a request to affected Owners and the issuer of any affected Credit Facility for their consent thereto in form satisfactory to the Trustee, shall be mailed by the Issuer to affected Owners and the issuer of any affected Credit Facility. Such Supplemental Ordinance shall not be effective unless and until:

(i) there shall have been filed with the Master Trustee (in the case of a Supplemental Ordinance which affects the System Bonds) or the related Trustee (in the case of a Supplemental Ordinance which affects a Series of Project Bonds):

(a) if required, the written consents of Owners of the percentages of Outstanding Bonds specified in Section 1102 which are affected by such Supplemental Ordinance and the issuer of any affected Credit Facility; and

(b) an Opinion of Bond Counsel stating that such Supplemental Ordinance has been duly and lawfully entered into by the Issuer in accordance with the provisions of this Ordinance, is authorized or permitted by this Ordinance, and is valid and binding upon the Issuer and enforceable in accordance with its terms, subject to bankruptcy, insolvency and other laws affecting creditors' rights generally; and

(ii) a notice shall have been given as hereinafter in this Section 1103 provided.

Each required consent shall be effective only accompanied by proof of the ownership, at the date of such consent, of the Bonds with respect to which such consent is given, which proof shall be such as is permitted by Section 1202. A certificate or certificates executed by the Master Trustee (in the case of a Supplemental Ordinance which affects the System Bonds) or the related Trustee (in the case of a Supplemental Ordinance which affects a Series of Project Bonds) and filed with the Issuer stating that it has examined such proof and that such proof is sufficient in accordance with Section 1202 shall be conclusive that the consents have been given by the Owners of the affected Bonds and the issuer of any affected Credit Facility described in such certificates of the Master Trustee (in the case of a Supplemental Ordinance which affects the System Bonds) or the related Trustee (in the case of a Supplemental Ordinance which affects a Series of Project Bonds).

Any such consent shall be binding upon the Owner of the Bonds and the issuer of any affected Credit Facility giving such consent and, anything in Section 1202 to the contrary notwithstanding, upon any subsequent Owner of such Bonds and of any Bonds issued in exchange therefor (whether or not such subsequent Owner thereof has notice thereof) unless such consent is revoked in writing by the Owner of such Bonds or the issuer of any Credit Facility giving such consent or a subsequent Owner thereof by filing such revocation with the Trustee, prior to the time when the written statement of the Trustee hereinafter in this paragraph provided for is filed. The fact that a consent has not been revoked may likewise be proved by a certificate of the Trustee filed with the Issuer to the effect that no revocation thereof is on file with the Trustee. Within 10 days after the Owners of the required percentages of

affected Bonds and the issuer of any affected Credit Facility shall have filed their consents to the Supplemental Ordinance or resolution, the Master Trustee (in the case of a Supplemental Ordinance which affects the System Bonds) or the related Trustee (in the case of a Supplemental Ordinance which affects a Series of Project Bonds) shall make and file with the Issuer a written statement that the Owners of such required percentages of affected Bonds and the issuer of any affected Credit Facility have filed such consents. Such written statements shall be conclusive that such consents have been so filed.

At any time thereafter, notice stating in substance that the Supplemental Ordinance (which may be referred to as a Supplemental Ordinance enacted by the Issuer on a stated date, a copy of which is on file with the Master Trustee (in the case of a Supplemental Ordinance which affects the System Bonds) or the related Trustee (in the case of a Supplemental Ordinance which affects a Series of Project Bonds)) has been consented to by the Owners of the required percentages of affected Bonds and the issuer of any affected Credit Facility, and will be effective as provided in this Section 1103, shall be given to affected Owners and the issuer of any affected Credit Facility by mailing such notice to affected Owners and the issuer of any affected Credit Facility not more than ninety (90) days after the Owners of the required percentages of affected Bonds and the issuer of any affected Credit Facility shall have filed their consents to the Supplemental Ordinance and the written statement of the Master Trustee (in the case of a Supplemental Ordinance which affects the System Bonds) or the related Trustee (in the case of a Supplemental Ordinance which affects a Series of Project Bonds) provided for in the preceding paragraph is filed. A record, consisting of the certificates or statements required or permitted by this Section 1103 to be made by the Master Trustee (in the case of a Supplemental Ordinance which affects the System Bonds) or the related Trustee (in the case of a Supplemental Ordinance which affects a Series of Project Bonds) shall be proof of the matters therein stated. Such Supplemental Ordinance making such amendment or modification shall be deemed conclusively binding upon the Issuer, the Fiduciaries, the Owners of all affected Bonds and the issuer of any affected Credit Facility upon the mailing of such last mentioned notice.

Section 1104. Modifications by Unanimous Consent. The terms and provisions of this Ordinance and the rights and obligations of the Issuer and of the Owners of the Bonds may be modified or amended in any respect upon the enactment by the Issuer of a Supplemental Ordinance and the consent of the issuer of any affected Credit Facility, and the Owners of all of the affected Bonds then outstanding, such consent to be given as provided in Section 1103 except that no notice to affected Owners by mailing shall be required; provided, however, that no such modification or amendment shall change or modify any of the rights or obligations of any Fiduciary without the filing with the Issuer of the written assent thereto of such Fiduciary in addition to the consent of the affected Owners and the issuer of any affected Credit Facility.

Section 1105. Exclusion of Bonds. Bonds owned or held by or for the account of the Issuer shall not be deemed Outstanding for the purpose of consent or other action or any calculation of Outstanding Bonds provided for in Articles X or XI hereof, and the Issuer shall not be entitled with respect to such Bonds to give any consent or take any other action provided for in Articles X or XI hereof. At the time of any consent or other action taken under Articles X or XI hereof, the Issuer shall furnish the Trustee a certificate of an Authorized Issuer Representative upon which the Trustee may rely, describing all Bonds so to be excluded.

Section 1106. Notation on Bonds. Affected Bonds authenticated and delivered after the effective date of any action taken as in Article X or this Article XI provided may, and, if the Issuer so determines, shall bear a notation by endorsement or otherwise in form approved by the Issuer as to such action, and in that case upon demand of the Owner of any affected Bond Outstanding at such effective date and presentation of such affected Bond at the corporate trust office of the Master Trustee (in the case of a Supplemental Ordinance which affects the System Bonds) or the related Trustee (in the case of a Supplemental Ordinance which affects a Series of Project Bonds) or upon any transfer or exchange of any affected Bond Outstanding at such effective date, suitable notation shall be made on such Bond or upon any Bond issued upon any such transfer or exchange by the Master Trustee (in the case of a Supplemental Ordinance which affects the System Bonds) or the related Trustee (in the case of a Supplemental Ordinance which affects a Series of Project Bonds) shall so determine, new Bonds so modified as in the opinion of

the Master Trustee (in the case of a Supplemental Ordinance which affects the System Bonds) or the related Trustee (in the case of a Supplemental Ordinance which affects a Series of Project Bonds) are necessary to conform to such action shall be prepared, authenticated and delivered, and upon demand of the holder of any affected Bond then Outstanding shall be exchanged, without cost to such Owner, for Bonds of the same maturity then Outstanding, upon surrender of such Bonds.

Section 1107. Issuer of a Credit Facility as Owner of the Bonds. Except as otherwise expressly provided in a Supplemental Ordinance, as long as a Credit Facility securing all or a portion of any Bonds Outstanding is in effect, the issuer of such Credit Facility shall be deemed to be the Owner of the Bonds secured by such Credit Facility:

(i) at all times for the purpose of the execution and delivery of a Supplemental Ordinance or of any amendment, change or modification of this Ordinance or the initiation by Owners of any action to be undertaken by the Trustee at the Owner's request, which under this Ordinance requires the written approval or consent of or can be initiated by the Owners of at least a majority in principal amount of the affected Bonds at the time Outstanding; and

(ii) following an Event of Default for all other purposes.

Notwithstanding the foregoing, the issuer of such Credit Facility shall not be deemed to be an Owner of the Bonds secured thereby with respect to any such Supplemental Ordinance or of any amendment, change or modification of this Ordinance which :

(a) would result in a downgrading or withdrawal of the rating then assigned to the affected Bonds by the Rating Agencies; or

(b) changes the Stated Maturity (except as expressly permitted herein), the Interest Payment Dates, interest rates, redemption and purchase provisions, and provisions regarding notices of redemption and purchase applicable to the affected Bonds or diminishes the security afforded by such Credit Facility; or

(c) reduces the percentage or otherwise affecting the classes of affected Bonds the consent of the Owners of which is required to effect any such modification or amendment.

In addition and notwithstanding the foregoing, no issuer of a Credit Facility given as security for any Bonds shall be entitled to exercise any rights under this Section 1107 during any period where:

(i) the Credit Agreement or Credit Facility to which such Credit Provider is a party shall not be in full force and effect;

(ii) such Credit Provider shall have filed a petition or otherwise sought relief under any federal or state bankruptcy or similar law;

(iii) such Credit Provider shall, for any reason, have failed or refused to honor a proper demand for payment under such Credit Facility; or

(iv) an order or decree shall have been entered, with the consent or acquiescence of such Credit Provider, appointing a receiver or receivers of the assets of the Credit Provider, or if such order or decree having been entered without the consent or acquiescence of such Credit Provider, shall not have been vacated or discharged or stayed within ninety (90) days after the entry thereof.

ARTICLE XII

MISCELLANEOUS

Section 1201. Defeasance. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Owners of all Bonds of a particular Series the principal of, premium (if any) and interest due or to become due thereon and the obligations under any related Credit Agreement at the times and in the manner stipulated therein, in this Ordinance and in any related Supplemental Ordinance, then the lien of this Ordinance and any related Supplemental Ordinance securing such Series of Bonds and all covenants, agreements and other obligations of the Issuer to the Owners of such Series of Bonds and the issuer of any related Credit Facility shall thereupon cease, terminate and become void and be discharged and satisfied. In such event, the Trustee shall cause an accounting for such period or periods as shall be requested by the Issuer to be prepared and filed with the Issuer and, upon the request of the Issuer, shall execute and deliver to the Issuer all such instruments as may be desirable to evidence such discharge and satisfaction, and the Fiduciaries shall pay over or deliver, as directed by the Issuer, all moneys or securities held by them pursuant to this Ordinance or any Supplemental Ordinance with respect to such discharged Series of Bonds and which are not required for the payment of principal of, premium (if any) and interest on Bonds of such Series not theretofore surrendered for such payment or redemption or for payment of obligations under any related Credit Agreement.

Bonds or interest installments thereon for the payment or redemption of which moneys shall have been set aside and shall be held in trust by the Master Trustee (in the case of System Bonds) or the related Trustee (in the case of Project Bonds) (through deposit pursuant to this Ordinance of funds for such payment or redemption or otherwise, as verified by a report of nationally recognized independent certified public accountants) at the maturity or redemption date thereof shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this Section 1201. Issuer Financial Obligations or interest installments thereon for the payment or prepayment of which moneys shall have been set aside and shall be held in trust by a person other than the Issuer (through deposit with such person of funds for such payment or prepayment or otherwise, as verified by a report of nationally recognized independent certified public accountants) at the maturity or prepayment date thereof shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this Section 1201. All Outstanding Bonds of any particular Series or maturity shall prior to the maturity or redemption date thereof be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this Section 1201 if:

(a) in case any of said Bonds are to be redeemed on any date prior to their maturity, the Issuer shall have given to the Master Trustee (in the case of System Bonds) or the related Trustee (in the case of Project Bonds) irrevocable instructions to mail as provided in Article IV notice of redemption of such Bonds on said date;

(b) there shall have been deposited with the Master Trustee (in the case of System Bonds) or the related Trustee (in the case of Project Bonds) either moneys in an amount which shall be sufficient, or Government Obligations (including any Government Obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States) the principal of and the interest on which when due will provide moneys which, together with the moneys, if any, deposited with the Trustee at the same time, shall be sufficient, to pay when due the principal of, premium (if any) and interest due and to become due on said Bonds on or prior to the redemption date or maturity date thereof, as the case may be; and

(c) the Issuer shall have given the Master Trustee (in the case of System Bonds) or the related Trustee (in the case of Project Bonds) in form satisfactory to it irrevocable instructions to mail, postage prepaid, to each registered owner of Bonds then outstanding at his address, if any, appearing upon the registry books of the Issuer, a notice to the registered owners of such Bonds and to the related Bond Registrar that the deposit required by (b) above has been made with the Master Trustee (in the case of System Bonds) or the related Trustee (in the case of Project Bonds) and that said Bonds are deemed to have been paid in accordance with this Section 1201 and stating such maturity or redemption date upon which moneys are to be available for the payment of the principal or Redemption Price, if applicable, on said Bonds.

All Outstanding amounts owing under an Issuer Financial Obligation shall prior to the maturity or prepayment date thereof be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this Section 1201 if:

(i) in case any amounts of said Issuer Financial Obligation are to be prepaid on any date prior to their maturity, the Issuer, if required under the terms of such Issuer Financial Obligation, shall have given to the appropriate person irrevocable instructions to mail or give notice of prepayment of such amounts on said date; and

(ii) there shall have been deposited with a person (other than the Issuer) either moneys in an amount which shall be sufficient, or Government Obligations (including any Government Obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States) the principal of and the interest on which when due will provide moneys which, together with the moneys, if any, deposited with such person at the same time, shall be sufficient, to pay when due the principal of, premium (if any) and interest due and to become due on said amounts of such Issuer Financial Obligation on or prior to the prepayment date or maturity date thereof, as the case may be.

Neither Government Obligations nor moneys deposited with the Trustee or (in the case of an Issuer Financial Obligation) a person other than the Issuer pursuant to this Section 1201 or principal or interest payments on any such Government Obligations shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of, premium (if any) and interest on said Bonds or Issuer Financial Obligation, as the case may be; *provided that* any cash received from such principal or interest payments on such Government Obligations deposited with the Master Trustee (in the case of System Bonds) or the related Trustee (in the case of Project Bonds) or such other person (in the case of an Issuer Financial Obligation):

(A) to the extent such cash will not be required at any time for such purpose as determined by the Master Trustee (in the case of System Bonds) or the related Trustee (in the case of Project Bonds) or such other person (in the case of an Issuer Financial Obligation), and to the extent all obligations under any related Credit Agreement are satisfied, as determined by the obligee thereunder, shall be paid over upon the direction of the Issuer as received by the Master Trustee (in the case of System Bonds) or the related Trustee (in the case of Project Bonds) or such other person (in the case of an Issuer Financial Obligation), free and clear of any trust, lien, pledge or assignment securing said Bonds or Issuer Financial Obligation or otherwise existing under this Ordinance or any Supplemental Ordinance; and

(B) to the extent such cash will be required for such purpose at a later date, shall, to the extent practicable, be reinvested in Government Obligations maturing at times and in amounts sufficient to pay when due the principal of, premium (if any) and interest to become due on said Bonds or Issuer Financial Obligation on or prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments, to the extent such interest earnings will not be required at any time for such purpose as determined by the Master Trustee (in the case of System Bonds) or the related Trustee (in the case of a Series of Project Bonds) or such other person (in the case of an Issuer Financial Obligation)

shall be paid over as received by such trustee to the Issuer, free and clear of any lien, pledge, or security interest securing said Bonds or Issuer Financial Obligation or otherwise existing under this Ordinance.

As to the Variable Rate Obligations discharged and satisfied under the foregoing provisions, the amount required for the interest thereon shall be calculated at the maximum rate permitted by the terms of the Supplemental Ordinance which authorized the issuance of such Variable Rate Obligations or the agreement giving rise to such Variable Rate Obligations, as the case may be; *provided, however, that* if on any date, as a result of such Variable Rate Obligations having borne interest at less than such maximum rate for any period, the total amount of moneys and Investment Securities on deposit for the payment of interest on such Variable Rate Obligations is in excess of the total amount which would have been required to be deposited on such date in respect of such Variable Rate Obligations in order to fully discharge and satisfy such Variable Rate Obligations and obligations under any Credit Agreement pursuant to the provisions of this Section, the Issuer may use the amount of such excess free and clear of any trust, lien, security interest, pledge or assignment securing said Variable Rate Obligations or otherwise existing under this Ordinance, any Supplemental Ordinance or under any related Credit Agreement.

Notwithstanding any of the provisions of this Ordinance to the contrary, Option Obligations may only be fully discharged and satisfied either pursuant to the foregoing provisions by depositing in the System Debt Service Account (in the case of System Bonds) or in the appropriate Project Debt Service Account (in the case of Project Bonds), or in such other accounts which are irrevocably dedicated to the payment of the Option Obligations (in the case of Issuer Financial Obligations), moneys which together with other moneys lawfully available therefor shall be sufficient at the time of such deposit to pay when due the maximum amount of principal of and Redemption Price, if any, and interest on such Option Obligations which could become payable to the Owners or holders of such Option Obligations upon the exercise of any options provided to such Owners or holders; *provided, however, that* if, at the time a deposit is made pursuant to this paragraph, the options originally exercisable by the Owner or holder of an Option Obligation are no longer exercisable, such Option Obligation shall not be considered an Option Obligation for purposes of this paragraph. If any portion of the moneys deposited for the payment of the principal of, premium (if any) and interest on Option Obligations is not required for such purpose and is not needed to reimburse the obligee under any related Credit Agreement, the Issuer may use the amount of such excess free and clear of any trust, lien, security interest, pledge or assignment securing said Option Obligations or otherwise existing under this Ordinance or any related Credited Agreement or other agreement.

Section 1202. Appendix A to Constitute Chapter 5.04 of the Issuer Code. The provisions of Appendix A to this Master Ordinance are hereby enacted as part of this Master Ordinance, and such provisions shall be and constitute Chapter 5.04 of the Issuer Code (as defined below).

Section 1203. Evidence of Signatures of Owners and Ownership of Bonds. Any request, consent, revocation of consent or other instrument which this Ordinance may require or permit to be signed and executed by the Owners may be in one or more instruments of similar tenor, and shall be signed or executed by such Owners in person or by their attorneys appointed in writing. The ownership of Bonds and the amount, numbers and other identification, and date of holding the same shall be proved by the registry books therefor. Any request or consent by the Owner of any Bond or the issuer of any Credit Facility shall bind all future Owners of such Bond and all future issuers of any Alternate Credit Facility given in replacement or substitution of such Credit Facility in respect of anything done or suffered to be done by the Issuer or any Fiduciary in accordance therewith.

Section 1204. Moneys Held for Particular Bonds; Unclaimed Moneys. The amounts held by any Fiduciary for the payment of the interest, principal or Redemption Price due on any date with respect to particular Bonds shall, on and after such date and pending such payment, be set aside on its books and held in trust by it for the Owners of the Bonds entitled thereto.

Anything in this Ordinance to the contrary notwithstanding, any moneys held by a Fiduciary in trust for the payment and discharge of any of the Bonds which remain unclaimed for six years after the date when such Bonds have

become due and payable, either at their stated maturity dates or by call for earlier redemption, if such moneys were held by the Fiduciary at such date, or for six years after the date of deposit of such moneys if deposited with the Fiduciary after the date when such Bonds became due and payable, shall, at the written request of the Issuer be repaid by the Fiduciary to the Issuer, as its absolute property and free from trust, and the Fiduciary shall thereupon be released and discharged with respect thereto and the Owners shall look only to the Issuer for the payment of such Bonds; *provided, however, that* before being required to make any such payment to the Issuer the Fiduciary shall, at the expense of the Issuer, cause to be mailed, postage prepaid, to the obligee under any Credit Agreement and to each registered owner of any unpaid Bonds at his address, if any, appearing upon the related registry books of the Issuer, a notice that said moneys remain unclaimed and that after a date named in said notice, which date shall be not less than 30 days after the date of the mailing of such notice, the balance of such moneys then unclaimed will be returned to the Issuer.

Section 1205. Preservation and Inspection of Documents. All documents received by any Fiduciary under the provisions of this Ordinance shall be retained in its possession and shall be subject at all reasonable times to the inspection of the Issuer, any other Fiduciary, and any related Owner and their agents and their representatives, any of whom may make copies thereof.

Section 1206. Parties Interested Herein. Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or corporation, other than the Issuer, the Fiduciaries, the Credit Providers and the Owners of the Bonds, any right, remedy or claim under or by reason of this Ordinance or any covenant, condition or stipulation thereof; and all the covenants, stipulations, promises and agreements in this Ordinance contained by and on behalf of the Issuer shall be for the sole and exclusive benefit of the Issuer, the Fiduciaries, the Credit Providers and the Owners of the Bonds.

Section 1207. No Recourse. No recourse shall be had for the payment of the principal of or interest on the Bonds or on any obligation under a Credit Agreement or for any claim based thereon or on this Ordinance against any member or officer of the Issuer or any person executing the Bonds.

Section 1208. Severability of Invalid Provisions. If any one or more of the covenants or agreements provided in this Ordinance on the part of the Issuer or any Fiduciary to be performed should be contrary to law, then such covenant or covenants or agreement or agreements shall be deemed severable from the remaining covenants and agreements and shall in no way affect the validity of the other provisions of this Ordinance.

Section 1209. Holidays. If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in this Ordinance, shall be a legal holiday or a day on which banking institutions in the city in which is located the principal office of the related Trustee or the issuer of any Credit Facility are authorized bylaw to remain closed, such payment may be made or act performed or right exercised on the next succeeding Business Day, with the same force and effect as if done on the nominal date provided in this Ordinance.

Section 1210. Limitation of Issuer's Liability. The obligations of the Issuer under this Ordinance as well as any costs or expenses of the Issuer incurred in respect of its obligations and duties hereunder shall never constitute a debt or indebtedness of the Issuer within the meaning of any provision or limitation of the Constitution or statutes of the State of Oregon but shall be payable solely from the Trust Estate pledged therefor pursuant to this Ordinance or any Supplemental Ordinances. It is hereby recognized and agreed that neither the members of the Council of the Issuer nor any officer, employee or agent of the Issuer shall be individually liable on the Bonds or the interest thereon, on any obligation under a Credit Agreement or in respect of any undertakings by the Issuer under this Ordinance.

Section 1211. Governing Law. This Ordinance shall be interpreted, governed by and construed under

the laws of the State, including the Act, as if executed and to be performed wholly within the State.

Section 1212. Headings Not Binding. The headings in this Ordinance are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Ordinance.

Section 1213. Effective Date. This Ordinance shall, except as otherwise provided by law, become effective immediately upon enactment.

Certification of Ordinance

The undersigned do hereby certify that we are the duly elected or appointed, qualified and acting Executive Officer, Presiding Officer of the Council and Clerk of the Council of the Metropolitan Service District, Counties of Multnomah, Clackamas and Washington, State of Oregon; that the foregoing is a true and complete copy of Ordinance No. 89-319 as enacted by the Council of said district at a regular meeting duly called and held in accordance with law on November 21, 1989; and that the following Councilors voted in favor of said Ordinance:

Bauer, Buchanan, Collier, Devlin, Gardner,
Hansen, Knowles, McFarland, Van Bergen,
Wyers and Ragsdale.

the following Councilors voted against said Ordinance:

and the following Councilors abstained from voting on said Ordinance:

In addition, the Executive Officer hereby certifies that the foregoing ordinance has not been vetoed thereby.

In witness whereof, the undersigned have hereunto set their hands as of the dates set forth below.

Attest:

Michael C. Ragsdale
Michael Ragsdale, Presiding Officer
Date: 11/21/89

Clerk of the Council
Date: _____

Rena Cusma, Executive Officer
Date: _____

**APPENDIX A
TO ORDINANCE NO. 89-319**

**Setting forth the provisions of
Chapter 5.05 of the Code of the
Metropolitan Service District
Relating to**

SOLID WASTE FLOW CONTROL

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030
Use of Designated Facilities

In accordance with and pursuant to the provisions of Section 1202 of Ordinance No. 89-319, the following provisions have been enacted as, and shall be and constitute, Chapter 5.05 of the Code of the Metropolitan Service District:

Section 5.05.010A. Special Findings for Solid Waste Flow Control. In connection with the enactment of the provisions of this Chapter 5.05 of the Metro Code (as defined below), the Council of Metro hereby finds and determines the following:

(a) Metro has limited land and resources for the disposal, transfer and recovery of resources from solid and liquid waste, it is the responsibility of the Council to protect and judiciously utilize such limited land and resources.

(b) Metro is developing the System as a regional waste disposal and recovery system within the framework of a Regional Solid Waste Management Plan in cooperation with federal, state and local agencies for the benefit of all citizens of the Service Area.

(c) Pursuant to the Regional Solid Waste Management Plan, Metro has made significant contractual commitments of financial resources, including authorization of revenue bonds, to provide for the construction, operation and maintenance of major facilities as part of the System to provide and assure the safe and efficient disposal, transfer and resource recovery of solid waste generated within the Service Area to meet the needs of residents of the Service Area.

(d) The feasibility of construction, operation and maintenance of major facilities as part of the System to meet the present and future needs of the residents of the Service Area and the ability of Metro to generate revenues sufficient to liquidate the bonded indebtedness to be incurred by Metro to finance the construction of major facilities as part of the System depend upon the ability to obtain the type and quantity of operational volumes of solid and liquid waste needed to make such facilities economically viable.

(e) Pursuant to the authority granted to Metro under Oregon Revised Statutes Sections 268.317 and 268.360, as amended, Metro may require any person or class of persons who generate solid or liquid waste to make use of disposal, transfer or resource recovery sites or facilities of the System or disposal, transfer or resource recovery sites designated by Metro.

(f) Oregon Revised Statutes Section 268.317 and 268.360, as amended, also provides Metro the authority to require any person or class of persons who pickup, collect, or transport solid or liquid wastes to make use of the disposal, transfer or resource recovery sites of the System or disposal, transfer or resource recovery sites or facilities designated by Metro.

(g) Further authority to require use of various solid waste facilities as may be designated by Metro to assure financial feasibility of such facilities is provided in the Regional Solid Waste Management Plan, Chapter 10, referred to above.

(h) The provisions of this Chapter 5.05 are intended to be, and they shall constitute, the exercise by Metro of the powers and authority granted to it under Oregon Revised Statutes Section 268.317 and 268.360, as amended, and the Regional Solid Waste Management Plan to require the persons and classes of persons specified herein who generate, pickup, collect, or transport solid or liquid wastes to make use of the disposal, transfer or resource recovery sites of the System or disposal, transfer or resource recovery sites or facilities designated by Metro.

Section 5.05.010. Definitions for Chapter 5.05. Notwithstanding anything expressed or implied in the Metro Code to the contrary, as used in this Chapter 5.05, the following terms shall have the respective meanings set forth below unless the context requires otherwise:

"Act" shall mean Oregon Revised Statutes Chapter 268, as amended, and other applicable provisions of the laws of the State of Oregon.

"Council" shall have the meaning assigned thereto in Metro Code Section 1.01.040(a).

"Designated Facility" means one of the facilities constituting a part of the System designated from time to time pursuant to Section 5.05.030 of this Chapter 5.05, to which Solid Waste may be directed by a Required Use Order.

"Disposal Site" means the land and facilities determined from time to time by Metro as constituting part of the System, whether owned by Metro or another Person and whether or not open to the public, used for the disposal of solid wastes, but does not include Transfer Stations or Processing Facilities.

"District" shall have the meaning assigned thereto in Metro Code Section 1.01.040(b).

"Executive Officer" shall mean the duly elected or appointed, qualified and acting Executive Officer of Metro, or any officer of Metro hereafter succeeding to the powers and duties of such Executive Officer with respect to the System.

"Metro Code" means the Code of the Metropolitan Service District.

"Non-System Facility" means any solid waste disposal site, transfer station, processing facility, recycling drop center, resource recovery facility or other facility for the disposal, recycling or other processing of solid waste which does not constitute part of the System.

"Non-System License" means a license issued pursuant to and in accordance with Metro Code Section 5.05.030(d).

"Person" shall have the meaning assigned thereto in Metro Code Section 1.01.040(f).

"Processing Facility" shall mean a facility described in Metro Code Section 5.01.010(n) which has been designated by Metro as constituting part of the System.

"Regional Solid Waste Management Plan" means the Metro Regional Solid Waste Management Plan adopted by Ordinance No. 88-266B on October 27, 1988.

"Required Use Order" means a written order issued pursuant to Metro Code Section 5.04.040 requiring a Waste Hauler or other Person to use a Designated Facility pursuant to the terms of the order.

"Resource Recovery Facility" shall mean a facility described in Metro Code Section 5.01.010(q) which has been designated by Metro as constituting part of the System.

"Service Area" shall mean the area within the jurisdictional boundaries of Issuer within which the System operates to provide solid and liquid waste disposal services, all as contemplated by the Act.

"Solid Waste" shall have the meaning assigned thereto in Metro Code Section 5.01.010(s).

"Source Separated Recyclable Material" shall have the meaning assigned thereto in ORS 459.005(15) and 459.005(21).

"State" shall have the meaning assigned thereto in Metro Code Section 1.01.040(g).

"System" shall mean any and all facilities now or hereafter designated by Metro as part of its system for the management and disposal of solid and liquid waste, including, but not limited to recycling and other volume reduction facilities, sanitary landfills, or other disposal means, resource recovery facilities (including steam production and electrical generating facilities using solid waste as fuel), recycling and transfer stations, roads, water lines, wastewater lines and treatment facilities to the extent provided or operated to carry out the provisions of the Act, and all buildings, fixtures, equipment and all property, real and personal now or hereafter owned, leased, operated or used by Metro, all for the purpose of providing for solid and liquid waste disposal; as of the date of enactment of this Chapter 5.05, said System consists of the initial Designated Facilities described in Section 5.05.030(a) of this Chapter.

"Transfer Station" shall mean a facility described in Metro Code Section 5.01.010(u) which has been designated by Metro as constituting part of the System.

"User Fee" shall have the meaning assigned thereto in Metro Code Section 5.01.010(v).

"Waste Hauler" means any Person engaged, in whole or part, in the collection, transportation, delivery, or disposal of Solid Waste generated within the Service Area, including any Person engaged in such activities with respect to Solid Waste generated by such Person as well as any Person engaged in such activities with respect to Solid Waste generated by others.

Section 5.05.020. Application of Chapter 5.05. This Chapter 5.05 shall govern the transportation, transfer, disposal and other processing of all Solid Waste generated within the Service Area as authorized by State law, and shall govern all Waste Haulers and other Persons who generate Solid Waste within the Service Area or who transport, transfer, dispose or otherwise deal with or process Solid Waste generated within the Service Area; *provided that* notwithstanding the foregoing, this Chapter does not apply to or govern the transportation, transfer or processing of, or other dealing with, Source Separated Recyclable Material.

Section 5.05.030. Use of Designated Facilities.

(a) Initial Designated Facilities. The following described facilities shall constitute the initial Designated Facilities to which Metro may direct Solid Waste pursuant to a Required Use Order.

(1) Metro South. The Metro South Station located at 2001 Washington, Oregon City, Oregon 97045.

(2) Compost Facility. The Metro-Riedel Compost Facility located at 5437 NE Columbia Boulevard, Portland, Oregon 97217.

(3) St. John's Landfill. The St. John's Landfill located at 9363 N. Columbia Blvd., Portland, Oregon 97203.

(4) Franchise Facilities. All Disposal Sites, Transfer Stations, Processing Facilities and Resource Recovery Facilities within the District which operate pursuant to a Metro franchise under Chapter

5.01 of the Metro Code.

(5) Lakeside Reclamation (Limited Purpose Landfill). The Lakeside Reclamation limited purpose landfill, Route 1, Box 849, Beaverton, Oregon 97005, subject to the terms of the agreement in existence on November 14, 1989 authorizing the receipt of Solid Waste generated within the Service Area.

(6) Hillsboro Landfill (limited purpose landfill). The Hillsboro Landfill, 3205 SE Minter Bridge Road, Hillsboro, Oregon 97123, subject to the terms of the agreement in existence on November 14, 1989 authorizing the receipt of Solid Waste generated within the Service Area.

(7) Arlington Landfill. The Arlington Landfill owned and operated by Oregon Waste Systems, subject to the terms of the agreements in existence on November 14, 1989 between Metro and Oregon Waste Systems and between Metro and Jack Gray Transport, Inc.; *provided that* except as otherwise provided pursuant to a duly issued Non-System License, no Waste Hauler or other Person (other than Jack Gray Transport, Inc. as provided in the aforementioned agreement) shall be permitted to transport Solid Waste generated within the Service Area directly to, or to otherwise dispose of such Solid Waste at, said Arlington Landfill unless such Solid Waste has first been processed at another Designated Facility.

(b) Changes to Designated Facilities to be Made by Council. From time to time, the Council, acting pursuant to a duly enacted ordinance, may remove from the list of initial Designated Facilities any one or more of the facilities described in Metro Code Section 5.04.030(a). In addition, from time to time, the Council, acting pursuant to a duly enacted ordinance, may add to the list of Designated Facilities one or more additional facilities.

(c) Use of Non-System Facilities Prohibited. Except to the extent that Solid Waste generated within the Service Area is transported, disposed of or otherwise processed in accordance with the terms and conditions of a Non-System License issued pursuant to Metro Code Section 5.05.030A, no Waste Hauler or other Person shall transport Solid Waste generated within the Service Area to, or utilize or cause to be utilized for the disposal or other processing of any Solid Waste generated within the Service Area, any Non-System Facility.

Section 5.05.030A. License to Use Non-System Facility. A Waste Hauler or other Person may transport Solid Waste generated within the Service Area to, or utilize or cause to be utilized for the disposal or other processing of any Solid Waste generated within the Service Area, any Non-System Facility only by obtaining a Non-System License in the manner provided for in this Section 5.05.030A.

(a) Application for License. Any Waste Hauler or other Person desiring to obtain a Non-System License shall make application to the Executive Officer, which application shall be in writing and accompanied by a non-refundable application fee in the amount of five hundred dollars (\$500.00). Such written application shall set forth the following information:

- (i) the name and address of the Waste Hauler or Person making such application;
- (ii) the location of the site or sites at which the Solid Waste proposed to be covered by the Non-System License is to be generated;
- (iii) the nature of the Solid Waste proposed to be covered by the Non-System License;
- (iv) the expected annual tonnage of the Solid Waste proposed to be covered by the Non-System License;

(v) a statement of the facts and circumstances which, in the opinion of the applicant, warrant the issuance of the proposed Non-System License; and

(vi) the Non-System Facility at which the Solid Waste proposed to be covered by the Non-System License is proposed to be transported, disposed of or otherwise processed.

In addition, the Executive Officer may require the applicant to provide, in writing, such additional information concerning the proposed Non-System License as the Executive Officer deems necessary or appropriate in order to determine whether or not to issue the proposed Non-System License.

(b) Determination Whether to Issue Non-System License. Within sixty (60) days after receipt of a completed application for a Non-System License and any additional information required by the Executive Officer in connection therewith, the Executive Officer shall determine whether or not to issue the Non-System License and shall inform the applicant in writing of such determination. In making such determination, the Executive Officer shall consider the following factors to the extent relevant to such determination:

(i) whether the Solid Waste proposed to be covered by the Non-System License is of such a nature as to be valuable to the efficient operation of the System or is likely to cause problems for or disruptions in the efficient operation of the System;

(ii) whether the facilities of the System are capable of processing or otherwise dealing with Solid Waste of the nature or quantity proposed to be covered by the Non-System License;

(iii) whether any changes to the operation of the System or the System facilities would be necessary or appropriate in order to efficiently process or otherwise deal with the Solid Waste proposed to be covered by the Non-System License;

(iv) the extent to which the Solid Waste proposed to be subject to the Non-System License has previously been processed or otherwise dealt with through the System and the impact thereof on the efficient operation of the System;

(v) the impact of the proposed Non-System License, either singly or in conjunction with all other Non-System Licenses theretofore issued in effect, on:

(A) the continued safe and efficient operation of the System;

(B) Metro's plans for the development of the System; and

(C) the revenues generated by the System; and

(vi) such other factors as the Executive Officer deems appropriate for purposes of making such determination.

At the discretion of the Executive Officer, the Executive Officer may impose such conditions on the issuance of a Non-System License as the Executive Officer determines are necessary or appropriate under the circumstances.

(c) Issuance of Non-System License; Contents. In the event the Executive Officer determines to issue a Non-System License, then upon payment by the applicant of a five hundred dollar (\$500.00) issuance fee such Non-System License shall be issued by the Executive Officer. Each Non-System License shall be in writing and shall set forth the following:

(i) the name and address of the Waste Hauler or other Person to whom such Non-System License is issued;

(ii) the nature of the Solid Waste to be covered by the Non-System License;

(iii) the maximum weekly, monthly or annual quantity of Solid Waste to be covered by the Non-System License;

(iv) the Non-System Facility or Facilities at which or to which the Solid Waste covered by the Non-System License is to be transported or otherwise processed;

(v) the expiration date of the Non-System License, which date shall be not more than two (2) years from the date of issuance of such Non-System License; and

(vi) any conditions imposed by the Executive Officer as provided above which must be complied with by the licensee during the term of such Non-System License.

(d) Requirements to be met by License Holder. Each Waste Hauler or other Person to whom a Non-System License is issued shall be required to:

(i) maintain complete and accurate records regarding all Solid Waste transported, disposed of or otherwise processed pursuant to the Non-System License, and make such records available to Metro or its duly designated agents for inspection, auditing and copying upon not less than three (3) days written notice from Metro;

(ii) report in writing to Metro, not later than the fifteenth day of each month, commencing the fifteenth day of the month following the month in which the Non-System License is issued and continuing through the fifteenth day of the month next following the month in which the Non-System License expires, the number of tons of Solid Waste transported, disposed or otherwise processed pursuant to such Non-System License during the preceding month;

(iii) pay to Metro, not later than the fifteenth day of each month, commencing the fifteenth day of the month following the month in which the Non-System License is issued and continuing through the fifteenth day of the month next following the month in which the Non-System License expires, a fee equal to the User Fee multiplied by the number of tons (or fractions thereof) of Solid Waste transported, disposed or otherwise processed pursuant to such Non-System License during the preceding month.

(e) Failure to Comply with Non-System License. In the event that any Waste Hauler or other Person to whom a Non-System License is issued fails to fully and promptly comply with the requirements set forth in Section 5.05.030A(d) above or any conditions of such Non-System License imposed pursuant to Section 5.05.030A(b) above, then, upon discovery of such non-compliance, the Executive Officer shall issue to such licensee a written notice of non-compliance briefly describing such failure. If, within twenty (20) days following the date of such notice of non-compliance or such longer period as the Executive Officer may determine to grant as provided below, the licensee fails to:

(i) demonstrate to the satisfaction of the Executive Officer either that the licensee has at all times fully and promptly complied with the foregoing requirements and the conditions of such Non-System License or that the licensee has fully corrected such non-compliance; and

(ii) paid in full, or made arrangements satisfactory to the Executive Officer for the payment in full

of, all fines owing as a result of such non-compliance;

then and in such event such Non-System License shall automatically terminate, effective as of 5:00 p.m. (local time) on such twentieth day or on the last day of such longer period as the Executive Officer may determine to grant as provided below. If, in the judgment of the Executive Officer, such non-compliance cannot be corrected within such twenty (20) day period but the licensee is capable of correcting it and within such twenty (20) day period diligently commences such appropriate corrective action as shall be approved by the Executive Officer, then and in such event such twenty (20) day period shall be extended for such additional number of days as shall be specified by the Executive Officer in writing, but in no event shall such the total period as so extended be more than sixty (60) days from the date of the notice of non-compliance.

(f) Effect on Existing Arrangements for Use of Non-System Facilities. Notwithstanding the foregoing provisions of this Section 5.05.030A, any agreements or authorizations which permit any Waste Hauler or other Person to transport Solid Waste generated within the Service Area to, or to utilize or cause to be utilized for the disposal or other processing of any Solid Waste generated within the Service Area, any Non-System Facility and which were entered into or given prior to the effective date of Metro Ordinance No. 89-319 shall remain in full force and effect for a period of one hundred and eighty (180) days following said effective date, subject in all respects to the terms and conditions of such agreements or authorizations, at the end of which one hundred and eighty (180) day period all such agreements shall automatically terminate and all uses of Non-System Facilities shall only be allowed pursuant to a Non-System License obtained as provided above; *provided that* the foregoing shall in no way prevent Metro from exercising during such one hundred and eighty (180) period any right it may have to terminate any such agreement or authorization.

(g) Executive Officer to Recommend License Application and Issuance Fee Schedules. Within six months from the date of enactment of this Chapter, the Executive Officer shall recommend to Council Non-System License application and issuance fee schedules which vary for each applicant and licensee based on the type and quantity of Solid Waste subject to the Non-System License and other appropriate factors.

Section 5.05.040. Required Use Orders and Development of Rules and Procedures for Issuance. Prior to issuing any Required Use Order directing Solid Waste to a particular Designated Facility, the rules governing the issuance of Required Use Orders with respect to such Designated Facility shall be approved and adopted by Council pursuant to a duly enacted ordinance. Such Required Use Order rules for each Designated Facility shall be prepared by the Executive Officer and submitted to Council for approval and adoption as aforesaid. The Required Use Order rules for each Designated Facility shall be prepared, approved and adopted giving due regard to the following factors:

- (a) the type of facility to which Solid Waste is to be delivered;
- (b) limitations on the Solid Waste quantity or composition at the facility to which such Solid Waste is to be delivered;
- (c) to the extent not inconsistent with the efficient and financially responsible operation of the System from Metro's standpoint, the ease of access to the facility, in terms of time and distance, by the Waste Haulers or Persons to be subject to the Required Use Order;
- (d) the amount of suitable Solid Waste estimated to be delivered to the facility in the absence of waste being directed to the facility;
- (e) the ability to obtain voluntary agreement by Waste Haulers and Persons to deliver Solid Waste of suitable composition and quantity to a specific facility;

(f) to the extent not inconsistent with the efficient, safe and financially responsible operation of the System from Metro's standpoint, the fair distribution of any inconvenience or burden on Waste Haulers or Persons to be subject to the Required Use Order; and

(g) such other reasonable and appropriate factors as the Executive Officer or Council may deem appropriate.

Following the approval and adoption of the Required Use Order rules for a particular Designated Facility as provided above, Required Use Orders with respect to such Designated Facility may be issued from time to time by the Executive Officer in accordance with the applicable rules as circumstances require, for the purpose of requiring delivery of Solid Waste to a Designated Facility. The content of such order shall be as specified in Section 5.05.050.

Section 5.05.050. Content of Required Use Orders; Notice. Required Use Orders issued by the Executive Officer shall set forth the following:

(a) the names of the Waste Haulers or Persons to be subject to the Required Use Order together with their addresses or places of business and telephone numbers;

(b) the type and quantity of Solid Waste subject to the Required Use Order;

(c) describe the point or points for delivery of the Solid Waste to be subject to the Required Use Order;

(d) the effective date of the Required Use Order, which date, in the absence of an emergency, shall not be less than ten (10) days from the date of the order; and

(e) Such other information as the Executive Officer may consider necessary or appropriate.

Within two days after the date of any Required Use Order, the Executive Officer shall cause notice of such Required Use Order to be given as follows:

(1) by United States mail, postage prepaid, to each Waste Hauler and Person to be subject to such Required Use Order at the last known address thereof; and

(2) by posting notice of such Required Use Order in a public place at the principal offices of Metro and at each Designated Facility.

The failure of any Waste Hauler or Person subject to a Required Use Order to receive notice thereof shall not affect the validity of such Required Use Order nor excuse such Waste Hauler or Person from complying with the terms thereof.

Section 5.05.060. Solid Waste Tracking System to be Developed. The Executive Officer shall develop and establish a system for tracking of Solid Waste generated, collected, transported or disposed within the District for the purpose of ensuring compliance with the requirements of this Chapter and to ensure equitable application of the requirements of this Chapter. The tracking system shall be subject to the review and approval of the Council. The Executive Officer in developing the tracking system shall consider the following:

(a) Establishment of a permit or licensing system for Waste Haulers or Persons generating, collecting, transporting or disposing of Solid Waste.

- (b) Use of franchises.
- (c) Use of personnel to monitor compliance with the requirements of this Chapter.
- (d) Intergovernmental agreements for exchange of information.
- (e) Equipment identification.
- (f) Reporting requirements by Waste Haulers or Persons generating, transporting or disposing of Solid Waste.
- (g) Such other criteria or methods which the Executive Officer considers reasonable and appropriate.

Section 5.05.070. Solid Waste Flow Control Enforcement; Fines, Penalties and Damages for Violations. Any Waste Hauler or Person who violates or fails to comply with any provision of this Chapter 5.05 or who fails to comply with the terms and conditions of any Non-System License or Required Use Order shall be subject to the fines and penalties set forth in this Section, which fines and penalties shall be assessed by the Executive Officer.

- (1) A fine in the amount of not to exceed five hundred dollars (\$500.00) for each violation; and
- (2) Such Waste Hauler or Person shall not be extended any credit by Metro for the use of any facility constituting a part of the System until such time as all fines owing under this Chapter as a result of such violation or failure to comply have been paid in full.

In addition to the foregoing fines and penalties:

(A) any Waste Hauler or Person who fails to comply with the terms and conditions of any Non-System License shall be required to pay to Metro a fine in an amount equal to the User Fee multiplied by the number of tons (or fractions thereof) of Solid Waste generated within the Service Area transported, disposed of or otherwise processed in violation of the terms and conditions of such Non-System License; and

(B) any Waste Hauler or Person who, without having a Non-System License then in effect, transports Solid Waste generated within the Service Area to, or utilizes or causes to be utilized for the disposal or other processing of any Solid Waste generated within the Service Area, any Non-System Facility shall be required to pay to Metro a fine in an amount equal to the \$500.00 Non-System License application fee, plus the \$500.00 Non-System license issuance fee, plus an amount equal to the User Fee multiplied by the number of tons (or fractions thereof) of Solid Waste generated within the Service Area transported, recycled, disposed of or otherwise processed to or at any Non-System Facility.

If in the judgment of the Executive Officer such action is warranted, Metro shall commence an appropriate action in a State court of competent jurisdiction for the purpose of collecting the fines and penalties provided for above and/or enjoining any violations of the provisions of this Chapter 5.05 or any non-compliance with the terms and conditions of any Non-System License or Required Use Order.

Within six months from the date of enactment of this Chapter, the Executive Officer shall recommend to Council a schedule of fines which impose sanctions based on the nature and extent of the violation or failure to comply.

Section 5.05.080. Administrative Rules. Except for the rules governing the issuance of Required Use Orders which are to be prepared, approved and adopted as provided in Section 5.05.040 hereof and except for the system tracking pursuant to Section 5.05.060 hereof, the Executive Officer is hereby authorized and empowered to make such administrative rules and regulations as she considers proper to effectually carry out the purposes of this Chapter 5.05.

Section 5.05.090. Contested Case Proceedings. Any Waste Hauler or other Person desiring to contest any decision made by the Executive Officer under this Chapter 5.05 shall commence a contested case proceeding pursuant to Chapter 2.05 of the Metro Code.

SOLID WASTE COMMITTEE REPORT

ORDINANCE NO. 89-319, AN ORDINANCE ESTABLISHING A PLAN FOR THE FINANCING FROM TIME TO TIME OF VARIOUS COMPONENTS OF THE METROPOLITAN SERVICE DISTRICT'S SOLID AND LIQUID WASTE DISPOSAL SYSTEM; AUTHORIZING THE ISSUANCE OF ONE OR MORE SERIES OF REVENUE BONDS FOR SUCH PURPOSE UNDER THE PROVISIONS OF SUPPLEMENTAL ORDINANCES ADOPTED HERETO; AND ESTABLISHING AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH

Date: November 15, 1989 Presented by: Councilor Gary Hansen

COMMITTEE RECOMMENDATIONS: The Solid Waste Committee voted 3 to 0 to recommend Council adoption of Ordinance No. 89-319 as amended. Voting: Councilors Hansen, DeJardin and Ragsdale. Absent: Councilors Buchanan and Wyers. This action was taken November 14, 1989.

COMMITTEE DISCUSSION/ISSUES: Metro's Legal Counsel and bond counsel summarized the Ordinance for the Committee. This Ordinance was reviewed in detail at a joint meeting of the Solid Waste Committee and Finance Committee on November 2, 1989.

Public Hearing

Three individuals gave testimony during the public hearing held by the Solid Waste Committee on November 14, 1989. Their main points are summarized as follows:

1. Michael Sievers of Schnitzer stated that they were opposed to any definition or use of flow control that would limit them from marketing their recyclable commodities.
2. Judy Rumph of AOR submitted a letter to the Committee which included the following points: the inclusion of source separated recyclables in the materials Metro could send to the composter is counter to the hierarchy of waste management established by Metro policy and Oregon Law. AOR recommends that all source separated recyclables be exempt from flow control.
3. Steve Nice stated that he is opposed to any flow control measures that would harm recycling businesses.

The majority of the Committee discussion and concern was focused on Appendix A of the Ordinance which provides for flow control.

The Committee discussed at length deleting source separated recyclables from the flow control provisions of the Ordinance. The Committee recommends that source separated recyclables be removed from the flow control appendix to Ordinance No. 89-319.

SOLID WASTE COMMITTEE STAFF REPORT

Ordinance No. 89-319

November 15, 1989

Page 2

The Committee debated the fee for a license to use non-system facilities and the amount of the penalty for violation of the Ordinance. The Committee directed Legal Counsel to draft new language for the Council's consideration on November 21, 1989.

The Committee considered all the recommendations of AOR stated in their letter of November 14, 1989, and amended the flow control appendix to reflect those recommendations. The amendments include the deletion of recycling drop centers from the list of franchise facilities listed on page 4, subparagraph 4 of the flow control appendix.

RB:aeb

.A:\RB.126



METRO

Memorandum

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

DATE: November 29, 1989
TO: Rena Cusma, Executive Officer
FROM: ^{GWB} Gwen Ware-Barrett, Clerk of the Council
RE: TRANSMITTAL OF ORDINANCE NOS. 89-319 AND 89-320

Attached for your consideration are true copies of Ordinance No. 89-319, An Ordinance Establishing a Plan for Financing from Time-to-Time of Various Components of the Metropolitan Service District's Solid and Liquid Waste Disposal System; Authorizing the Issuance of One or More Series of Revenue Bonds for such Purpose Under the Provisions of Supplemental Ordinances Adopted Pursuant Hereto; and Establishing and Determining Other in Connection Therewith: And Ordinance No. 89-320, An Ordinance Enacted as a Supplemental Ordinance to Ordinance No. 89-319; Establishing a Plan for Financing the 1989 Compost Project to Serve as a Part of the Metropolitan Service District's Solid and Liquid Waste Disposal System; Authorizing the Issuance of the 1989 Compost Project Bonds for such Purpose; and Establishing and Determining Other Matters in Connection Therewith.

If you wish to veto these ordinances, I must receive a signed and dated written veto message from you no later than 5:00 p.m., Tuesday, December 5, 1989. The veto message, if submitted, will become part of the permanent record. If no veto message is received by the time and date and stated above, this ordinance will be considered finally adopted.

I, Unette Horley, received this memo and a true copy of Ordinance Nos. 89-319 and 89-320.

Dated: 11/29/89

GPWB:pa
#1C:\MEM.ORD



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

DATE: November 16, 1989

TO: Metro Council

FROM: Gwen Ware-Barrett, Clerk of the Council

RE: ORDINANCE NO. 89-319, AN ORDINANCE ESTABLISHING A PLAN FOR THE FINANCING FROM TIME TO TIME OF VARIOUS COMPONENTS OF THE METROPOLITAN SERVICE DISTRICT'S SOLID AND LIQUID WASTE DISPOSAL SYSTEM; AUTHORIZING THE ISSUANCE OF ONE OR MORE SERIES OF REVENUE BONDS FOR SUCH PURPOSE UNDER THE PROVISIONS OF SUPPLEMENTAL ORDINANCES ADOPTED HERETO; AND ESTABLISHING AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH

Attached is Appendix A to Ordinance No. 89-319. The full document has been previously distributed to Councilors. The Finance Committee will consider Ordinance No. 89-319 at their meeting November 15, 1989. The Committee report will be distributed to Councilors on Monday, November 20, 1989; others wanting copies of the report or full ordinance should contact the Council Clerk at 221-1646, ext. 206.

GWB:aeb
Attachment

C:\89-319.MEM