

Attachment C-1 (ARRA)

BOND PURCHASE AND PROJECT LOAN AGREEMENT

(Metropolitan Council)

(American Recovery & Reinvestment Act of 2009)

No. 2009

MPFA-08-0098-R-FY10

ARRA-09-0098-R-FY10

THIS BOND PURCHASE AND PROJECT LOAN AGREEMENT, made as of the ____ day of _____, 2009 (this "Agreement"), between the Minnesota Public Facilities Authority (the "Authority") and the Metropolitan Council, 390 North Robert Street, St. Paul, Minnesota 55101 (the "Council"):

1. Subject to the conditions hereinafter set forth, the Authority hereby commits to total project finance of \$38,785,000 to the Council for the purpose of funding the wastewater treatment projects described on **Exhibit A** hereto. These projects are, to the extent financed by such proceeds, herein collectively called the "Project". The Council hereby agrees to accept this Project financing and, with respect to the Loan (hereinafter defined), agrees to deliver its general obligation note to the Authority in the form adopted pursuant to Council Resolution, as set forth in **Exhibit C** hereto. The Project financing consists of :

- (i) Principal Forgiveness (the "Principal Forgiveness") granted under the provisions of the federal American Recovery and Reinvestment Act of 2009 ("ARRA"), which is not required to be repaid except as otherwise provided in Section 13 of this Agreement. The total amount of the Principal Forgiveness is determined as follows:
 - a. Base amount: \$6,000,000
 - b. Green Infrastructure amount based on the components of the Project determined by the Minnesota Pollution Control Agency (the "MPCA") to address green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities: \$2,196,250
- (ii) A loan from the Clean Water Revolving Fund (as defined in Minnesota Statutes Chapter 446A, herein referred to as the "Act") in the amount of \$30,588,750 (the "Loan") which shall be evidenced by the note described in Section 3 of this Agreement. The final maturity date of the Loan will be August 20, 2029. The aggregate principal amount of the Loan disbursed and outstanding will bear interest and servicing fees collectively at the rate per annum and for the period described in Section 2 of this Agreement.

2. The Loan will be disbursed on a cost reimbursement basis consistent with the estimates provided to the Authority by the Council in connection with the loan application, or any amendment thereto approved by the Authority, but not in violation of any provisions of applicable federal and state regulations. Such disbursement shall be made within thirty (30) days

of a request therefor made by the Council in the form required by the Authority from time to time unless within the thirty (30) day period the Authority has determined to withhold the disbursement and has notified the Council in writing of the basis for its determination. In the event that the Council notifies the Authority that less than the entire principal amount specified in Section 1 above is to be disbursed for Project cost reimbursement, the balance of the amounts undisbursed shall be applied to the principal repayments on this Loan and the payments set forth in **Exhibit B** will be reamortized.

The terms, conditions, assurances, and timing of disbursements of the Loan shall be in accordance with Minnesota Rules, pts. 7380.0400 to 7380.0480. Payment requests shall be reviewed and approved by the Authority.

If any expenditures on the Project have been incurred and paid by the Council and the Authority withholds disbursements with respect to such expenditures for more than sixty (60) days after submission of the request therefor, the Council may elect to secure alternative financing for the balance of the costs which were otherwise to be paid from the proceeds of the Loan and direct the application of an equivalent amount of the proceeds of the Loan held by the Authority to be applied towards payment or prepayment of the Loan under the circumstances permitted under Section 4 hereof; provided that there shall have been delivered to the Authority an opinion of nationally recognized bond counsel to the effect that such actions would not of themselves adversely affect the tax exempt status of the Authority's Clean Water Revenue Bonds issued from time to time, whether or not used to fund any loan to the Council. The Authority's bonds or notes (whether taxable or tax-exempt) issued to fund loans or other financial assistance from its Clean Water Revolving Fund are herein referred to as the "Authority Bonds".

The Council acknowledges that the Authority may use different sources of funding for all, or a portion of, each disbursement of the Loan, including federal capitalization grants, federal ARRA capitalization grants, state match funds, the proceeds of taxable or tax-exempt Authority Bonds and other available funds of the Authority and that the Authority may pledge payments on the Note to the payment of Authority Bonds. The Authority reserves the right to reallocate such sources of funds from time to time. The source of funding for the Principal Forgiveness is federal ARRA capitalization grants.

The principal amount of the Loan will be repaid in the amounts and on the dates set forth in the schedule set forth in **Exhibit B** hereto (notwithstanding the rate of disbursement of the proceeds of the Loan), subject to adjustment as set forth in Section 4 below, together with interest and service fees collectively at the rate of interest equal to two and four hundred forty nine thousandths percent (2.449%) per annum for the period starting on the date of this Agreement, through the date upon which no principal remains unpaid. Interest on the Loan is payable on each February 20 and August 20, provided, however, that interest and service fees shall accrue only on the aggregate principal amount of the Loan disbursed; and provided further that the Authority shall be entitled to retain for its purposes any investment earnings on undisbursed funds and shall not be obligated to credit against any required repayment of principal or payment of interest and service fees any interest earnings on undisbursed funds.

3. The Council shall issue its general obligation promissory note (the "Note") to the Authority, evidencing its obligation to repay the Loan. The Council shall attach to this agreement

as **Exhibit C** hereto a certified copy of resolutions or other authority by the appropriate governing body or bodies, as shall legally authorize the execution of this agreement and the Note on behalf of the Council. For purposes of permitting issuance of the Note, the Authority represents that it is a "board, department or agency" of the State of Minnesota within the meaning of Minnesota Statutes, Section 475.60, subd. 2, clause (4).

4. This Loan may not be prepaid except as agreed to in writing by the Authority and the Council specifying the terms and conditions of such prepayment.

No prepayment of this Loan may be made unless the Authority shall have received an opinion of its bond counsel that the prepayment will not cause the interest on any tax-exempt Authority Bonds to become includable in gross income for federal tax purposes.

To the extent that the source of such prepayment is an issue of bonds by the Council, and to the extent that the requirements of this Section are otherwise met, the Council agrees that, if as a result of such prepayment the Council realizes debt service savings on a present value basis (using the yield on such Council refunding bonds as the discount rate) after deducting administrative, legal and other costs of issuing, carrying and repaying the refunding bonds (but not taking into account for such purpose costs which the Council would have been required to pay without regard to the refunding) and after deducting any required rebate amounts and lost investment income from a lower yield restriction on invested funds pursuant to the Internal Revenue Code of 1986, as amended, and the regulations (the "Treasury Regulations") promulgated thereunder (collectively, the "Code"), the Council shall pay to the Authority fifty percent of the net present value savings as a prepayment fee.

5. In the event and to the extent that (i) the Authority issues Authority Bonds, the proceeds of which are used to refund the Authority Bonds, if any, used to finance or refinance (and still allocated to) all or a portion of the Loan outstanding at the time of issuance of the refunding Authority Bonds, and (ii) as a result of such refunding the Authority realizes debt service savings on a present value basis (using the yield on the refunding obligations as the discount rate) after deducting administrative, legal, and other costs of issuing, carrying and repaying the refunding bonds or the refunded bonds (but not taking into account for such purpose costs which the Authority would have been required to pay without regard to the refunding) and after deducting any required rebate amounts and lost investment income resulting from a lower yield restriction on invested funds pursuant to the Code, certain payments required to be made by the Council pursuant to the terms of the Note shall be reduced such that the Council shall receive the benefit of fifty percent of that portion of such realized net present value savings which is allocable to that portion of then outstanding Authority Bonds actually used to fund a portion of the Note (but only to the extent the Note is then outstanding), or such larger percentage of such savings as the Authority may determine in its sole discretion. Lost investment income referred to above shall not include the difference between the actual investment income on any escrow established to advance refund the refunded bonds and the maximum investment income permitted for such escrow pursuant to the Code if such actual investment income is less than the maximum permitted and such difference otherwise had been taken into account in calculating debt service savings. If so requested by the Council, then within sixty (60) days of the later of the receipt of such request or the issuance of such refunding bonds, and prior to the reduction of payments on the Note as described above, the Authority shall provide the data, computations and

supporting reports, if any, used by the Authority in calculating net present value savings and allocating such savings, as applicable, to proposed payment reductions on the Note.

6. The Authority's commitment to make the Loan as set forth in this Loan Agreement is subject to the availability of funds to the Authority from the sources contemplated by the Authority to fund draws on the Loan by the Council.

7. The Council agrees to use the proceeds of the Loan exclusively for the eligible costs of construction of the Project, including to the extent permitted by law any professional costs incurred by the Council in securing the Loan, all in accordance with the disbursement procedures described in Section 1 or to retire debt previously incurred for the construction of the Project (subject to the provisions of Section 9(f) hereof).

8. The Council acknowledges that the Authority may apply up to 2% of any Loan repayment to payment of its administrative costs or administrative costs of the Minnesota Pollution Control Agency, provided that such application shall not increase the amount of any repayments or extend the period of repayment. The Authority waives any rights it may have as of the date of this agreement to assess separate fees with respect to the Project arising under existing law, including Minnesota Rules, pt. 7380.0460.

9. The Council agrees to cooperate with the Authority as necessary to maintain the tax exempt status of tax-exempt Authority Bonds or obtain and thereafter maintain tax exempt status on such Authority Bonds. The Council specifically agrees:

(a) Investments. Subject to the provisions of Subsection 9(g) below, any sums from time to time held by or under the control of the Council which would constitute "gross proceeds" of the Note or any tax-exempt Authority Bonds ("Gross Proceeds"), as defined in Treasury Regulations § 1.148-1(b), shall not be invested at a yield in excess of the applicable yield restrictions imposed by said arbitrage regulations on such investments. In addition, said Gross Proceeds shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Note or any Authority Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

(b) Covenant as to Use and Payment. The Council hereby covenants that, except as described on Exhibit D hereto, the proceeds of the Note will not be used in a "private business use" (as used in the Code), that the Note will not be secured by property used in a trade or business ("private security"), and that repayments of the Note will not payable from, or derived from, payments related to property used in a trade or business ("private payment"). If and to the extent the Council desires to have any such private use, security, or payment not set forth in Exhibit D, it shall notify the Authority and request a specific amendment to Exhibit D to include such private use, security, or payment. The Authority agrees to consider such request for its consent to the amendment in good faith upon reasonable criteria. If the Council desires to take a deliberate action to have any such private use of the Project and remedial action is then available under the Code which would allow such private use subsequent to taking the remedial action without

causing any interest on the Note or any of the Authority's Bonds to be included in gross income of the owner thereof for federal income tax purposes, the Council shall notify the Authority of such proposed private use and the proposed remedial action and shall provide the Authority a written opinion of nationally recognized bond counsel, selected by the Council and acceptable to the Authority, to the effect that upon taking of the remedial action, the subsequent deliberate action resulting in a private use of the Project will not cause the interest on the Note or any of the tax-exempt Authority Bonds to be included in gross income for federal income tax purposes. Upon receipt by the Authority of evidence satisfactory to the Authority that such remedial action has been taken by the Council and that such subsequent deliberate action did not cause the interest on the Note or any of the tax-exempt Authority Bonds to be included in gross income for federal tax purposes, such private use shall not cause a default under this Section 9(b).

(c) Tax-Exempt Status of the Note and Authority Bonds: Rebate. With respect to any Gross Proceeds and subject to the provisions of Subsection 9(g) below, the Council shall comply with requirements necessary under the Code to establish and maintain the exclusion from gross income under Section 103 of the Code of the interest on the Note and the tax-exempt Authority Bonds, if any, used to finance the Note, including without limitation requirements relating to temporary periods for investments, limitations on amounts invested at a yield greater than the yield on the Note or such Authority Bonds, as the case may be, and the payment of yield reduction amounts and the rebate of excess investment earnings to the United States.

(d) Capital Expenditures. The Council shall not directly or indirectly use or permit the use of any proceeds of any Authority Bonds used to fund the Note to pay any cost of the Project which does not constitute a "capital expenditure" within the meaning of Treasury Regulations § 1.150-1 (or successor regulations), except for those expenditures described in Treasury Regulations § 1.148-6(d)(3)(ii), provided that with respect to costs set forth in Treasury Regulations § 1.148-6(d)(3)(ii)(5), the Council agrees that the 5% limit shall be based upon the sale proceeds of this Agreement.

(e) Expected Economic Life. The weighted average maturity of the Note does not exceed 120% of the average reasonably expected economic life of the Project financed or refinanced with the Note, determined in the same manner as under Section 147(b) of the Code. Accordingly, the term of the Note will not be longer than is reasonably necessary for the governmental purposes of the Note within the meaning of Treasury Regulations § 1.148-1(c)(4).

(f) Reimbursement; Refinancing. The Council shall not directly or indirectly use or permit the use of any proceeds of the Note to reimburse the Council for an expenditure with respect to a cost of the Project paid by the Council prior to the issuance of the Note and the Authority Bonds, if any, used to fund a portion of the Note unless (A) the allocation by the Council of proceeds of the Note to reimburse such expenditure complies with the requirements of Treasury Regulations Section 1.150-2 (or successor provisions) if and as necessary to enable the reimbursement allocation to be treated as an expenditure of proceeds of the Note and such Authority Bonds for purposes of applying Sections 103 and 141-150 of the Code; or (B) such proceeds of the Note will be used for

"refinancing of indebtedness" which was used to pay costs of the Project, or to reimburse the Council prior to the issuance of such indebtedness in accordance with a reimbursement allocation for such expenditures which complies with the requirements of Treasury Regulations Section 1.150-2 (or successor regulations).

(g) Funding Information; Investment Instructions. At the request of the Council, the Authority agrees to provide information with respect to the sources of funding for the Loan, from time to time, in such detail as may be reasonably required for the purpose of assisting the Council in complying with any of the provisions of this Section; and the Council may rely on said information. Notwithstanding any opinions otherwise obtained by the Council, the Council shall be entitled to rely on any opinions rendered by bond counsel to the Authority or any instructions of the Authority with respect to maintaining or establishing the tax-exempt nature of the tax-exempt Authority Bonds. The Council agrees to follow such instructions (including record keeping) and make yield reduction payments and rebate payments to the Authority at the times and in the manner set forth in such instructions.

10. (a) Within the earlier of (i) three hundred sixty-five (365) days after each December 31; or (ii) thirty (30) days after such financial statements have been prepared in final form, audited and made available to the public, the Council agrees to provide to the Authority its annual financial statements for the preceding calendar year, which financial statements shall be audited. The audits must be performed in compliance with the single audit act requirements of the federal Office of Management and Budget, Circular A-133.

(b) The Council agrees to provide to the Authority such information with respect to the Council, its duties, operations and functions as may be reasonably requested from time to time by the Authority in connection with the preparation of its official statements, secondary market continuing disclosure and/or the remarketing of variable rate or other Authority Bonds and, subject to the provisions in (c) below, hereby consents to the inclusion of such information, in whole or part, (1) in the Authority's official statement used in connection with the issuance of the Authority Bonds, if any, the proceeds of which are to be used to fund the Authority loan to the Council; (2) secondary market continuing disclosure annual reports, event notices or supplemental information relating to Authority Bonds; and (3) in the Authority's official statements or other materials used in connection with issuance and sale or the remarketing of other Authority Bonds, whether or not all or a portion of the proceeds thereof will be loaned to the Council.

(c) At the request of the Authority, the Council will certify and represent that the information furnished in writing to the Authority in response to the request by the Authority pursuant to (b) above is true, correct and complete in all material respects for the purpose of evaluating the creditworthiness of the Council (as if the Note were a publicly offered general obligation bond of the Council); provided, however, that in no event shall the Council be required to make any representation, nor shall the furnishing of any information requested by the Authority and the consent to its use in such official statements give rise to any implied representation of the Council (i) about any other

information in such official statements or as to any such official statements in their entirety; or (ii) as to what extent, if any, the information furnished by the Council should be included in such official statements in order that such official statements in their entirety not be materially misleading; and provided further that the Council may condition its consent to the use of such information about the Council on such changes being made to the official statements as the Council may reasonably require. If for any reason the Council determines that it shall not be able to make such certification and representation, it will provide such information as is necessary for it to make such certification and representation and will, subject to the foregoing, consent to the inclusion of such information, in whole or part, in such official statements.

(d) If at any time during the period ending ninety (90) days after the date of an Authority official statement (as certified by the Authority to the Council) any event occurs which the Council believes would cause the information furnished to the Authority for the limited purposes set forth in (c) above to be untrue, incorrect or incomplete in any material respect, the Council shall, subject to the provisions in (c) above, promptly notify the Authority in writing about the event and furnish a consent to the inclusion, in whole or part, of information furnished by the Council about the event in the official statement, an amendment thereof or a supplement thereto. At the request of the Authority, the Council will also provide the certification and representation required in (c) above with respect to such information.

(e) The Council will furnish such information, execute such instruments and take such other action in cooperation with the underwriters of the Authority's Bonds as such underwriters may from time to time reasonably request in order (i) to qualify, and maintain the qualification of, any Authority Bonds for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions of the United States as such underwriters may designate; and (ii) to determine the eligibility of any Authority Bonds for investment under the laws of such states and other jurisdictions.

(f) The Council will provide such information as may be reasonably requested by any rating agency in connection with rating the Authority Bonds.

(g) The Council agrees to provide to the Authority such information for secondary market disclosure with respect to the Council, its duties, operations, functions and financial condition as may be required in the future by the Securities and Exchange Commission, or similar regulatory body with respect to the Authority's Bonds.

11. For all expenditures of funds made pursuant to this agreement, Council shall keep, or cause to be kept, for a minimum of six (6) years from the date of the expenditure, financial accounts and records in accordance with Generally Accepted Accounting Principles (GAAP). These accounts and records shall include invoices, contracts, receipts, vouchers, and other documents sufficient to evidence the nature and propriety of the expenditure. Such accounts and records shall be accessible and available, unless privileged and not otherwise required to be accessible under any State of Minnesota law, to the extent permitted by law, to authorized representatives of the Authority, the State of Minnesota, the Department of Employment and

Economic Development, the Legislative Auditor, and the State Auditor's Office, for purposes of examination and audit.

12. The Council shall meet all requirements in the loan application submitted by the Council to the Authority as to compliance with federal and state laws, rules and regulations and shall include in any contract or subcontract related to the Project, in addition to the provisions to define a sound and complete agreement, such provisions as to require contractor and subcontractor compliance with applicable state and federal laws. The requirements in such loan application are hereby incorporated by reference.

The Council agrees to comply with all ARRA requirements applicable to the Project, including wage, construction and reporting requirements. The Council acknowledges and agrees that the Project in its entirety is subject to ARRA requirements. If the Council determines that it has failed to comply with any applicable ARRA requirement, it shall promptly notify the Authority in writing of the failure and the status of the noncompliance, and any plans of the Council then proposed to rectify the noncompliance.

The Borrower represents that all construction contracts for the Project will be entered into by the Borrower by _____, and that the notice to proceed will be issued no later than _____. The Borrower agrees to proceed with due diligence to complete the Project, which the Borrower estimates to occur by _____, subject to events beyond the control of the Borrower.

13. (a) General. If there has been a failure to comply with the provisions of this Agreement, the Authority may exercise any remedies available at law or in equity; provided that in no event shall the Authority be entitled to accelerate or otherwise require that the Council prepay, in whole or part, the Loan or require that the Council return all or any part of the Loan funds disbursed except and to the extent, if any, the Authority shall be entitled under law or equity to recover all or a portion of any funds used for a purpose for which they were not disbursed.

(b) Repayment of Principal Forgiveness. (a) If the Council fails to enter into all construction contracts for the Project or fails to commence construction of the Project by the respective dates set forth in Section 12 of this Agreement, then the Council must repay the Principal Forgiveness from legally available funds and appropriations upon demand by the Authority. If the Council otherwise fails to comply with Sections 12 or 31 of this Agreement, and such failure continues for 90 days after written notification thereof from the Authority, then the Council must repay the Principal Forgiveness upon demand by the Authority.

14. Any amendment to this Agreement shall be in writing, and shall be executed by either the same persons who executed the original agreement, by their successors in office, or by those persons authorized to do so by the Council through a formal resolution of its governing body.

15. The Council hereby certifies that its Minnesota and federal tax identification numbers are as follows:

Minnesota Tax ID	8034628
Federal Employer ID	41-6008898

16. The references to Minnesota Rules in Sections 2, 8, and 24 hereof shall be to such rules in effect at the time of execution hereof, regardless of any subsequent change in citation thereto. This provision shall not be construed as affecting, and shall not affect, the applicability of amendments of such Minnesota Rules apart from their incorporation in this Agreement.

17. The obligations of the Council under this Agreement (except the obligations set forth in Sections 9 and 10 hereof) shall terminate as soon as the Loan is fully paid and retired in accordance with this Agreement.

18. The following exhibits are attached hereto and constitute a part of this agreement:

Exhibit A	List of Projects
Exhibit B	Loan Repayment Schedule
Exhibit C	Council Resolutions
Exhibit D	Disclosure of Private Business Use or Security and Payment

19. In addition to any notice required under applicable law to be given in another manner, any notices required hereunder must be in writing, and shall be sufficient if personally served or sent by prepaid, registered, or certified mail (return receipt requested), to the address of the party to whom it is directed. Such address shall be that address specified below or such different address as may hereafter be specified, by either party by written notice to the other:

In the case of the Authority:

Minnesota Public Facilities Authority
332 Minnesota Street, Suite E200
St. Paul, MN 55101-1351
Attention: Executive Director

In the case of the Borrower:

Metropolitan Council
390 North Robert Street
St. Paul, MN 55101
Attention: Chief Financial Officer

20. As bids or proposals for the Project have been received, opened and accepted, the Council shall provide copies of the contracts when executed to the Authority upon request.

21. The Council shall not enter into any sale, lease, transfer or otherwise dispose of, or any management or service contract regarding, any part of the Project if such action would (i) violate the covenants set forth in Section 9 hereof; or (ii) violate the conditions under which any capitalization grants in connection with the Project were furnished by the United States Environmental Protection Agency as set forth in Sections 601(a) and 603(c) of the Clean Water Act; or (iii) otherwise violate any terms or conditions of this Agreement.

22. The Council shall maintain adequate property insurance coverage for the Project. The Council may substitute adequate, actuarially sound self-insurance or risk retention programs for property insurance coverage, upon written notice to the Authority, if the Project would continue to be eligible for funding from Loan Proceeds under applicable laws and state, Authority and federal regulations.

23. The Council shall continue to impose and collect such rates and charges (including costs allocated by the Council to local governments) according to an approved sewer service charge system, as provided by law, so that there are sufficient gross revenues available for the payment of the operation and maintenance of the Project.

24. The Council agrees that it will complete the Project work, for which assistance has been awarded under this Agreement, in a timely manner in accordance with all applicable provisions of Minnesota Rules, pts. 7077.0100 to 7077.0292 and plans and specifications approved by PCA. For purposes of this paragraph, the Authority agrees that if the Commissioner of the PCA should ever determine that the Project does not meet the project performance standards identified in the appropriate permit, then the requirements of Minnesota Rules, pt. 7077.0288, Subpt. 3 shall be deemed satisfied by any stipulation agreement or consent decree entered into between the Council and PCA in connection therewith.

25. The Council will submit a U.S. Environmental Protection Agency Form 5700-52A to the Authority within twenty (20) days of the end of each calendar quarter, until the Project is complete, reporting any prime contracts or subcontracts awarded during the quarter and designating which were awarded to Minority or Woman Business Enterprises (MBE/WBE).

26. The Council agrees to exert all reasonable efforts to investigate claims which the Council may have against third parties with respect to the planning, design and construction of the Project and, in appropriate circumstances, take whatever action, which may include legal action, the Council reasonably determines to be appropriate.

27. The Council acknowledges that nothing in this Agreement shall be deemed to relieve the Council of any responsibility it may have to design and construct the Project regardless of the availability of additional Loan funds.

28. With respect to the Project, the Council agrees to comply with the state labor wage provisions (Minnesota Statutes, Sections 177.41 to 177.43).

29. With respect to the Project, the Council agrees to comply with the surety deposit requirements for construction contracts (Minnesota Statutes, Section 290.9705).

30. The Authority represents that it may use proceeds of state match grants from the State of Minnesota to fund all or a portion of the Loan, which grants for state law purposes may be deemed to be proceeds of general obligation bonds of the State of Minnesota. The Authority and the Council agree that such proceeds shall only fund that part of the Loan to be made to reimburse the Council for costs incurred with respect to the Council's Blue Lake Plant Improvement Projects listed in **Exhibit A** attached hereto (collectively the "Match Funded Projects"). To the extent required to comply with Minnesota Statutes, Section 16A.695 (Laws of 1994, Chapter 643, Section 36, and any amendment thereto) ("Section 16A.695") and, to the extent required by law, the order of the Commissioner (the "Commissioner") of the Department of Management and Budget of the State of Minnesota (the "Order") promulgated in connection with Section 16A.695 on July 14, 1994, as amended from time to time, the Council agrees that: (i) any lease or management contract entered into by the Council with respect to property constituting all or a part of the Match Funded Projects shall be for the express purpose of

carrying out a governmental program established or authorized by law and established by official action of the Council and the Council shall obtain the prior written consent of the Commissioner; (ii) any such lease or management contract, including any renewals that are solely at the option of the lessee or manager, must be for a term substantially less than the useful life of the property subject to such lease or management contract, but may allow renewal beyond that term upon determination by the Council that the use continues to carry out the governmental program; (iii) any such lease or management contract will be terminable by the Council if the other contracting party defaults under the contract, or if the governmental program is terminated or changed and will provide for program oversight by the Council; (iv) the Council will not sell any property constituting all or a part of the Match Funded Projects unless the Council determines by official action that such property is no longer usable or needed by the Council to carry out the governmental program for which it was acquired or constructed; (v) any such sale must be made as authorized by law for fair market value as defined in Section 16A.695 and the Council shall obtain the prior written consent of the Commissioner; and (vi) prior to the Authority disbursing funds to the Council for the Match Funded Projects, the Council shall file a Declaration and provide an executed Declaration (substantially in the form set forth in Exhibit E hereto) to the Authority that identifies the real property constituting the Match Funded Projects as State Bond Financed Property, as such term is used in the Order of the Commissioner.

31. Pursuant to Subtitle A of the ARRA, the “Transparency and Oversight Requirements”, the Council will provide requested reporting information on forms prescribed by the Authority.

Pursuant to Section 1605 of the ARRA, “Use of American Iron, Steel and Manufactured Goods”, the Council will require the use of American iron, steel, and manufactured goods in the Project unless a waiver is granted from the federal EPA.

In addition to the prevailing wage requirements under paragraph 28, pursuant to Section 1606 of the ARRA, “Wage Rate Requirements”, the Council will require that all laborers and mechanics employed by contractors and subcontractors on the Project be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.

The Council will post a sign at the Project site during the construction phase that includes the ARRA logo to inform the public that the Project is an ARRA investment.

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the Authority and the Council acknowledge their assent to this Agreement and agree to be bound by its terms through their signatures entered below. This Agreement is effective upon execution by the parties hereto as set forth below.

Minnesota Public Facilities Authority

By: _____

Title: _____

Date: _____

ENCUMBERED

Department of Employment and Economic
Development

By: _____

Title: _____

Date Encumbered: _____

[Individual signing certifies that funds have been
encumbered as required by Minnesota Statute 16A]

Metropolitan Council

By: _____

Title: _____

Date: _____

EXHIBIT A

**List of Projects
(as of the date of this Agreement)**

<u>MCES Project #</u>	<u>Facility</u>	<u>Project</u>	<u>IUP Project #</u>	<u>Project Phase Certified for PFA Funding</u>	<u>ARRA Principal Forgiveness Project Financing</u>	<u>Clean Water Revolving Fund Loan</u>
802812	Blue Lake Interceptor System Improvements	VSB-L22 and L23 Tunneling	279356-08	Construction	2,000,000	8,000,000
801830	Blue Lake Plant Improvements	Liquids Phase I (Green)	279341-08	Construction	2,000,000	6,000,000
801840	Blue Lake Plant Improvements	Solids improvements, energy recovery	279341-09	Construction	2,000,000	8,000,000
805930	MWWTP Rehab & Facilities Improvements	Tunnel Lighting Energy Reduction (Green)	279435-03	Construction	196,250	588,750
8027	South St. Paul Forcemain Improvements	Forcemain Improvements Phase Ia	279386-03	Construction	2,000,000	8,000,000
				Total	8,196,250	30,588,750

Total Project Financing : \$38,785,000

NOTE: The ARRA requirements apply only to the projects listed under the project column. The ARRA requirements will not apply to other projects that are implemented by the Council at these facilities.

EXHIBIT B

Loan Repayment Schedule

<u>Date</u>	<u>Principal Repayments Due</u>
August 20, 2010	\$ 383,750.00
August 20, 2011	1,910,000.00
August 20, 2012	1,815,000.00
August 20, 2013	1,340,000.00
August 20, 2014	1,530,000.00
August 20, 2015	95,000.00
August 20, 2016	95,000.00
August 20, 2017	765,000.00
August 20, 2018	2,100,000.00
August 20, 2019	2,675,000.00
August 20, 2020	2,485,000.00
August 20, 2021	955,000.00
August 20, 2022	1,340,000.00
August 20, 2023	2,295,000.00
August 20, 2024	3,540,000.00
August 20, 2025	1,815,000.00
August 20, 2026	2,200,000.00
August 20, 2027	955,000.00
August 20, 2028	860,000.00
August 20, 2029	1,435,000.00
	<hr/>
Total\$	<u>30,588,750.00</u>

EXHIBIT C
Council Resolutions

EXHIBIT D

**Disclosure of Private Activity Use,
Security and Payment**

NONE

EXHIBIT E

FOR USE BY FILING OFFICER ONLY

**Minnesota Public Facilities Authority
REAL PROPERTY DECLARATION**

Metropolitan Council

The undersigned, as owner of fee title to the real property legally described on Exhibit A, which is attached hereto and made a part hereof ("Property"), hereby declares as follows:

- (i) The Property has been acquired or bettered, in whole or in part, with funds appropriated to the Minnesota Public Facilities Authority from State general obligation bond proceeds, the receipt of which is evidenced by the Project Agreement between the Minnesota Public Facilities Authority and the undersigned for Agreement No. (MPFA-08-0098-R-FY10 or ARRA-09-0098-R-FY10); dated «Approval Date»;
- (ii) The Property is bond financed property within the meaning of Minnesota Statutes Section 16A.695;
- (iii) The title to the Property is subject to the encumbrance created and requirements imposed by Minnesota Statutes Section 16A.695, and cannot be sold or otherwise disposed of by the public officer or agency which has jurisdiction over it or owns it without the approval of the Minnesota Commissioner of Management and Budget, which approval must be evidenced by a written statement signed by the Commissioner of Management and Budget and attached to the deed or instrument used to sell or otherwise dispose of the Property; and
- (iv) The title to the Property shall remain bond financed property within the meaning of Minnesota Statutes Section 16A.695, and subject to the restrictions imposed by such statute until (i) such restriction have been fully complied with as evidenced by a written approval from the Minnesota Commissioner of Management and Budget, or (ii) a written release, releasing the Property from such restrictions, signed by the Minnesota Commissioner of Management and Budget, is recorded in the real estate records relating to the Property.

Dated: _____, 2009 _____

By: _____

Its: _____

And: _____

Its: _____

Exhibit A
to
Minnesota Public Facilities Authority
Real Property Declaration

LEGAL DESCRIPTION