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PURCHASE OF SURPLUS WATER

This Agreement is between the City of Veneta, a municipal corporation of the State of Oregon, herein called "Veneta" and the City of Eugene, a municipal corporation of the State of Oregon, acting by and through the Eugene Water & Electric Board, herein called "EWEB."

RECITALS

WHEREAS, Veneta is a municipal corporation organized under the laws of the State of Oregon and EWEB is the municipal utility of the City of Eugene established by Chapter 10, Section 44, of the Charter of the City of Eugene; and

WHEREAS, the Charter of the City of Eugene grants EWEB authority to operate a water utility with all powers of the Constitution and laws of the United States or of Oregon which expressly or impliedly grant and allow cities these powers as fully as if this Charter specifically stated each of these powers; and

WHEREAS, EWEB is entering into this Agreement as a wholesale sale of water to a municipal water utility, not provision of "water service" to retail customers and EWEB does not undertake to "extend" retail water service to customers. Rather, there is delivery to the City of Veneta of wholesale water at a point of delivery; and

WHEREAS, EWEB has determined that it is in the best interest of EWEB Customers within the City of Eugene to enter into agreements for the sale of surplus water by spreading and dividing the fixed overhead of the system over a wider rate base allowing a greater likelihood of water supply at less cost and of a higher quality than would otherwise be possible; and

WHEREAS, it is in the best interest of EWEB to put permitted water to beneficial use in order to help assure water availability for the citizens of Eugene in future years; and

WHEREAS, EWEB has surplus water available in its municipal water system and is now selling and contemplates that it will hereafter sell and dispose of such surplus water to water utilities outside the boundaries of the City of Eugene; and

WHEREAS, Veneta also owns, operates and maintains a municipal water system providing service to its citizens and desires to purchase surplus water from EWEB to obtain a reliable and redundant water supply; and

WHEREAS, Veneta also maintains water supply production capability for its municipal water system that is now and hereafter capable of supplying the basic needs of its system in the event the water supply from EWEB is interrupted; and

WHEREAS, EWEB and Veneta agree to maintain consistent Water Curtailment Plans to ensure that water is available to meet public health and safety needs during drought or emergency conditions; and

WHEREAS, it is also recognized that EWEB, in participation with metropolitan area water utilities (Springfield Utility Board and Rainbow Water District), may enter into a

metropolitan wide curtailment effort in order to assist when practicable in responding to emergencies. The response to such emergencies is outlined in an Intergovernmental Agreement signed by the three utilities. All EWEB Customers are expected to respond to such emergencies; and

WHEREAS, EWEB and Veneta recognize the importance of close cooperation for planning and coordinating a reliable and redundant water supply to all Customers and support regional efforts to plan the long-term viability of maintaining these supplies for the collective benefits of the Lane County community; and

WHEREAS, EWEB and Veneta agree that by agreement they can cooperatively achieve water resource management and environmental stewardship, infrastructure improvement for reliability and redundancy and water quality optimization for meeting regulatory requirements; and

WHEREAS, EWEB and Veneta desire to maintain an active water conservation program that results in wise, efficient use of water in a manner that is consistent with the requirements of the State and Federal Governments; and

WHEREAS, ORS 190.030 to 190.110 authorize units of local government to enter into intergovernmental agreements for the performance of duties or the exercise of powers conferred upon them, and being fully advised.

NOW, THEREFORE, in consideration of the mutual covenants of EWEB and Veneta, it is agreed as follows:

ARTICLE I – DEFINITIONS

- 1.1 Agreement means this Agreement.
- 1.2 Calendar Year is EWEB's fiscal year (January 1 to December 31).
- 1.3 Capital Costs equals the sum of depreciated cost of capital installed prior to this contract as well as newly installed or maintained capital facilities. Only those proportionate capital costs that benefit Veneta will be included in the calculation of the rate.
- 1.4 Customer for purposes of this Agreement will include retail purchasers within EWEB's Direct Service Territory, wholesale purchasers such as the City of Veneta and other users who are provided with Surplus Water upon the effective date of this Agreement. Customer may also be referred to as:
 - 1.4.1 EWEB Customers are those customers now or hereafter within the Direct Service Territory of EWEB.
 - 1.4.2 Other Customers are those municipal utility entities or users who now or hereafter have surplus or firm surplus water purchase agreements with EWEB for water.

- 1.5 Curtailment Plan is a written plan developed for curtailment of water delivery in accordance with the provisions of the Agreement and OAR Chapter 690, Division 86.
- 1.6 Direct Service Territory is the area within the boundaries of EWEB where EWEB provides water service to a retail customer and the area within the boundaries of Veneta where Veneta provides water service to retail customers.
- 1.7 EWEB is the Eugene Water & Electric Board, a municipal utility organized and operating under the authority of the Eugene City Charter and ORS Chapter 225.
- 1.8 OAR are the Oregon Administrative Rules.
- 1.9 Operations and Maintenance Costs are the costs budgeted by EWEB to operate and maintain the Water System. These costs include overhead costs of EWEB allocated to its water operations. These costs do not include expenditures included as Capital Costs.
- 1.10 ORS are the Oregon Revised Statutes.
- 1.11 Party or Parties are the entities who are signatories to this Agreement.
- 1.12 Point of Delivery is where the EWEB Water System connects to the Veneta water delivery pipeline at a water meter(s) used to measure delivery quantity (volume over time). The Point of Delivery is within the city limits and urban growth boundary of the City of Eugene.
- 1.13 Surplus Water is the provision of water in excess of the needs of EWEB retail customers and other contracts for firm Surplus Water by EWEB to Veneta whereby Veneta will receive a supply of water (quantity and quality) on equitable terms and conditions, but such supply is interruptible under conditions beyond EWEB's reasonable control, or pursuant to provisions of this agreement.
- 1.14 Veneta is the City of Veneta, an Oregon municipal corporation.
- 1.15 Water Managers Committee (WMC) is a group that consists of two members from EWEB and one from each purchaser of water from EWEB and who choose to participate. The purpose of the WMC is to meet regularly to communicate regarding the Water System.
- 1.16 Water Revenue Requirements is the sum of Capital Costs and Operations and Maintenance Costs incurred by EWEB for the fiscal year.
- 1.17 Water Rights mean storage, surface water, or ground water registrations, permits or certificates, now or hereafter existing, of EWEB.
- 1.18 Water System is defined as the facilities and assets utilized by EWEB consisting of Water Rights, raw water intakes, pumping and piping, water treatment plant facilities, transmission facilities, reservoirs and other assets and facilities necessary for treatment and conveyance of potable water to the Parties now or hereafter existing.

ARTICLE II- WATER SUPPLY

- 2.1 Subject to the terms and conditions contained herein, EWEB agrees to furnish and sell and Veneta agrees to purchase Surplus Water for the life of this Agreement. Specifically, Veneta shall not be obligated to perform hereunder unless it obtains satisfactory funding commitments for construction of the improvements described in Section 2.2. Similarly, EWEB is not obligated hereunder until it obtains validation of this Agreement. Veneta may obtain water from the EWEB Water System at a point approved by EWEB in mutual aid or emergency circumstances. Quantities requested for this purpose by Veneta shall be subject to approval by EWEB.
- 2.2 The Parties agree this Surplus Water Purchase Agreement obligates Veneta to purchase from EWEB an estimated 150 million gallons per year to serve its customers. Veneta agrees to purchase a minimum of 8 million gallons per month. Veneta will construct a transmission line and other necessary improvements to deliver up to 4 million gallons per day ("mgd") to its system. EWEB will construct water system improvements from its existing water system to the Point of Delivery set forth in Section 10.1 at Greenhill Road and Highway 126. The Parties recognize that these water system improvements will be sized to meet EWEB customer demand plus the Veneta purchase of Surplus Water up to 4 mgd. Veneta agrees to reimburse EWEB for that proportionate cost of EWEB Water System improvements necessary to deliver up to 4 mgd to the Point of Delivery. Veneta may elect to pay its cost share by lump sum payment or through rates.
- 2.2.1. By June 1st of each year, Veneta will forecast its demand for the period June 1 to May 31. EWEB commits to supply up to 4 mgd, subject to Article 2.3 and the terms of this Agreement. The amounts nominated for this year will become the quantity factored into rate calculations and allocations.
- 2.2.2. Veneta may request additional water in excess of 4 mgd. Whether such additional amount is available shall be at the sole discretion of EWEB and any Water System improvements necessary to deliver this additional quantity of water shall be paid by Veneta.
- 2.3 EWEB and Veneta will meet all applicable Federal and State drinking water regulatory requirements for their respective systems. Veneta's supply of water will be reduced or terminated only in accordance with the terms of this Agreement or if EWEB is required by metropolitan area wide agreements to curtail. The Parties acknowledge and agree that this is a surplus contract and EWEB at all times retains the right to limit water delivery to Veneta so that EWEB Customers will be given priority. EWEB will reasonably endeavor to provide water to Veneta at an equivalent level as is provided to EWEB Customers. In the event of a general emergency or weather related water shortage affecting the entire EWEB Water System, general restrictions placed upon water deliveries to Veneta will be determined by EWEB and applied equitably to EWEB Customers and Veneta, but ultimately EWEB Customers will be given priority as EWEB determines.

- 2.4 In the event of localized emergency problems, Veneta acknowledges temporary localized interruptions may occur for the duration of the emergency. Examples of such circumstances include, but are not limited to, main breaks and dig-ins.
- 2.5 Veneta agrees that no liability for damages will attach to EWEB on account of any failure of supply or changes of pressure, flow rate, or water quality due to circumstances beyond the reasonable control of EWEB, acting in accordance with the standards of care common and usual in the municipal water supply industry. Examples of such circumstances include, but are not limited to, natural events such as earthquakes, landslides and floods and human caused events such as terrorism, malevolent acts, contamination of the water supply, and acts of war.
- 2.6 The Parties agree and acknowledge that EWEB is the owner and operator of the Water System and Water Rights used in its utility operations. The purchase of water under this Agreement will not constitute purchase of ownership rights to water or any portion of the Water System owned and operated by EWEB, except as may be specified herein or may be established by separate agreement. Nothing in this Agreement will preclude the Parties from entering into separate agreements involving joint ownership or joint operation of Water System elements.

ARTICLE III- CONDITIONS OF WATER DELIVERY

- 3.1 EWEB's responsibility under this Agreement is to sell and provide Surplus Water on a wholesale basis at a Point of Delivery to Veneta as agreed by the Parties.
- 3.2 EWEB is not responsible for providing water service, distribution service, or other services to Veneta customers, which shall be the responsibility of Veneta.
- 3.3 Except as allowed by applicable statutes, administrative rules, and land use regulations, Veneta will not sell, allow unmetered water use (except for emergency events) or dispose of any of the Surplus Water purchased under this agreement outside of its Direct Service Territory.

ARTICLE IV – RATES AND CHARGES

- 4.1 Veneta will be charged under this Agreement equal to an amount estimated to be proportionate to its share of the cost to EWEB of providing water using standard cost-of-service and ratemaking principles as described in Manual M-1, published by AWWA *Manual of Water Supply Practices-M1. Principles of Water Rates, Fees and Charges*. Fifth Edition. Denver: 2000. (hereafter "AWWA Manual M-1") and future Editions of the Manual M-1. A cost-of-service allocation methodology will be used to allocate the Water Revenue Requirement as determined by the EWEB Board approved budget annually. The components used to determine the Water Revenue Requirements will be:
- 4.1.1. Operation and Maintenance Costs. EWEB will set its Operations and Maintenance Costs through its formal budgeting process. Operation and Maintenance Costs may also include any right-of-way regulation fee, privilege tax, or franchise fee lawfully imposed on EWEB. Only those operations and

maintenance costs that benefit Veneta will be included in the calculation of their rate. Specific exclusions are costs associated with water conservation efforts and low-income assistance programs.

- 4.1.2. Capital Costs. EWEB will calculate Veneta's rate to recover the depreciated cost of capital installed prior to this Agreement as well as newly installed or maintained capital facilities. Only those capital costs that benefit Veneta will be included in the calculation of their rate. Specifically excluded are the capital costs of upper level water facilities.
- 4.1.3. A return on investment of 10% or as otherwise directed by the EWEB Board not to exceed 10% will be charged on both the Operations and Maintenance Costs and the Capital Costs. It is the intent of EWEB to apply this rate of investment to all Surplus Water agreements or contracts.
- 4.1.4. EWEB and Veneta understand that EWEB currently has or may enter into similar agreements with Other Customers. The Parties agree that if EWEB enters into other agreements or contracts for supplying Surplus Water, the charges to Veneta will continue to be based on the proportionate cost of delivery to Veneta. EWEB will classify customer classes as retail and wholesale, by service area, or other customer classes in its discretion. EWEB will price its water using cost-of-service principles that allocate cost based on these classifications. Other classification factors will be revised as necessary to meet the cost-of-service principles set forth above.

ARTICLE V- BILLING AND PAYMENT

- 5.1 EWEB will submit to Veneta each month an itemized statement as requested by Veneta showing the following: amount charged for sale of water; and such amount will be due within 45 days of invoice. Bills are due upon receipt and subject to an interest charge at the statutory rate on unpaid accounts if not paid within 45 days of the invoice date.

ARTICLE VI- TERM AND TERMINATION

- 6.1 This Agreement will be effective on the date both Parties have adopted it and will continue in effect for an initial term of 40 years, unless the Agreement is terminated as provided herein. Each Agreement year will run from January 1 to December 31.
- 6.2 Not less than five years prior to the expiration of the initial term or any renewed term, Veneta may request renewal for an additional term(s) of ten (10) years. EWEB will have 180 days to determine if it has Surplus Water for the renewal term. If so, the Agreement will be extended and new cost of water study will be conducted at the beginning of any renewal term.
- 6.3 Except for default, either Party may terminate this Agreement upon providing written notice to the other not less than five years prior to the Agreement termination date.

6.4 In the event of a default, the nondefaulting Party may give notice of termination to the defaulting Party with such termination date to be not less than one (1) year from the date of notice. However, such termination date will be adjusted to be not less than one (1) year from the date of final completion of dispute resolution under this Agreement if the default is confirmed.

6.5 Notice will be sufficient if sent by first class mail, postage prepaid, to the following address or such other address as the Party designates:

EWEB
500 East 4th Avenue
PO Box 10148
Eugene, OR 97440-2148

Veneta
88184 Eighth Street
PO Box 458
Veneta, OR 97487

ARTICLE VII- WATER CONSERVATION

7.1 Veneta will maintain a Water Management and Conservation Plan (WMCP) in full compliance with OAR 690, Division 086 and successor regulations adopted during the term of this Agreement to promote beneficial and efficient use of Surplus Water purchased under this Agreement without waste or adopt the EWEB plan as amended from time to time.

7.2 The obligations in this section apply to both EWEB and Veneta and intend that water to which EWEB holds water rights will be used beneficially, efficiently, and without waste. The Parties will cooperate in the development of a joint conservation program where such partnerships are of mutual benefit and produce increased efficiencies in program costs or water savings. Provided, however, that funding for joint conservation programs will be established by separate agreement.

7.3 The Parties agree that Veneta must maintain the Veneta water system to be fully metered at the individual customer level.

7.4 Veneta will be responsible for implementing a WMCP that meets the following minimum requirements:

7.4.1. Leak detection and repair programs required under Oregon Administrative Rule 690-86-150(4)(e) and, if applicable, subsection (6)(a).

7.4.2. Education and outreach programs required under Oregon Administrative Rule 690-86-150(4)(f).

7.4.3. Rate structures based on the quantity of water metered at the service connection as required by Oregon Administrative Rule 690-86-150(4)(d).

7.4.4. A meter testing and maintenance program as required by Oregon Administrative Rule 690-86-150(4)(c).

- 7.4.5. An annual water audit as required by Oregon Administrative Rule 690-86-150(4)(a).
- 7.5 The WMCP will include discretionary programs unless such program is not needed, feasible, or appropriate to Veneta's service area as determined by Veneta:
 - 7.5.1. Technical and financial assistance programs to encourage and aid residential and commercial and industrial customers.
 - 7.5.2. Retrofitting and replacement of existing, inefficient water using fixtures, including distribution of residential conservation kits and rebates for customer investments in water conservation.
 - 7.5.3. Adoption of rate structures, billing schedules and other associated programs that support and encourage water conservation.
 - 7.5.4. Water re-use, recycling and nonpotable water opportunities.
 - 7.5.5. Other measures identified that would improve water use efficiency.
 - 7.5.6. Operational measures to reduce peak event impacts on the EWEB Water System.

ARTICLE VIII- WATER CURTAILMENT

- 8.1 Subject to EWEB's right to cease providing Surplus Water under this Agreement so that EWEB Customers have priority, EWEB will reasonably endeavor to cooperate with Veneta. During times when water supplies are not adequate to meet the aggregate of all demands placed upon the EWEB Water System, EWEB and Veneta will develop a plan to reduce or curtail demands so that fire, life, safety and other high priority needs are met. It is to the benefit of all of the Customers of the EWEB Water System that plans for curtailment be agreed upon in advance and that plans for curtailments be coordinated.
- 8.2 By signing this Agreement, Veneta and EWEB acknowledge that unforeseen or unavoidable circumstances may limit the amount of water available to EWEB for sale and distribution, whether temporarily or permanently. Should the available supply fall below the aggregate of all demands placed on the EWEB Water System, or should it be reasonably predicted that supply will fall below demands before other supplies are available, EWEB may declare that a water shortage is in effect. EWEB and Veneta will then coordinate and implement action under their adopted Curtailment Plans.
- 8.3 The Water Managers Committee will provide comments to EWEB on its Curtailment Plan. EWEB will adopt the recommended Curtailment Plan with such alterations as necessary or advisable in its sole discretion. The Curtailment Plan will be designed to accomplish reductions in demand necessary, in the event of a water shortage, to protect the Water System's capacity to supply water for fire, life, safety, and other high priority needs. The Curtailment Plan will establish procedures, as well, whereby to coordinate demand reductions by Veneta and other Water Utilities to accomplish, jointly, total necessary system demand reductions imposed on them.

- 8.4 Veneta may adopt the EWEB Curtailment Plan or its own plan that is substantially equivalent to the EWEB Plan.
- 8.5 If EWEB declares a water shortage, Veneta will implement measures sufficient to meet the requirements of the Curtailment Plan (or other requirements of EWEB for proportional reduction in demand if no Curtailment Plan has been adopted). Veneta may do this through implementation of measures contained in the Curtailment Plan.
- 8.6 EWEB will monitor compliance with the Curtailment Plan on a schedule established in the Plan or at least every two weeks throughout the duration of the declared water shortage.
- 8.7 It is recognized by the Parties that emergency water use curtailment measures may have to be implemented by EWEB in order to meet an emergency condition or a metropolitan area wide water shortage pursuant to agreements that exist or may exist with other Water Utilities. The procedures to be used in the event of a weather-related metropolitan area wide water shortage or shortages caused by other factors will be as described in the Curtailment Plan in effect. If EWEB declares a water shortage under a Metropolitan Area Agreement, then Veneta, or in cooperation with Other Customers as contemplated by this Agreement, will use all good faith efforts to achieve the required reductions in the use of water supplied, EWEB may act to reduce the amount of water supplied to Veneta and EWEB Customers so that it does not exceed that amount specified under curtailment measures.
- 8.8 The Parties acknowledge that this is a Surplus Water purchase agreement with the goal that EWEB will provide water to Veneta. In the event of a general emergency or weather-related water shortage affecting the entire water supply system, general restrictions placed upon water deliveries to Veneta will be applied as equally as possible to EWEB Customers, but ultimately supply may be reduced or terminated for the benefit of EWEB Customers as EWEB determines.
- 8.9 The Parties recognize that EWEB may temporarily interrupt or reduce deliveries of water to Veneta if EWEB determines that such interruption or reduction is necessary or reasonable in case of system emergencies or to install equipment, make repairs, replacements, investigations, and inspections are performed or other maintenance work on the EWEB Water System. EWEB will give Veneta reasonable notice of any such interruption or reduction, the reasons for and the probable duration, and will use best efforts to minimize interruptions to Veneta.

ARTICLE IX– WATER MANAGERS COMMITTEE

- 9.1 A Water Managers Committee (WMC) will be established with all water utilities holding agreements to purchase water from EWEB. EWEB will provide staff as necessary.
- 9.2 The WMC will communicate on issues related to:
 - 9.2.1. Capital Planning for EWEB. On an annual basis (around September), as part of the budgetary process, EWEB will convene the WMC to discuss development of

EWEB's Capital Improvement Plan. EWEB will identify criteria to be considered in prioritizing capital improvement projects. EWEB will share its proposed ranking of projects for funding and completion and its proposed schedule for such capital improvements related to Veneta. Veneta will be provided reasonable opportunity to present suggestions and recommendations for changes to the proposed Capital Improvement Plan, specific capital projects, and for improvements in the capital planning and financing process.

- 9.2.2. **Operations and Maintenance Budget.** On an annual basis, through the WMC, Veneta will participate in a review of EWEB's Operations and Maintenance Budget for the water supply system used to serve Veneta and other participating water Customers. The Operations and Maintenance Budget development and review will take place in a manner sufficiently timely to assure Veneta effective participation in the budget deliberations each year.
- 9.2.3. **Water Rates, Changes, and Rate Design.** EWEB will provide timely notification to Veneta of proposed changes in rates, charges, and rate design. EWEB will provide Veneta with opportunity to evaluate and provide input on such proposals. EWEB shall consider information from Veneta as part of its good faith effort to provide rates and charges that are consistent with ratemaking practices of other surplus agreements. By November of each year, EWEB will advise Veneta of its best estimate of the final budget for submission to the EWEB Board and will consult with Veneta. Veneta may request a draft of the proposed rate. Veneta will be provided at least 30 days review of the rate prior to adoption by the EWEB Board. Veneta will be advised of any significant change after submission to the governing body.
- 9.2.4. **Water Management and Conservation.**
- 9.2.5. **Water Curtailment.**

ARTICLE X- CONNECTION AND MASTER METERS

- 10.1 EWEB will own, provide and maintain meter(s), valves and controls in proper order at the Point of Delivery for the Veneta transmission line to be located near Greenhill Road and Highway 126. EWEB will arrange to have the meter(s) tested and calibrated annually by an independent tester qualified to do such work. Veneta personnel will be notified of testing and calibration so they may attend. A copy of the test report shall be provided to Veneta.
- 10.2 Veneta shall own, provide and maintain appropriate cross connection control devices on its transmission line so as to prevent any contamination of the EWEB system. Veneta shall provide EWEB with proof of annual testing and compliance with applicable statutes and administrative rules regarding cross connection control devices.
- 10.3 Veneta agrees to design and construct the transmission pipeline and all fixtures and appurtenances to EWEB standards, subject to EWEB approval of the pipeline design and connections to assure no adverse impact on the EWEB Water System.

ARTICLE XI– INSURANCE, INDEMNITY AND HOLD HARMLESS

- 11.1 Veneta will retain all liability for service to customers, operation, maintenance and construction of its water system. Veneta will purchase and carry in full force and effect during the term of this Agreement, a liability insurance policy in the amount of \$1,000,000 Comprehensive General Liability coverage protecting EWEB and Veneta from liability of any nature whatsoever arising from Veneta's performance of its obligations under this Agreement.
- 11.2 EWEB will retain all liability for operation, maintenance and construction of its Water System. EWEB will have in full force and effect during the term of this Agreement either through policy or self-insurance under ORS 806.130, liability coverage in the amount of \$1,000,000 Comprehensive General Liability coverage protecting Veneta and EWEB from liability of any nature whatsoever arising from EWEB's performance of its obligations under this Agreement.
- 11.3 To the extent allowed by the Oregon Constitution and the Oregon Revised Statutes not to exceed monetary limits of the Oregon Tort Claims Act, each Party will indemnify, defend, save and hold harmless the other and the other's officers and employees from any and all claims, suits, and liabilities arising out of the negligent acts or omissions of indemnifying Party's performance under this Agreement or related to this Agreement. This indemnity obligation shall not include any obligation of one Party to indemnify the other for actions or omissions of the other or the other's officers, employees, or agents. In the event of joint acts, each Party shall be responsible for its own acts or those of its own officers, employees or agents.

ARTICLE XII – DISPUTES

- 12.1 The Parties agree that this Agreement is conditional upon the faithful performance by both Parties of all the terms and provisions stated herein. Any failure to do so by one Party (defaulting Party) will give the other Party (nondefaulting Party) the right to declare a default and seek remedies under the Agreement, which may include termination.
- 12.2 The Parties agree that if there is a dispute regarding breach of any provision or interpretation of this Agreement, charge or procedure between Veneta and EWEB, the Party with the grievance will give notice to the other Party in writing of the dispute. The other Party will within thirty 30 days respond in writing. If the correspondence does not resolve the issue, the Parties will meet and try to resolve the issue. If the Parties cannot reach a satisfactory resolution, and the governing bodies are unable to reach a resolution, then the Parties will agree upon mediation prior to commencement of arbitration. If mediation is unsuccessful, the Parties will agree upon an arbitrator and, if they cannot agree on selection of an arbitrator, then the matter will be referred to the presiding judge of the Lane County Circuit Court, who will appoint an arbitrator who will decide the matter in accordance with ORS Chapter 36.

ARTICLE XIII – CONFIDENTIAL INFORMATION

- 13.1 Information submitted to or produced by the Parties hereto or any other Customer of EWEB water, or otherwise exchanged by the Parties, may include documents related to the vulnerability or security of water supply systems. The Parties agree that if either receives a public document request for such information, the Party receiving that request will, prior to the release of any documents, expeditiously notify the entity about whose system information is sought and will, in addition, assert all applicable exemptions to release of the documents available under the Oregon Public Records Law.

ARTICLE XIV – GENERAL

- 14.1 Veneta or EWEB will make no assignment of the rights or interests herein granted without written permission from the other Party.
- 14.2 The pipeline from the Point of Delivery and master meter(s) set forth in Article X is part of the Veneta system. EWEB does not have the authority to allow connections to the pipeline paid for by Veneta to connect to the EWEB Water System. If at such time any part of the area through which the pipeline is located is annexed into the City of Eugene, both Parties agree to review whether ownership should remain with Veneta for that portion of the pipeline. If EWEB acquires full or partial ownership, the Parties agree that reimbursement would be required based on its present worth value at the time of such annexation.
- 14.3 If any of the provisions contained in this Agreement are held for any reason to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision, and this Agreement will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
- 14.4 Either Party may request renegotiation of this Agreement upon a one year notice to discuss the issues raised. Any amendment to this Agreement requires mutual consent.
- 14.5 Entire Agreement. This Agreement embodies the entire agreement and understanding between the Parties hereto and supersedes all previous agreements and understandings relating to the supplying of water except as provided herein.
- 14.6 Counterparts. This Agreement may be executed in any number of counterparts and by the Parties or separate counterparts, any one of which will constitute an Agreement between and among the Parties.
- 14.7 Headings. The Article, section and subsection headings contained in this Agreement are for reference purposes only and will not in any way affect the meaning or interpretation of this Agreement.
- 14.8 Force Majeure. No Party will be considered in default in the performance of its obligations under this Agreement to the extent that the performance of any such obligation is prevented or delayed by any cause, existing or in the future, which is beyond the reasonable control of the affected Party, including, but not limited to, Acts of God,

earthquake, drought, labor disputes, civil commotion, war and the like. In the event a Party claims that performance of its obligations was prevented or delayed by any such cause, that Party will promptly notify the other Party of that fact and of the circumstance preventing or delaying performance. Such Party so claiming a cause of delayed performance will endeavor to the extent reasonable to remove the obstacles which preclude performance. This Force Majeure provision will also apply to each Party in performing its duties and obligations under this Agreement.

- 14.9 Survival of Covenants. Any provision of this Agreement which, by its terms has or may have application after the expiration or earlier termination of this Agreement, including all covenants, agreements, and warranties, will be deemed to the extent of such application to survive the expiration or termination of this agreement.

IN WITNESS WHEREOF, the City of Veneta has caused this Agreement to be executed by its Mayor and the City of Eugene, acting by and through its Eugene Water & Electric Board, has caused the same to be executed by its General Manager.

CITY OF VENETA

By: Sharon Hobart Hardin
Mayor

Date Signed 4/16/2010

EUGENE WATER & ELECTRIC BOARD

By: Randy A. Bepp
General Manager

Date Signed 4/14/2010