

## LOAN AGREEMENT

LOAN AGREEMENT, dated the 9<sup>th</sup> day of September, 2019 between the Massachusetts Water Resources Authority, a body politic and corporate, a public instrumentality and an independent public authority of The Commonwealth of Massachusetts (the "Authority") established by the Massachusetts Water Resources Authority Act, Chapter 372 of the Acts of 1984 of the Commonwealth of Massachusetts ("Commonwealth"), as amended (the "Act"), having its principal place of business in Boston, Massachusetts and the Town of Arlington (the "Government Unit").

### WITNESSETH:

WHEREAS, the Authority has established a program of loans (the "Local Water System Assistance Program") to assist Local Bodies, as defined in the Act, in establishing programs to improve local water systems which will have a beneficial impact on maintaining and improving the regional water system; and

WHEREAS, the Government Unit has requested a loan from the Authority in the amount of \$1,300,000.00 (hereinafter referred to as the "Loan") for the purposes of funding its Local Water System Improvement Program and, to evidence the indebtedness to be incurred thereby, has duly authorized the issuance of its bonds in the principal amount of the Loan, (the "Municipal Bonds") which Municipal Bonds are to be issued to and held by the Authority in accordance with this Loan Agreement; and

WHEREAS, the Authority may finance the Loan from the proceeds of an issue of its tax-exempt revenue bonds which proceeds are subject to certain limitations as to investment and application;

NOW THEREFORE, the parties hereto agree as follows:

1. The Loan and the Municipal Bonds. The Authority hereby agrees to make the Loan and the Government Unit hereby agrees to accept the Loan to evidence its obligation to repay the Loan by issuing to the Authority the Municipal Bonds in the principal amount of the Loan, and substantially in the form attached hereto as Exhibit A. Neither the Loan nor the Municipal Bonds shall bear interest.

2. Representation and Warranties. The Government Unit represents and warrants as follows: (a) it has duly adopted all necessary votes and resolutions and has taken all proceedings required by law to enable it to enter into this Loan Agreement and issue its Municipal Bonds to the Authority to evidence its obligation to pay the Loan; (b) The Municipal Bonds have been duly authorized, executed and delivered by the Government Unit and constitute valid and binding obligations of the

Government Unit, enforceable in accordance with their terms, except as such enforceability may be limited by bankruptcy, insolvency, moratorium, reorganization or other laws affecting creditors' rights heretofore or hereafter enacted and general equity principles; (c) the Municipal Bonds constitute a general obligation of the Government Unit to which its full faith and credit is pledged; (d) all permits and approvals necessary to construct the project being financed by the Loan (the "Project"), given the current status of the Project, have been obtained and remain in full force and effect; and (e) no litigation before or by any court, public board or body is pending or threatened against the Government Unit seeking to restrain or enjoin the issuance of the Municipal Bonds or the construction of the Project.

3. Covenants. The Government Unit agrees that until the Loan shall be paid in full, and the proceeds of the Loan, together with the earnings thereon, shall be expended in full, it shall perform the following covenants: (a) it shall make the payments with respect to the principal of the Municipal Bonds in ten equal annual installments, all at the time and in the amounts set forth in the Municipal Bonds; (b) it shall notify the Authority in writing, from time to time, of the name of the official of the Government Unit to whom invoices for the payment of principal should be addressed if different from the address set forth in paragraph 8; and (c) it shall furnish the Authority annually such information regarding the Government Unit's Local Water System Improvement Program and the implementation thereof, including project status and expenditure reports and evidence of compliance with any applicable permits and any other financial or project information as the Authority may reasonably request.

4. Opinion of Bond Counsel. Attached hereto as Exhibit B is an opinion of bond counsel or other local counsel to the Government Unit to the effect the (i) the Municipal Bonds have been duly authorized, executed and delivered by the Government Unit and constitute a valid and binding general obligations of the Government Unit, enforceable in accordance with their terms, except as such enforceability may be limited by bankruptcy, insolvency, and moratorium, reorganization or other laws affecting creditors' rights heretofore or hereafter enacted and to general equity principals, and (ii) the Municipal Bonds constitute a general obligation to which the Government Unit's full faith and credit is pledged.

5. Application of Grant and Loan Moneys. (a) The Authority shall deposit the amount of the Loan in single account (the "Account") separated from its other moneys. Such Account shall be invested with MMDT or in such other manner as may be approved by the Authority from time to time in the Authority's reasonable discretion. Earnings on the account shall be retained in such Account. The Government Unit shall arrange for copies of all investment reports with respect to the Account to be furnished in a timely fashion to the Authority.

(b) The Proceeds, together with the earnings thereon, shall be applied to the costs of the Government Unit's Local Water System Improvement Program.

(c) The Government Unit acknowledges that the Authority has financed the Loan and the



Grant with the issue of the Authority's tax-exempt revenue bonds (the "Authority Bonds"). The Government Unit agrees to take such steps as are reasonably requested by the Authority in order to preserve the tax-exempt status of the Authority Bonds including, but not limited to, the following: (i) to pay to the Authority such amount, not exceeding the Government Unit's investment earnings on the Proceeds, as may be required to satisfy the Authority's obligation to pay rebate to the United States pursuant to Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"); (ii) to the extent feasible, to limit the investment of the Proceeds, together with any earnings thereon, to such interest rate or to such investments as the Authority may specify from time to time in writing; and (iii) to repay to the Authority the Proceeds upon its written request, together with any earnings thereon, in exchange for other moneys which are not subject to investment restrictions or which are subject to lesser restrictions.

(d) The Government Unit shall repay to the Authority the unexpended balance in any account established pursuant to Section 5(a) hereof on or before May 21, 2021 or thereafter shall invest such unexpended balance in accordance with the directions of the Authority in order to assure compliance with the applicable provisions of the Code.

6. Prepayment of Loan. The Authority shall have the right to cancel all or any part of its obligations hereunder and the Government Unit shall be obligated to repay all of the Proceeds previously disbursed to it which remain unexpended, together with any earnings on the Proceeds, upon the Authority's request if: (a) any representations made by the Government Unit to the Authority in connection with its application for Authority assistance shall be incorrect or incomplete in any material respect; or (b) the Government Unit is in (i) default of any of its obligations hereunder to make payments on the Municipal Bonds as and when the same shall become due and payable or (ii) in default of any other covenant or agreement on its part contained herein and such default shall continue for thirty (30) days after written notice from the Authority specifying the default and requesting that the same be remedied.

In addition to the foregoing provisions, the Government Unit may prepay the Loan upon thirty (30) days written notice to the Authority. Except as expressly provided herein, all prepayments shall be without penalty.

The Government Unit shall remain liable after any prepayment for the unpaid principal on the Municipal Bonds. Any prepayment shall be applied to the installments of principal due in inverse chronological order.

7. Tax Covenants. The Government Unit shall not take, or permit to be taken, any action or actions that would cause any of the Authority's Bonds to be an "arbitrage bond" within the meaning of Section 148 of the Code or a "private activity bond" within the meaning of Section 141(a) of the Code, or that would otherwise cause interest on the Authority Bonds to be included in gross income of the recipient thereof for the purpose of federal income taxation.

8. Any notices to be delivered under this Loan Agreement shall be effective upon receipt and shall be given by certified mail, return receipt requested to:

As to the Authority:

Matthew R. Horan, Treasurer  
Massachusetts Water Resources Authority  
100 First Avenue, Charlestown Navy Yard  
Boston, MA 02129

As to the Government Unit:

Phyllis L. Marshall, Treasurer  
Town of Arlington  
730 Massachusetts Avenue  
Arlington, MA 02476

9. Severability. If any provisions of this Loan Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of the Loan Agreement and this Loan Agreement shall be construed and enforced as if such invalid or unenforceable provision had not been contained herein.

10. Counterparts. This Loan Agreement may be executed in one or more counterparts, any of which shall be regarded for all purposes as an original and all of which constitute but one and the same instrument. Each party agrees that it will execute any and all documents or other instruments, and take such other actions as may be necessary to give effect to the terms of this Loan Agreement.

11. No Waiver. No waiver by either party of any term or conditions of this Loan Agreement shall be deemed or construed as a waiver of any other terms or conditions, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different section, subsection, paragraph, clause, phrase, or other provision of this Loan Agreement.

12. Integration. This Loan Agreement merges and supersedes all prior negotiations, representations, and agreements between the parties hereto relating to the subject matter hereof and constitutes the entire agreement between parties hereto in respect hereof.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

(SEAL)

MASSACHUSETTS WATER RESOURCES AUTHORITY

Attest:

\_\_\_\_\_  
Rose Marie Convery, Assistant Secretary

By \_\_\_\_\_  
Matthew R. Horan, Treasurer

(SEAL) TOWN OF ARLINGTON

\_\_\_\_\_  
Stephanie Lucarelli, Town Clerk

By \_\_\_\_\_  
Phyllis L. Marshall, Town Treasurer