



May 20, 2022

Angela Calvillo, Clerk of the Board
1 Dr. Carlton B. Goodlett Place City Hall, Room 244
San Francisco, CA 94102

Dear Ms. Calvillo,

Please see the attached Installment Sales Agreement executed between the San Francisco Public Utilities Commission and the California State Water Resources Control Board. The Installment Sales Agreement is being provided in accordance with Board of Supervisors Ordinances 174-20, 144-18 and 111-16 (file numbers 200838, 180452 and 160471, respectively), which authorized the funding of Water Enterprise capital projects with State Revolving Fund (SRF) loans.

The terms of the Installment Sales Agreement are as follows:

- Principal amount sold and method of sale: \$238,218,951, SRF loan
- True Interest Cost: 1.1%
- Final Maturity: 2057
- Facilities constructed and/or improved: Mountain Tunnel
- Remaining authorization ("Bond Report"): See attached

The SFPUC is further required to provide to the Clerk of the Board final documents within 30 days of closing the transaction; the attached agreement includes:

- Mountain Tunnel Improvement Project (Water Enterprise), Drinking Water State Revolving Fund Project No. 3810001-001C, executed April 27, 2022

Sincerely,

Nikolai J. Sklaroff
Capital Finance Director
San Francisco Public Utilities Commission

London N. Breed
Mayor

Anson Moran
President

Newsha Ajami
Vice President

Sophie Maxwell
Commissioner

Tim Paulson
Commissioner

Dennis J. Herrera
General Manager



Summary of SFPUC Water Revenue Bonds Authorization
May 2022

WSIP - 2002 Proposition A

Charter 9.107			TOTAL
Authorization	1,628,000,000		1,628,000,000
<u>Debt Issuance</u>	<u>Par</u>		
2006A	507,815,000	507,815,000	
2009A	412,000,000	412,000,000	
2009B	412,000,000	412,000,000	
2012B	16,520,000	16,520,000	
State Loan (Westside Recycled)	128,770,000	128,770,000	
Series 2020 A	150,895,000	150,895,000	
Total Issued / Utilized	1,628,000,000		
Remaining Unused Authorization - 2002 Prop A	-		-

WSIP - 2002 Proposition E

Ordinance		189-09	89-10	108-14	108-14	112-16	154-17	TOTAL		
Authorization		1,310,307,119	1,647,249,198	113,252,000		-	-	3,070,808,317		
Debt Issaunce		Par								
2010 B WSIP	417,720,000	417,720,000								
2010 D WSIP	71,360,000	71,360,000								
2010 E WSIP	344,200,000	344,200,000								
2010 FG WSIP	532,430,000	477,027,119	55,402,881							
2011 A WSIP	602,715,000		602,715,000							
2012 A WSIP	591,610,000		591,610,000							
2016 C (WSIP)	259,350,000		259,350,000							
2017 A (WSIP)	121,140,000		121,140,000							
Total Issued / Utilized		2,940,525,000								
Remaining Unused Authorization - 2002 Prop E		-	17,031,317	113,252,000	-	-	-	130,283,317		

Non-WSIP - 2002 Proposition E

Ordinance		89-10	100-11	113-12	108-14	112-16	154-17	219-17	143-18	0153-19	174-20	TOTAL
Authorization		90,474,840	49,100,000	163,400,000	95,919,566	264,997,468	9,132,962	12,600,000	478,440,136	35,084,529	347,141,218	1,546,290,719
Debt Issaunce		Par										
2010 A	56,945,000	56,945,000										
2011 B	28,975,000	28,975,000										
2011 C Non-WSIP	33,595,000	4,554,840	29,040,160									
2017 B	147,725,000		20,059,840	127,665,160								
2017 C	70,675,000			35,734,840	34,940,160							
State Loan (Westside Recycled)	57,450,000				57,450,000							
2020 B	61,330,000				3,529,406	57,800,594						
2020 C	85,335,000					85,335,000						
2020 D	49,200,000					49,200,000						
2022 Mtn Tunnel SRF Loan	238,218,951					72,661,874	9,132,962	12,600,000	143,824,115			
Total Issued / Utilized		829,448,951										
Remaining Unused Authorization - 2002 Prop E		-	-	-	-	-	-	-	334,616,021	35,084,529	347,141,218	716,841,768

NOTICE OF LISTED EVENT

The Public Utilities Commission of the City and County of San Francisco (“SFPUC”) provides this listed event notice (“Notice”) pursuant to continuing disclosure undertakings it has entered into for the securities described below (collectively referred to herein as the “Bonds”).

Bond Issues (Base CUSIP 79765R and 79771F):

- San Francisco Water Revenue Bonds, 2010 Series ABC
- San Francisco Water Revenue Bonds, 2010 Series DE
- San Francisco Water Revenue Bonds, 2010 Series FG
- San Francisco Water Revenue Bonds, 2011 Series ABCD
- San Francisco Water Revenue Bonds, 2012 Series ABC
- San Francisco Water Revenue Bonds, 2015 Series A
- San Francisco Water Revenue Bonds, 2016 Series AB
- San Francisco Water Revenue Bonds, 2016 Series C
- San Francisco Water Revenue Bonds, 2017 Series ABC
- San Francisco Water Revenue Bonds, 2017 Series DEFG
- San Francisco Water Revenue Bonds, 2019 Series ABC
- San Francisco Water Revenue Bonds, 2020 Series ABCD
- San Francisco Water Revenue Bonds, 2020 Series EFGH

Event Disclosure:

The SFPUC has entered into a low-interest loan under the California State Water Resources Control Board Drinking Water State Revolving Fund program (“SRF Program”). The loan agreement (“Mountain Tunnel Loan”) is in the aggregate principal amount of \$238,218,951, bears interest at 1.1% per annum and has a final payment date of September 30, 2057. The Mountain Tunnel Loan will be used to finance a portion of the costs of the design construction and rehabilitation of the Mountain Tunnel, which conveys the SFPUC water supply from Kirkwood Powerhouse to Priest Reservoir. The Mountain Tunnel Loan is on a parity with the outstanding senior lien Water Revenue Bonds issued and outstanding under the Amended and Restated Indenture, dated as of August 1, 2002, as supplemented and amended, and another loan obtained under the SRF Program, all of which are secured by net revenues of the Water Enterprise. A copy of the Mountain Tunnel Loan is attached to this Notice.

Other Matters:

This Notice speaks only of its date. Any provision in the Mountain Tunnel Loan may be amended or waived. The SFPUC has not undertaken, and does not undertake, to provide any updates to this Notice in the future. The filing of this Notice does not constitute or imply any representation: (i) that the foregoing is material to investors; (ii) regarding any other material financial, operating or other information about the SFPUC or the Bonds; or (iii) that no other material circumstances or material events have occurred or that no other material information exists concerning the financial condition of the SFPUC, the Bonds or the foregoing event. This Notice is not a recommendation to buy, sell or hold any other bonds or obligations of the SFPUC.

Dated: May 4, 2022

PUBLIC UTILITIES COMMISSION OF THE
CITY AND COUNTY OF SAN FRANCISCO

By: /s/ Charles Perl, Deputy Chief Financial Officer

STATE OF CALIFORNIA

AGREEMENT SUMMARY

STD 215 (Rev. 04/2020)

AGREEMENT NUMBER

D2102030

AMENDMENT NUMBER

☐ CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED

1. CONTRACTOR'S NAME San Francisco, Public Utilities Commission of the City and County of (3810001-001C)		2. FEDERAL I.D. NUMBER 94-6000417
3. AGENCY TRANSMITTING AGREEMENT State Water Resources Control Board	4. DIVISION, BUREAU, OR OTHER UNIT Division of Financial Assistance	5. AGENCY BILLING CODE 079551
6a. CONTRACT ANALYST NAME Anabel Ruiz	6b. EMAIL anabel.ruiz@waterboards.ca.gov	6c. PHONE NUMBER (916) 445-5172

7. HAS YOUR AGENCY CONTRACTED FOR THESE SERVICES BEFORE?

☒ No ☐ Yes (If Yes, enter prior Contractor Name and Agreement Number)

PRIOR CONTRACTOR NAME

PRIOR AGREEMENT NUMBER

8. BRIEF DESCRIPTION OF SERVICES

Construction Project to prepare plans, specifications and cost estimates to meet Federal and State standards.

9. AGREEMENT OUTLINE (Include reason for Agreement: Identify specific problem, administrative requirement, program need or other circumstances making the Agreement necessary; include special or unusual terms and conditions.)

Mountain Tunnel Improvement Project - This project provides for design and construction of the rehabilitation of the Mountain Tunnel, which has conveyed the SFPUC water supply from Kirkwood Powerhouse to Priest Reservoir since 1925. Project components include tunnel lining repairs, contact grouting, downstream flow control valving, a new tunnel adit at Priest Reservoir, South Fork Siphon extension tunnel, access road widening and tunnel access improvements, environmental mitigations, and site restoration.

10. PAYMENT TERMS (More than one may apply)

☐ Monthly Flat Rate ☐ Quarterly ☐ One-Time Payment ☐ Progress Payment
☐ Itemized Invoice ☐ Withhold _____ % ☐ Advanced Payment Not To Exceed _____
☐ Reimbursement / Revenue _____ or _____ %
☐ Other (Explain) DWSRF 1.10%

11. PROJECTED EXPENDITURES

FUND TITLE	ITEM	FISCAL YEAR	CHAPTER	STATUTE	PROJECTED EXPENDITURES
☐ + DWSRF	3940-603-062900001	21/22	734	1997	\$238,218,951.00
☐ -					
☐ +					
☐ -					
☐ +					
☐ -					
☐ +					
☐ -					

OBJECT CODE

39400551-5438000-001- 3560000E68 \$238,218,951.00

AGREEMENT TOTAL

\$238,218,951.00

OPTIONAL USE

Ultimate Funds 062900001

 AMOUNT ENCUMBERED BY THIS DOCUMENT
 \$238,218,951.00

 PRIOR AMOUNT ENCUMBERED FOR THIS AGREEMENT
 \$0.00

I certify upon my own personal knowledge that the budgeted funds for the current budget year are available for the period and purpose of the expenditure stated above.

 TOTAL AMOUNT ENCUMBERED TO DATE
 \$238,218,951.00

ACCOUNTING OFFICER'S SIGNATURE



ACCOUNTING OFFICER'S NAME (Print or Type)

Tirunesh Futassa

DATE SIGNED

Apr 6, 2022

STATE OF CALIFORNIA

AGREEMENT SUMMARY

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12. AGREEMENT

AGREEMENT	TERM FROM	TERM THROUGH	TOTAL COST OF THIS TRANSACTION	BID, SOLE SOURCE, EXEMPT
Original	10/03/2011	09/30/2057	\$238,218,951.00	Exempt
☐ + ☐ - Amendment 1				
☐ + ☐ - Amendment 2				
☐ + ☐ - Amendment 3				
TOTAL			\$238,218,951.00	

13. BIDDING METHOD USED

- ☐ Request for Proposal (RFP) (Attach justification if secondary method is used)
 ☐ Use of Master Service Agreement
☐ Invitation for Bid (IFB)
 ☐ Exempt from Bidding (Give authority for exempt status)
 ☐ Sole Source Contract (Attach STD. 821)
☒ Other (Explain) SAM 1233 (B)(2)(b)

Note: Proof of advertisement in the State Contracts Register or an approved form STD. 821, Contract Advertising Exemption Request, must be attached

14. SUMMARY OF BIDS (List of bidders, bid amount and small business status) (If an amendment, sole source, or exempt, leave blank)**15. IF AWARD OF AGREEMENT IS TO OTHER THAN THE LOWER BIDDER, EXPLAIN REASON(S) (If an amendment, sole source, or exempt, leave blank)****16. WHAT IS THE BASIS FOR DETERMINING THAT THE PRICE OR RATE IS REASONABLE?**

Bids and proposal are evaluated to determine that all costs are reasonable and in compliance with all applicable State and Federal laws that project cost analysis have been performed and allowance tables established. Salaries are paid in accordance with industry's prevailing wages.

17a. JUSTIFICATION FOR CONTRACTING OUT (Check one)

- ☐ Contracting out is based on cost savings per Government Code 19130(a). The State Personnel Board has been so notified.
 ☐ Contracting out is justified based on Government Code 19130(b). When this box is checked, a completed JUSTIFICATION - CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTION 547.60 must be attached to this document.
☒ Not Applicable (Interagency / Public Works / Other Loan)

17b. EMPLOYEE BARGAINING UNIT NOTIFICATION

- ☐ By checking this box, I hereby certify compliance with Government Code section 19132(b)(1).

AUTHORIZED SIGNATURE	SIGNER'S NAME (Print or Type)	DATE SIGNED
18. FOR AGREEMENTS IN EXCESS OF \$5,000: Has the letting of the agreement been reported to the Department of Fair Employment and Housing? ☒ No ☐ Yes ☐ N/A		22. REQUIRED RESOLUTIONS ARE ATTACHED ☒ No ☐ Yes ☐ N/A 23. IS THIS A SMALL BUSINESS AND/OR A DISABLED VETERAN BUSINESS CERTIFIED BY DGS? ☒ No ☐ Yes SB/DVBE Certification Number: _____
19. HAVE CONFLICT OF INTEREST ISSUES BEEN IDENTIFIED AND RESOLVED AS REQUIRED BY THE STATE CONTRACT MANUAL SECTION 7.10? ☐ No ☐ Yes ☒ N/A		
20. FOR CONSULTING AGREEMENTS: Did you review any contractor evaluations on file with the DGS Legal Office? ☐ None on file ☐ No ☐ Yes ☒ N/A		
21. IS A SIGNED COPY OF THE FOLLOWING ON FILE AT YOUR AGENCY FOR THIS CONTRACTOR? A. Contractor Certification Clauses ☐ No ☒ Yes ☐ N/A B. STD 204 Vendor Data Record ☐ No ☒ Yes ☐ N/A		
24. ARE DISABLED VETERANS BUSINESS ENTERPRISE GOALS REQUIRED? (If an amendment, explain changes if any) Governmental Entity		☒ No (Explain below) ☐ Yes _____ % of Agreement

25. IS THIS AGREEMENT (WITH AMENDMENTS) FOR A PERIOD OF TIME LONGER THAN THREE YEARS?

Project may take longer than 3 years to complete.

- ☐ No ☒ Yes (If Yes, provide justification below)

STATE OF CALIFORNIA

AGREEMENT SUMMARY

STD 215 (Rev. 04/2020)

AGREEMENT NUMBER	AMENDMENT NUMBER
D2102030	

I certify that all copies of the referenced Agreement will conform to the original agreement sent to the Department of General Services.

SIGNATURE	NAME/TITLE <i>(Print or Type)</i>	DATE SIGNED

STATE OF CALIFORNIA

AGREEMENT SUMMARY

STD 215 (Rev. 04/2020)

AGREEMENT NUMBER

D2102030

AMENDMENT NUMBER

JUSTIFICATION - CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTION 547.60

In the space provided below, the undersigned authorized state representative documents, with specificity and detailed factual information, the reasons why the contract satisfies one or more of the conditions set forth in Government Code section 19130(b). Please specify the applicable subsection. Attach extra pages if necessary.

The undersigned represents that, based upon his or her personal knowledge, information or belief the above justification correctly reflects the reasons why the contract satisfies Government Code section 19130(b).

SIGNATURE	NAME/TITLE (Print or Type)	DATE SIGNED	
PHONE NUMBER	STREET ADDRESS		
EMAIL	CITY	STATE	ZIP



Drinking Water

PUBLIC UTILITIES COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO

AND

CALIFORNIA STATE WATER RESOURCES CONTROL BOARD



INSTALLMENT SALE AGREEMENT

WATER ENTERPRISE OBLIGATION

MOUNTAIN TUNNEL IMPROVEMENT PROJECT
PROJECT NO. 3810001-001C

FI\$CAL No. D2102030

PROJECT FUNDING AMOUNT: \$238,218,951
ESTIMATED REASONABLE PROJECT COST: \$238,218,951

ELIGIBLE WORK START DATE: OCTOBER 3, 2011
ELIGIBLE CONSTRUCTION START DATE: JANUARY 29, 2021
CONSTRUCTION COMPLETION DATE: SEPTEMBER 30, 2027
FINAL REIMBURSEMENT REQUEST DATE: MARCH 30, 2028
FINAL PAYMENT DATE: SEPTEMBER 30, 2057
RECORDS RETENTION END DATE: SEPTEMBER 30, 2063

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AGREEMENT

1. AUTHORITY.

(a) The State Water Resources Control Board (State Water Board) is authorized to provide financial assistance under this Agreement pursuant to Section 116760 et seq. of the Health and Safety Code, and Resolution No. 2019-0065 and 2020-0022.

(b) The Recipient is authorized to enter into this Installment Sale Agreement (Agreement) pursuant to Resolution No. 22-0059.

2. INTENTION.

(a) The Recipient desires to receive financial assistance for and undertake work required for the construction project (Project) set forth on the Cover Page and described in Exhibit A of this Agreement from the State Water Board according to the terms and conditions set forth in this Agreement.

(b) The State Water Board proposes to assist in providing financial assistance for eligible costs of the Project in the amount set forth in Exhibit B, according to the terms and conditions set forth in this Agreement, with the expectation that the Recipient shall repay all of the financial assistance to the State Water Board.

(c) The Recipient intends to evidence its obligation to submit Payments to the State Water Board and secure its obligation with Revenues of its water enterprise, as set forth in Exhibit B, according to the terms and conditions set forth in this Agreement.

(d) The Recipient intends to certify and evidence its compliance with the Tax Covenants set forth in Exhibit F.

3. AGREEMENT, TERM, DOCUMENTS INCORPORATED BY REFERENCE.

In consideration of the mutual representations, covenants and agreements herein set forth, the State Water Board and the Recipient, each binding itself, its successors and assigns, do mutually promise, covenant, and agree to the terms, provisions, and conditions of this Agreement.

(a) The Recipient hereby sells to the State Water Board and the State Water Board hereby purchases from the Recipient the Project. Simultaneously therewith, the Recipient hereby purchases from the State Water Board, and the State Water Board hereby sells to the Recipient, the Project in accordance with the provisions of this Agreement. All right, title, and interest in the Project shall immediately vest in the Recipient on the date of execution and delivery of this Agreement by both parties without further action on the part of the Recipient or the State Water Board.

(b) Subject to the satisfaction of any condition precedent to this Agreement, this Agreement shall become effective upon the signature of both the Recipient and the State Water Board. Conditions precedent are not limited to the following:

- i. The Recipient must deliver an opinion of bond counsel and general counsel satisfactory to the State Water Board's counsel dated on or after execution of this Agreement by the Recipient.
- ii. The Recipient must deliver to the Division a resolution authorizing this Agreement.

(c) Upon execution, the term of the Agreement shall begin on the Eligible Work Start Date and extend through the Final Payment Date.

- (d) This Agreement includes the following exhibits and attachments thereto:
- i. EXHIBIT A - SCOPE OF WORK
 - ii. EXHIBIT B - FUNDING TERMS
 - iii. EXHIBIT C - PAYMENT SCHEDULE
 - iv. EXHIBIT D - SPECIAL CONDITIONS
 - v. EXHIBIT E – GENERAL TERMS AND CONDITIONS
 - vi. EXHIBIT F – TAX CERTIFICATE
 - vii. EXHIBIT G – CERTIFICATE OF ENGINEER
 - viii. EXHIBIT H – PROJECT SCHEDULE
- (e) This Agreement includes the following documents incorporated by reference:
- i. the Final Plans & Specifications, which are the basis for the construction contract to be awarded by the Recipient;
 - ii. the Drinking Water System Permit No. 02-04-04P-3810001;
 - iii. the Recipient's Tax Questionnaire dated June 12, 2019.
 - iv. the Davis Bacon requirements found at:
https://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/docs/davisbac/on/2021_dwsrf_governmental_entities.pdf
- (f) This Agreement, and any amendments hereto, may be executed and delivered in any number of counterparts, each of which when delivered shall be deemed to be an original, but such counterparts shall together constitute one document. The parties may sign this Agreement, and any amendments hereto, either by an electronic signature using a method approved by the State Water Board or by a physical, handwritten signature. The parties mutually agree that an electronic signature using a method approved by the State Water Board is the same as a physical, handwritten signature for the purposes of validity, enforceability, and admissibility.
- (g) Subject to the satisfaction of all conditions precedent to this Agreement, this Agreement shall become effective upon the signature of both the Recipient and the State Water Board, only if such signatures occur on or before May 14, 2022. Conditions precedent include, but are not limited to the following:
- i. The Recipient must deliver to the Division a resolution authorizing this Agreement.
 - ii. The Recipient must deliver an opinion of bond counsel and general counsel satisfactory to the State Water Board's counsel dated on or after the date that the Recipient signs this Agreement.
 - iii. For avoidance of doubt, this Agreement shall not take effect unless both the Recipient and the State Water Board execute this Agreement on or before May 14, 2022.
- (h) If this Agreement is duly executed by May 14, 2022, in accordance with paragraph 3(b), the term of the Agreement shall begin on the Eligible Work Start Date and extend through the Final Payment Date, except as provided in paragraph 3(d).
- (i) If, at any time after the execution of this Agreement by both parties, the State Water Board determines that federal law or guidance requires that the Build America Buy America (BABA) provisions of Public Law 117-58 (the Infrastructure Investment and Jobs Act, also known as the Bipartisan Infrastructure Law (BIL), signed into law on November 15, 2021), apply to any part of this Project, either party may terminate this Agreement retroactive to the date of execution so that the Recipient is not entitled to any Project Funds under this Agreement; or the parties may amend the Agreement to include the BABA provisions to the extent required by federal law and

guidance. If the Agreement is terminated under this paragraph, the Recipient shall promptly return to the State Water Board any Project Funds disbursed under the Agreement.

4. PARTY CONTACTS

The Party Contacts during the term of this Agreement are:

State Water Board		Public Utilities Commission of the City and County of San Francisco	
Section:	Division of Financial Assistance		
Name:	Project Manager	Name: Dennis Herrera	Title: General Manager
Address:	1001 I Street, 16 th Floor	Address:	525 Golden Gate Avenue
City, State, Zip:	Sacramento, CA 95814	City, State, Zip:	San Francisco, CA 94102
	(916) 319-8256	Phone:	(415) 554-1600
Email:	Maria.Pang@waterboards.ca.gov	Email:	DJHerrera@sfgwater.org

While the foregoing are contacts for day-to-day communications regarding Project work, the Recipient shall provide official communications and events of Notice as set forth in Exhibit E to the State Water Board's Deputy Director of Financial Assistance.

5. DEFINITIONS.

Unless otherwise specified, each capitalized term used in this Agreement has the following meaning:

"Additional Payments" means the reasonable extraordinary fees and expenses of the State Water Board, and of any assignee of the State Water Board's right, title, and interest in and to this Agreement, in connection with this Agreement, including all expenses and fees of accountants, trustees, staff, contractors, consultants, costs, insurance premiums and all other extraordinary costs reasonably incurred by the State Water Board or assignee of the State Water Board."

"Allowance" means an amount based on a percentage of the accepted bid for an eligible project to help defray the planning, design, and construction engineering and administration costs of the Project.

"Agreement" means this agreement, including all exhibits and attachments hereto.

"Authorized Representative" means the duly appointed representative of the Recipient as set forth in the certified original of the Recipient's authorizing resolution that designates the authorized representative by title.

"Bank" means the California Infrastructure and Economic Development Bank.

"Bond Funded Portion of the Project Funds" means any portion of the Project Funds which was or will be funded with Bond Proceeds.

"Bond Proceeds" means original proceeds, investment proceeds, and replacement proceeds of Bonds.

"Bonds" means any series of bonds issued by the Bank, the interest on which is excluded from gross income for federal tax purposes, all or a portion of the proceeds of which have been, are, or will be applied by the State Water Board to fund all or any portion of the Project Costs or that are secured in whole or in part by Payments paid hereunder.

"Charge In Lieu of Interest" means any fee or charge in lieu of some or all of, but not to exceed, the interest that would otherwise be owed under this Agreement, as set forth in Exhibit C.

"City" means the existing political subdivision known as the City and County of San Francisco, in the State of California, as the same is organized and existing under and by virtue of the Constitution and laws of the State of California and the Charter and any public body hereafter created which shall be a successor thereto.

"Code" as used in Exhibit F of this Agreement means the Internal Revenue Code of 1986, as amended, and any successor provisions and the regulations of the U.S. Department of the Treasury promulgated thereunder.

"Completion of Construction" means the date, as determined by the Division after consultation with the Recipient, that the work of building and erection of the Project is substantially complete, and is identified in Exhibit A of this Agreement.

"Cover Page" means the front page of this Agreement.

"Days" means calendar days unless otherwise expressly indicated.

"Deputy Director" means the Deputy Director of the Division.

"District Office" means District Office of the Division of Drinking Water of the State Water Board.

"Division" means the Division of Financial Assistance of the State Water Board or any other segment of the State Water Board authorized to administer this Agreement.

"Division of Drinking Water" means the Division of Drinking Water of the State Water Board.

"Eligible Construction Start Date" means the date set forth on the Cover Page of this Agreement, establishing the date on or after which construction costs may be incurred and eligible for reimbursement hereunder.

"Eligible Work Start Date" means the date set forth on the Cover Page of this Agreement, establishing the date on or after which any non-construction costs may be incurred and eligible for reimbursement hereunder.

"Enterprise Fund" means the water enterprise fund of the Recipient in which Revenues are deposited.

"Event of Default" means the occurrence of any of the following events:

- a) Failure by the Recipient to make any payment required to be paid pursuant to this Agreement, including Payments;
- b) A representation or warranty made by the Recipient in this Agreement or in any document furnished by the Recipient to the State Water Board pursuant to this Agreement shall prove to have been inaccurate, misleading or incomplete in any material respect;
- c) A material adverse change in the condition of the Recipient, the Revenues, or the System, which the Division reasonably determines would materially impair the Recipient's ability to satisfy its obligations under this Agreement.
- d) Failure by the Recipient to comply with the additional debt test or rate covenant requirement, if any, in Exhibit B or Exhibit D of this Agreement;
- e) Failure to operate the System or the Project without the Division's approval;
- f) Failure by the Recipient to observe and perform any covenant, condition, or provision in this Agreement, which failure shall continue for a period of time, to be determined by the Division;

- g) The occurrence of a material breach or event of default under any System Obligation that results in the acceleration of principal or interest or otherwise requires immediate prepayment, repurchase or redemption;
- h) Initiation of proceedings seeking arrangement, reorganization, or any other relief under any applicable bankruptcy, insolvency, or other similar law; the appointment of or taking possession of the Recipient's property by a receiver, liquidator, assignee, trustee, custodian, conservator, or similar official; the Recipient's entering into a general assignment for the benefit of creditors; the initiation of resolutions or proceedings to terminate the Recipient's existence, or any action in furtherance of any of the foregoing;
- i) A determination pursuant to Gov. Code section 11137 that the Recipient has violated any provision in Article 9.5 of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code;
- j) Loss of the Recipient's rights, licenses, permits, or privileges necessary for the operation of the System, or the occurrence of any material restraint on the Recipient's enterprise by a government agency or court order; and
- k) Any event called an "Event of Default" in Section 7.01 of the Indenture.

"Final Budget Approval" means the written approval provided by the Division to the Recipient upon the Division's review and approval of the Recipient's final budget forms, which sets forth the Division-approved final budget for the Project.

"Final Reimbursement Request Date" means the date set forth as such on the Cover Page of this Agreement, after which date, no further Project Funds disbursements may be requested.

"Final Payment Date" is the date by which all principal and accrued interest due under this Agreement is to be paid in full to the State Water Board and is specified on the Cover Page of this Agreement.

"Fiscal Year" means the period of twelve (12) months terminating on June 30 of any year, or any other annual period selected and designated by the Recipient as its Fiscal Year in accordance with applicable law.

"Force Account" means the use of the Recipient's own employees, equipment, or resources for the Project.

"GAAP" means generally accepted accounting principles, the uniform accounting and reporting procedures set forth in publications of the American Institute of Certified Public Accountants or its successor, or by any other generally accepted authority on such procedures, and includes, as applicable, the standards set forth by the Governmental Accounting Standards Board or its successor.

"Indenture" means the Amended and Restated Indenture, dated as of August 1, 2002, by and between the Recipient and U.S. Bank Trust Company National Association, as successor in interest to U.S. Bank, National Association (previously known as U.S. Bank, N.A.), as Trustee, as originally executed and as amended or supplemented by any supplemental indenture authorized thereunder, up to, and including, the Forty-Second Supplemental Indenture, dated October 1, 2020.

"Initiation of Construction" means the date that notice to proceed with work is issued for the Project, or, if notice to proceed is not required, the date of commencement of building and erection of the Project.

"Listed Event" means, so long as the Recipient has outstanding any System Obligation subject to Rule 15c2-12, any of the events required to be reported pursuant to Rule 15c2-12(b)(5).

"Maximum Annual Debt Service" means, at any point in time, with respect to Bonds then Outstanding, the maximum amount of principal and interest becoming due in the then current or any future Fiscal Year, calculated by the Recipient as provided in this definition. For the purpose of this definition of Maximum

Annual Debt Service, capitalized terms that are defined in Exhibit D, Legal Special Condition No. 3 of this Agreement and used herein, shall have the meaning prescribed to them therein. For purposes of calculating Maximum Annual Debt Service, the following assumptions are to be used to calculate the principal and interest becoming due in any Fiscal Year:

- a) in determining the principal amount due in each year, payment shall (unless a different subsection of this definition applies for purposes of determining principal maturities or amortization) be assumed to be made in accordance with any amortization schedule established for such debt, including any Minimum Sinking Fund Account Payments or any scheduled redemption or payment of Bonds on the basis of Accreted Value, and for such purpose, the redemption payment or payment of Accreted Value shall be deemed a principal payment and interest that is compounded and paid as Accreted Value shall be deemed due on the scheduled redemption or payment date of such Capital Appreciation Bond;
- b) if any of the Outstanding Series of Bonds constitute Balloon Indebtedness or Balloon Indebtedness and Variable Rate Indebtedness or if Bonds then proposed to be issued would constitute Balloon Indebtedness or Balloon Indebtedness and Variable Rate Indebtedness, then, for purposes of determining Maximum Annual Debt Service, such amounts as constitute Balloon Indebtedness shall be treated as if the principal amount of such Bonds were to be amortized from the date of their original issuance in substantially equal annual installments of principal and interest over a term of 25 years; the interest rate used for such computation shall be the rate quoted in The Bond Buyer - 25 Revenue Bond Index for the last week of the month preceding the date of calculation, as published in The Bond Buyer, or if that index is no longer published, another similar index selected by the Recipient, or if the Recipient fails to select a replacement index, an interest rate equal to 80% of the yield for outstanding United States Treasury bonds having an equivalent maturity as the Bonds on the date of issuance, or if there are no such Treasury bonds having equivalent maturities, 80% of the lowest prevailing prime rate of any of the five largest commercial banks in the United States ranked by assets;
- c) if any Outstanding Bonds constitute Tender Indebtedness or if Bonds then proposed to be issued would constitute Tender Indebtedness, then for purposes of determining the amounts of principal and interest due in any Fiscal Year on such Bonds, the options or obligations of the owners of such Bonds to tender the same for purchase or payment prior to their stated maturity or maturities shall be treated as a principal maturity occurring on the first date on which owners of such Bonds may or are required to tender such Bonds except that any such option or obligation to tender Bonds shall be ignored and not treated as a principal maturity, if (1) such Bonds are rated in one of the two highest long-term rating categories (without reference to gradations such as "plus" or "minus") by Moody's and by S&P or such Bonds are rated in the highest short-term, note or commercial paper rating categories by Moody's and by S&P and (2) the obligation, if any, the Recipient may have under a Letter of Credit Agreement with respect to such Bonds, other than its obligations on such Bonds, shall either be subordinated to the obligation of the Recipient on the Bonds or be incurred under the conditions and meeting the tests for the issuance of Additional Bonds set forth under the Indenture.
- d) if any Outstanding Bonds constitute Variable Rate Indebtedness, the interest rate on such Bonds shall be assumed to be 110% of the greater of (a) the daily average

interest rate on such Bonds during the 12 months ending with the month preceding the date of calculation, or such shorter period that such Bonds shall have been Outstanding, or (b) the rate of interest on such Bonds on the date of calculation;

- e) if Bonds proposed to be issued will be Variable Rate Indebtedness, then such Bonds shall be assumed to bear interest at the rate quoted in The Bond Buyer - 25 Revenue Bond Index for the last week of the month preceding the date of sale of such additional Bonds, as published in The Bond Buyer, or if that index is no longer published, another similar index selected by the Recipient, or if the Recipient fails to select a replacement index, an interest rate equal to 80% of the yield for outstanding United States Treasury bonds having an equivalent maturity as the additional Bonds proposed to be issued, or if there are no such Treasury bonds having equivalent maturities, 80% of the lowest prevailing prime rate of the five largest commercial banks in the United States ranked by assets;
- f) if moneys or Federal Securities or general obligation bonds of the State of California have been deposited with and are held by the Trustee or another fiduciary to be used to pay principal and/or interest on specified Bonds, then the principal and/or interest to be paid from such moneys or Federal Securities or general obligation bonds of the State of California or from the earnings thereon shall be disregarded and not included in calculating Maximum Annual Debt Service.

The term "Annual Debt Service" means the sum of such principal and interest as computed for the twelve-month period ending June 30 to which reference is made.

The term "Debt Service" means the sum of all such principal and interest.

The term "Average Annual Debt Service" means total Debt Service, divided by the number of twelve-month periods ending on June 30 (including any fractional periods) remaining until the last maturity date of any Outstanding Bond.

For the purpose of calculating Maximum Annual Debt Service, Annual Debt Service, Debt Service, and Average Annual Debt Service, in determining the amount of interest coming due during any twelve-month period ending June 30 on any Series of Bonds that were issued as Build America Bonds, such amount shall be reduced by an amount equal to the Refundable Credits the Recipient is scheduled to receive during each such twelve-month period ending June 30. If the amount of Refundable Credits received by the Recipient for any Series of Bonds that were issued as Build America Bonds is reduced or not received during any twelve-month period ending June 30, the Recipient will calculate the amount of interest coming due for the subsequent twelve-month period ending June 30 without deducting an amount equal to the Refundable Credits for the purpose of calculating Maximum Annual Debt Service until the receipt of such Refundable Credits resumes and all prior deficiencies are cured.

"Net Revenues" means all of the Revenues (but not including interest on investment of funds required to be deposited in said funds or investment earnings required to be deposited in the Improvement Fund under the Indenture) less all Operation and Maintenance Costs of the System (but not including such Operation and Maintenance Costs as are scheduled to be paid by the Recipient from moneys other than Revenues, such moneys to be clearly available for such purpose).

"Obligation" means the obligation of the Recipient to make Payments, including Additional Payments, as provided herein, as evidenced by the execution of this Agreement, proceeds of such obligations being used to fund the Project as specified in the Project Description in Exhibit A and Exhibit B and in the documents thereby incorporated by reference.

"Operations and Maintenance Costs" means the reasonable and necessary costs of operating and maintaining the System, calculated on sound accounting principles, including (among other things) salaries and wages, fees for services, costs of materials, supplies and fuel, reasonable expenses of management, legal fees, accounting fees, repairs and other expenses necessary to maintain and preserve the System in good repair and working order, and reasonable amounts for administration, overhead, insurance, taxes (if any), other similar costs, and the payment of pension charges and proportionate payments to such compensation and other insurance or outside reserve funds as the Recipient may establish or the Board of Supervisors may require with respect to employees of the Recipient, as provided in the Charter, but excluding in all cases (i) depreciation and obsolescence charges or reserves therefor, (ii) amortization of intangibles or other bookkeeping entries of a similar nature, (iii) costs of capital additions, replacements, betterments, extensions or improvements to the System, which under generally accepted accounting principles are chargeable to a capital account or to a reserve for depreciation, and (iv) charges for the payment of principal and interest on any general obligation bonds, revenue bonds or other indebtedness heretofore or hereafter issued for System purposes.

"Other Material Obligations" mean obligations of the Recipient that are not payable from a pledge of Net Revenues, but are otherwise material to this transaction. Material Obligations are set forth in Exhibit D.

"Parity Obligations" mean 2010 Series B, E, and G Water Revenue Bonds; 2011 Series B and C Water Revenue Bonds; 2015 Series A Water Revenue Bonds, 2016 Series A, B, and C Water Revenue Bonds; 2017 Series A, B, C, D, E, F, and G Water Revenue Bonds; 2019 Series A, B, and C Water Revenue Bonds, 2020 Series A, B, C, D, E, F, G, and H Water Revenue Bonds, CWSRF Agreement No. D17-01001 (Project No. C-06-8111-110); and any additional Bond obligation, as such term is defined in Exhibit D of this Agreement, incurred pursuant to Section B.4 of this Agreement.

"Payment" means any payment due to the State Water Board from the Recipient pursuant to this Agreement.

"Policy" means the State Water Board's "Policy for Implementing the Drinking Water State Revolving Fund," as amended from time to time, including the Intended Use Plan in effect as of the execution date of this Agreement.

"Project" means the Project financed by this Agreement as described in Exhibits A and B and in the documents incorporated by reference herein.

"Project Completion" means the date, as determined by the Division after consultation with the Recipient, that operation of the Project is initiated or is capable of being initiated, whichever comes first.

"Project Costs" means the incurred costs of the Recipient which are eligible for financial assistance under this Agreement, which are allowable costs as defined under the Policy, and which are reasonable, necessary and allocable by the Recipient to the Project under GAAP, and may include capitalized interest.

"Project Funds" means all moneys disbursed to the Recipient by the State Water Board for eligible Project Costs pursuant to this Agreement.

"Recipient" means Public Utilities Commission of the City and County of San Francisco.

"Records Retention End Date" means the last date that the Recipient is obligated to maintain records and is set forth on the Cover Page of this Agreement.

"Reimbursement Period" means the period during which Project Funds may be disbursed.

"Reimbursement Request" means the Recipient's request for Project Funds from the State Water Board as set forth in Exhibit B.

"Reimbursement Resolution" means the Recipient's reimbursement resolution identified and incorporated by reference in this Agreement.

"Revenues" means all gross revenues of the System, including all charges received for and all other income and receipts derived by the Recipient or the City from the operation of the System, or arising from the System, including connection and installation charges, but excluding:

- (1) any money received by or for the account of the City or the Recipient from the levy or collection of taxes,
- (2) moneys received from the State of California and the United States of America and required to be deposited in restricted funds,
- (3) refundable deposits made to establish credit,
- (4) advances and contributions made to the Recipient or the City to be applied to construction,
- (5) moneys required to be paid to the State of California and the United States of America pursuant to agreements with the City or the Recipient,
- (6) moneys received from insurance proceeds or the sale of or upon the taking by or under the threat of eminent domain of all or any part of the System (which moneys shall be received and disposed of pursuant to the Indenture),
- (7) proceeds from Bonds issued by the Recipient pursuant to the Indenture or proceeds from loans obtained by the Recipient,
- (8) moneys or securities received by the City or the Recipient as gifts or grants, the use of which is restricted by the donor or grantor,
- (9) sewer service fees or charges, and
- (10) any surcharge imposed by or upon the direction of any joint powers agency or other governmental entity, other than the Recipient, the City or any department or agency of the City, whether or not collected by the Recipient, the City or any department or agency of the City, for the purpose of financing improvements to the facilities comprising the System.

The term "Revenues" also includes (i) all interest, profits or other income derived from the deposit or investment of any moneys in any fund or account established under the Indenture (excluding any Rebate Fund, as defined in the Indenture and set forth in Exhibit D, Legal Special Condition No. 3 of this Agreement, and any escrow fund pledged for the payment of defeased bonds, or in any fund or account of the System and legally available to pay Debt Service, as defined in the Indenture and set forth in this Section 5 of this Agreement, on the Bonds, as defined in the Indenture and set forth in Exhibit D, Legal Special Condition No. 3 of this Agreement, and (ii) any other moneys, proceeds and other amounts that the Recipient determines should be "Revenues" under the Indenture.

"Rule 15c2-12(b)(5)" means Rule 15c2-12(b)(5) promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended.

“Senior Obligations” means a debt obligation of the Recipient that is senior to this Obligation. There are no Senior Obligations.

“SRF” means the Drinking Water State Revolving Fund.

“State” means State of California.

“State Water Board” means the State Water Resources Control Board.

“Subordinate Obligations” means a debt obligation of the Recipient that is subordinate to this Obligation. Subordinate Obligations include:

- Public Utilities Commission of the City and County of San Francisco Revolving Obligations (Water Series, Proposition E) Series R-1
- Public Utilities Commission of the City and County of San Francisco Commercial Paper Notes (Water Series, Proposition E) Tax Exempt Subseries A-1 and Subseries A-1-T
- Public Utilities Commission of the City and County of San Francisco Commercial Paper Notes (Water Series, Proposition E) Tax Exempt Subseries A-2 and Taxable Subseries A-2-T
- Public Utilities Commission of the City and County of San Francisco Commercial Paper Notes (Water Series, Proposition E) Tax Exempt Subseries A-3 and Taxable Subseries A-3-T

“System” means the whole and each and every part of the municipal water supply, storage and distribution system of the Recipient, as located partially within and partially without the City, including all of said presently existing municipal water system of the City and all additions, betterments, and extensions to said water system or any part thereof thereafter made, but excluding any water supply, storage or distribution facilities under the jurisdiction of the Hetch Hetchy Project, a department of the City under the jurisdiction of the Recipient.

“System Obligation” means any obligation of the Recipient payable from the Revenues, including but not limited to this Obligation, any Parity Obligation, any Subordinate Obligation, and such additional obligations as may hereafter be issued in accordance with the provisions of such obligations and this Agreement.

“Useful Life” means the economically useful life of the Project beginning at Completion of Construction and is set forth in Exhibit A.

“Year” means calendar year unless otherwise expressly indicated.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

PUBLIC UTILITIES COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO:

By: 
Name: Dennis J. Herrera
Title: General Manager

Date: April 19, 2022

STATE WATER RESOURCES CONTROL BOARD:

By: 
Name: Joe Karkoski
Title: Deputy Director
Division of Financial Assistance

Date: 4/27/2022

Approved as to form:

David Chiu
City Attorney of the City and County of San Francisco

By: _____
Name: Mark D. Blake
Title: Deputy City Attorney
Acknowledged:

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

PUBLIC UTILITIES COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO:

By: _____
Name: Dennis J. Herrera
Title: General Manager

Date: April 19, 2022 _____

STATE WATER RESOURCES CONTROL BOARD:

By: _____
Name: Joe Karkoski
Title: Deputy Director
Division of Financial Assistance

Date: 4/27/2022 _____

Approved as to form:

David Chiu
City Attorney of the City and County of San Francisco

By: _____
Name: Mark D. Blake
Title: Deputy City Attorney
Acknowledged:

EXHIBIT A – SCOPE OF WORK

A.1. PROJECT DESCRIPTION, USEFUL LIFE, AND SCOPE OF WORK.

1. The Project is the project set forth on the Cover Page of this Agreement. The funding under this Agreement shall be used to rehabilitate the Mountain Tunnel which conveys San Francisco Public Utilities Commission water supply from Kirkwood Powerhouse to Priest Reservoir.

2. The Useful Life of this Project is at least thirty (30) years.

3. Scope of Work.

The Recipient agrees to rehabilitate the Mountain Tunnel. The Recipient must construct and/or implement tunnel lining repairs, contact grouting, downstream flow control valving, a new adit tunnel at Priest Reservoir, a South Fork Siphon extension tunnel, access road widening and tunnel access improvements, environmental mitigations, and site restoration.

A.2. STANDARD PROJECT REQUIREMENTS.

A.2.1 Acknowledgements.

The Recipient shall include the following acknowledgements in any document, written report, or brochure prepared in whole or in part pursuant to this Agreement:

“Funding for this project has been provided in full or in part through an agreement with the State Water Resources Control Board. California’s Drinking Water State Revolving Fund is capitalized through a variety of funding sources, including grants from the United States Environmental Protection Agency and state bond proceeds. The contents of this document do not necessarily reflect the views and policies of the foregoing, nor does mention of trade names or commercial products constitute endorsement or recommendation for use.”

A.2.2 Reports

A.2.2.1 Progress Reports.

(a) The Recipient must provide a progress report to the Division each quarter, beginning no later than 90 days after execution of this Agreement.

(b) The Recipient must provide a progress report with each Reimbursement Request. Failure to provide a complete and accurate progress report may result in the withholding of Project Funds, as set forth in Exhibit B.

(c) A progress report must contain the following information:

- i. A summary of progress to date including a description of progress since the last report, percent construction complete, percent contractor invoiced, and percent schedule elapsed;
- ii. A description of compliance with environmental requirements;

- iii. A listing of change orders including amount, description of work, and change in contract amount and schedule; and
- iv. Any problems encountered, proposed resolution, schedule for resolution, and status of previous problem resolutions.

A.2.2.2 Project Completion Report.

(a) The Recipient must submit a Project Completion Report to the Division with a copy to the appropriate District Office on or before the due date established by the Division and the Recipient at the time of final project inspection. The Project Completion Report must include the following:

- i. Description of the Project,
- ii. Description of the water quality problem the Project sought to address,
- iii. Discussion of the Project's likelihood of successfully addressing that water quality problem in the future, and
- iv. Summary of compliance with applicable environmental conditions.

(b) If the Recipient fails to submit a timely Project Completion Report, the State Water Board may stop processing pending or future applications for new financial assistance, withhold reimbursements under this Agreement or other agreements, and begin administrative proceedings.

A.2.2.3 As Needed Reports.

The Recipient must provide expeditiously, during the term of this Agreement, any reports, data, and information reasonably required by the Division, including but not limited to material necessary or appropriate for evaluation of the funding program or to fulfill any reporting requirements of the state or federal government.

A.2.2.4 DBE Reports.

The Recipient must report Disadvantaged Business Enterprise (DBE) utilization to the Division on the DBE Utilization Report, State Water Board Form DBE UR334. The Recipient must submit such reports to the Division annually within ten (10) calendar days following October 1 until such time as the "Notice of Completion" is issued. The Recipient must comply with 40 CFR § 33.301 and require its contractors and subcontractors on the Project to comply.

A.2.3 Signage.

The Recipient shall place a sign at least four feet tall by eight feet wide made of ¾ inch thick exterior grade plywood or other approved material in a prominent location on the Project site and shall maintain the sign in good condition for the duration of the construction period. The sign must include the following disclosure statement and color logos (available from the Division):



"Funding for this \$238,218,951 Mountain Tunnel Improvement Project has been provided in full or in part by the Drinking Water State Revolving Fund through an agreement with the State Water Resources Control Board. California's Drinking Water State Revolving Fund is capitalized through a variety of funding sources, including grants from the United States Environmental Protection Agency and state bond proceeds."

The Project sign may include another agency's required promotional information so long as the above logos and disclosure statement are equally prominent on the sign. The sign shall be prepared in a professional manner.

A.2.4 Commencement of Operations.

Upon Completion of Construction of the Project, the Recipient must expeditiously initiate Project operations.

A.3 DATES & DELIVERABLES.

(a) Time is of the essence.

(b) The Recipient must expeditiously proceed with and complete construction of the Project.

(c) The following dates are established as on the Cover Page of this Agreement:

- i. Eligible Construction Start Date
- ii. Eligible Work Start Date
- iii. Completion of Construction Date
- iv. Final Reimbursement Request Date
- v. Records Retention End Date
- vi. Final Payment Date

(d) The Recipient must award the prime construction contract timely.

(e) The Recipient agrees to start construction no later than January 29, 2021.

(f) The Recipient must deliver any request for extension of the Completion of Construction date no less than 90 days prior to the Completion of Construction date.

(g) The undisbursed balance of this Agreement will be deobligated if the Recipient does not provide its final Reimbursement Request to the Division on or before the Final Reimbursement Request Date.

EXHIBIT B – FUNDING TERMS

B.1. FUNDING AMOUNTS

B.1.1 Funding Contingency and Other Sources.

(a) If this Agreement's funding for any fiscal year expires due to reversion or is reduced, substantially delayed, or deleted by the Budget Act, by Executive Order, or by order or action of the Department of Finance, the State Water Board has the option to either cancel this Agreement with no liability accruing to the State Water Board, or offer an amendment to the Recipient to reflect the reduced amount.

(b) If funding for Project Costs is made available to the Recipient from sources other than this Agreement, the Recipient must notify the Division. The Recipient may retain such funding up to an amount which equals the Recipient's share of Project Costs. To the extent allowed by requirements of other funding sources, excess funding must be remitted to the State Water Board to be applied to Payments due hereunder.

B.1.2 Estimated Reasonable Cost.

The estimated reasonable cost of the total Project, including associated planning and design costs is two hundred thirty-eight million two hundred eighteen thousand nine hundred fifty-one dollars and no cents (\$238,218,951.00).

B.1.3 Project Funding Amount.

Subject to the terms of this Agreement, the State Water Board agrees to provide Project Funds not to exceed the amount of the Project Funding Amount set forth on the Cover Page of this Agreement.

B.1.4 [Reserved.]

B.1.5 Budget Costs.

(a) Estimated budget costs are contained in the Summary Project Cost Table below:

LINE ITEM	TOTAL ESTIMATED COST	PROJECT FUNDING AMOUNT
Construction	\$150,688,437	\$150,688,437
Pre-Purchased Material/Equipment	\$0	\$0
Purchase of Land	\$0	\$0
Contingency	\$15,068,844	\$15,068,844
Force Account	\$0	\$0
Allowances (Soft Costs)	\$72,461,670	\$72,461,670
TOTAL	\$238,218,951	\$238,218,951

The Division's Final Budget Approval and related Form 259 and Form 260 will document a more detailed budget of eligible Project Costs and Project funding amounts.

Upon written request by the Recipient, the Division may adjust the line items of the Summary Project Cost Table at the time of Division's Final Budget Approval. Upon written request by the Recipient, the Division may also adjust the line items of the Summary Project Cost Table as well as the detailed budget at the time of Recipient's submittal of its final claim. Any line item adjustments to the Summary Project Cost Table that are due to a change in scope of work will require an Agreement amendment. The sum of adjusted line items in both the Summary Project Cost Table and the detailed budget must not exceed the Project Funding Amount. The Division may also propose budget adjustments.

(b) Under no circumstances may the sum of line items in the Final Budget Approval exceed the Project Funding Amount.

B.1.6 Contingent Disbursement.

(a) The State Water Board's disbursement of funds hereunder is contingent on the Recipient's compliance with the terms and conditions of this Agreement.

(b) The State Water Board's obligation to disburse Project Funds is contingent upon the availability of sufficient funds to permit the disbursements provided for herein. If sufficient funds are not available for any reason, including but not limited to failure of the federal or State government to appropriate funds necessary for disbursement of Project Funds, the State Water Board shall not be obligated to make any disbursements to the Recipient under this Agreement. This provision shall be construed as a condition precedent to the obligation of the State Water Board to make any disbursements under this Agreement. Nothing in this Agreement shall be construed to provide the Recipient with a right of priority for disbursement over any other entity. If any disbursements due the Recipient under this Agreement are deferred because sufficient funds are unavailable, it is the intention of the State Water Board that such disbursement will be made to the Recipient when sufficient funds do become available, but this intention is not binding.

(c) Construction costs and disbursements are not available until after the Division has approved the final budget form submitted by the Recipient. Construction costs incurred prior to the Eligible Construction Start Date are not eligible for reimbursement. Failure to begin construction according to the timelines set forth in this Agreement may require the Recipient to repay to the State Water Board all disbursed Project Funds.

(d) The Recipient agrees to ensure that its final Reimbursement Request is received by the Division no later than the Final Reimbursement Request Date, unless prior approval has been granted by the Division. If the final Reimbursement Request is not received timely, the undisbursed balance of this Agreement will be deobligated.

(e) The Recipient is not entitled to interest earned on undisbursed funds.

(f) No costs incurred prior to the Eligible Work Start Date are eligible for reimbursement.

B.1.7 Reimbursement Procedure.

Except as may be otherwise provided in this Agreement, disbursement of Project Funds will be made as follows:

1. Upon execution and delivery of this Agreement by both parties, the Recipient may request immediate reimbursement of any eligible incurred planning and design allowance costs through submission to the State Water Board of the Reimbursement Request Form 260 and Form 261, or any amendment thereto, duly completed and executed.
2. The Recipient must submit a Reimbursement Request for costs incurred prior to the date this Agreement is executed by the State Water Board no later than one-hundred eighty (180) days after this Agreement is executed by the State Water Board. Late Reimbursement Requests may not be honored.
3. The Recipient may request reimbursement of eligible construction and equipment costs consistent with budget amounts approved by the Division in the Final Budget Approval.

4. Additional Project Funds will be promptly disbursed to the Recipient upon receipt of Reimbursement Request Form 260 and Form 261, or any amendment thereto, duly completed and executed by the Recipient for incurred costs consistent with this Agreement, along with receipt of progress reports due under Exhibit A.
5. The Recipient must not request reimbursement for any Project Cost until such cost has been incurred and is currently due and payable by the Recipient, although the actual payment of such cost by the Recipient is not required as a condition of Reimbursement Request. Supporting documentation (e.g., receipts) must be submitted with each Reimbursement Request. The amount requested for administration costs must include a calculation formula (i.e., hours or days worked times the hourly or daily rate = total amount claimed). Reimbursement of Project Funds will be made only after receipt of a complete, adequately supported, properly documented, and accurately addressed Reimbursement Request.
6. The Recipient must spend Project Funds within 30 days of receipt. If the Recipient earns interest earned on Project Funds, it must report that interest immediately to the State Water Board. The State Water Board may deduct earned interest from future reimbursements.
7. The Recipient shall not request a reimbursement unless that Project Cost is allowable, reasonable, and allocable.
8. Notwithstanding any other provision of this Agreement, no disbursement shall be required at any time or in any manner which is in violation of or in conflict with federal or state laws, policies, or regulations.
9. Costs incurred for work or travel outside the State of California are not eligible for reimbursement under this Agreement unless the Division provides prior written authorization. Any reimbursement for necessary travel and per diem shall be at rates not to exceed those set by the California Department of Human Resources at <http://www.calhr.ca.gov/employees/Pages/travel-reimbursements.aspx>, as of the date costs are incurred by the Recipient.

B.1.8 Withholding of Disbursements.

Notwithstanding any other provision of this Agreement, the State Water Board may withhold all or any portion of the Project Funds upon the occurrence of any of the following events:

- (a) The Recipient's failure to maintain reasonable progress on the Project as determined by the Division;
- (b) Placement on the ballot or passage of an initiative or referendum to repeal or reduce the Recipient's taxes, assessments, fees, or charges levied for operation of the System or payment of debt service on System Obligations;
- (c) Commencement of litigation or a judicial or administrative proceeding related to the Project, System, or Revenues that the State Water Board determines may materially impair the timely satisfaction of Recipient's obligations under this Agreement;
- (d) Any investigation by the District Attorney, California State Auditor, Bureau of State Audits, United States Environmental Protection Agency's Office of Inspector General, the Internal Revenue Service, Securities and Exchange Commission, a grand jury, or any other state or federal agency, relating to the Recipient's financial management, accounting procedures, or internal fiscal controls in connection with the System or the Enterprise Fund;
- (e) A material adverse change in the condition of the Recipient, the Revenues, or the System, that the Division reasonably determines would materially impair the Recipient's ability to

- satisfy its obligations under this Agreement, or any other event that the Division reasonably determines would materially impair the Recipient's ability to satisfy its obligations under this Agreement,
- (f) The Recipient's material violation of, or threat to materially violate, any term of this Agreement;
 - (g) Evidence of fraud, forgery, embezzlement, theft, or any other misuse of public funds by the Recipient or its employees, or by its contractors or agents regarding the Project or the System;
 - (h) An event requiring Notice as set forth in Exhibit E;
 - (i) An Event of Default.

B.1.9 Fraud and Misuse of Public Funds.

All requests for reimbursement submitted must be accurate and signed by the Recipient's Authorized Representative under penalty of perjury. All costs submitted pursuant to this Agreement must only be for the work or tasks set forth in this Agreement. The Recipient must not submit any invoice containing costs that are ineligible or have been reimbursed from other funding sources unless required and specifically noted as such (i.e., match costs). Any eligible costs for which the Recipient is seeking reimbursement shall not be reimbursed from any other source. Double or multiple billing for time, services, or any other eligible cost is improper and will not be compensated. Any suspected occurrences of fraud, forgery, embezzlement, theft, or any other misuse of public funds may result in suspension of disbursements and, notwithstanding any other section in this Agreement, the termination of this Agreement requiring the repayment of all funds disbursed hereunder. Additionally, the Deputy Director of the Division may request an audit and refer the matter to the Attorney General's Office or the appropriate district attorney's office for criminal prosecution or the imposition of civil liability.

B.2 RECIPIENT'S PAYMENT OBLIGATION AND PLEDGE

B.2.1 Project Costs.

The Recipient must pay any and all costs connected with the Project including, without limitation, any and all Project Costs and Additional Payments. If the Project Funds are not sufficient to pay the Project Costs in full, the Recipient must nonetheless complete the Project and pay that portion of the Project Costs in excess of available Project Funds, and shall not be entitled to any reimbursement therefor from the State Water Board.

B.2.2 Estimated Principal Payment Due.

The estimated amount of principal that will be due to the State Water Board from the Recipient under this Agreement is two hundred thirty-eight million two hundred eighteen thousand nine hundred fifty-one dollars and no cents (\$238,218,951.00)

B.2.3 Interest Rate and In-Lieu of Interest Charges.

(a) The Recipient agrees to make all Payments according to the schedule in Exhibit C, and as otherwise set forth herein, at an interest rate of one and one tenth (1.10%) per annum.

(b) Interest will accrue beginning with each disbursement.

(c) In lieu of, and not to exceed, interest otherwise due under this Agreement, the Recipient agrees to pay the following charge(s), as further set forth in Exhibit C:

- an Administrative Service Charge

- a Drinking Water Small Community Emergency Grant Fund Charge

B.2.4 [Reserved.]

B.2.5 Obligation Absolute.

The obligation of the Recipient to make the Payments and other payments required to be made by it under this Agreement, from the Net Revenues, on parity with the Parity Obligations, and in accordance with the underlying documents related to the outstanding Parity Obligations, and/or other amounts legally available to the Recipient therefor, is absolute and unconditional, and until such time as the Payments and Additional Payments have been paid in full, the Recipient must not discontinue or suspend any Payments or other payments required to be made by it hereunder when due, whether or not the System, or any related part thereof is operating or operable or has been completed, or its use is suspended, interfered with, reduced or curtailed or terminated in whole or in part, and such Payments and other payments shall not be subject to reduction whether by offset or otherwise and shall not be conditional upon the performance or nonperformance by any party of any agreement for any cause whatsoever.

B.2.6 Payment Timing.

(a) The Recipient must pay interest annually, by September 30th of each year, until one year after Completion of Construction. Beginning no later than one year after Completion of Construction, the Recipient must make annual Payment of the principal of the Project Funds, together with all interest accruing thereon by September 30, 2057. The Recipient must make Payments fully amortizing the total principal of the Project by the Final Payment Date. Payments are based on a standard fully amortized assistance amount with equal annual payments.

(b) The remaining balance is the previous balance, plus the disbursements, plus the accrued interest on both, plus any Charge In Lieu of Interest, less the Payment. Payment calculations will be made beginning one (1) year after Completion of Construction. Attached as Exhibit C is a payment schedule based on the provisions of this Exhibit and an estimated disbursement schedule. Actual payments will be based on actual disbursements.

(c) Upon Completion of Construction and submission of necessary reports by the Recipient, the Division will prepare an appropriate payment schedule and supply the same to the Recipient. The Division may amend this schedule as necessary to accurately reflect amounts due under this Agreement. The Division will prepare any necessary amendments to the payment schedule and send them to the Recipient. The Recipient must make each Payment on or before the due date therefor. A ten (10) day grace period will be allowed, after which time a penalty in the amount of costs incurred by the State Water Board will be assessed for late payment. These costs may include, but are not limited to, lost interest earnings, staff time, bond debt service default penalties, if any, and other related costs. For purposes of penalty assessment, payment will be deemed to have been made if payment is deposited in the U.S. Mail within the grace period with postage prepaid and properly addressed. Any penalties assessed will not be added to the assistance amount balance, but will be treated as a separate account and obligation of the Recipient. The interest penalty will be assessed from the payment due date.

(d) The Recipient is obligated to make all payments required by this Agreement to the State Water Board, notwithstanding any individual default by its constituents or others in the payment to the Recipient of fees, charges, taxes, assessments, tolls or other charges ("Charges") levied or imposed by the Recipient. The Recipient must provide for the punctual payment to the State Water Board of all amounts which become due under this Agreement and which are received from constituents or others in the payment to the Recipient. In the event of failure, neglect or refusal of any officer of the Recipient to levy or cause to be levied any Charge to provide payment by the Recipient under this Agreement, to enforce or to collect such Charge, or to pay over to the State Water Board any money collected on account of such Charge necessary to satisfy any amount due under this Agreement, the State Water Board may take such action

in a court of competent jurisdiction as it deems necessary to compel the performance of all duties relating to the imposition or levying and collection of any of such Charges and the payment of the money collected therefrom to the State Water Board. Action taken pursuant hereto shall not deprive the State Water Board of, or limit the application of, any other remedy provided by law or by this Agreement.

(e) Each Payment must be paid in lawful money of the United States of America by check or other acceptable form of payment set forth at www.waterboards.ca.gov/make_a_payment. The Recipient must pay Payments and Additional Payments from Revenues and/or other amounts legally available to the Recipient therefor.

B.2.7 Pledged Revenues.

B.2.7.1 Establishment of Enterprise Fund.

In order to carry out its System Obligations, the Recipient covenants that it shall establish and maintain or shall have established and maintained the Enterprise Fund. All Revenues received shall be deposited when and as received in trust in the Enterprise Fund.

B.2.7.2 Pledge of Revenues and Enterprise Fund.

The Obligation hereunder shall be secured by a lien on and pledge of the Revenues on parity with the Parity Obligations and in accordance with the underlying documents related to the outstanding Parity Obligations. The Recipient hereby pledges and grants such lien on and pledge of the Revenues to secure the Obligation, including payment of Payments and Additional Payments hereunder. The Revenues shall be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Recipient.

B.2.7.3 Application and Purpose of the Enterprise Fund.

Subject to the provisions of any outstanding System Obligation, money on deposit in the Enterprise Fund shall be applied and used first, to pay Operations and Maintenance Costs, and thereafter, all amounts due and payable with respect to the System Obligations. Subject to the provisions of any outstanding Parity Obligation, after making all payments hereinabove required to be made in each Fiscal Year, the Recipient may expend in such Fiscal Year any remaining money in the Enterprise Fund for any lawful purpose of the Recipient, including payment of Subordinate Obligations.

B.2.8 No Prepayment.

The Recipient may not prepay any portion of the principal and interest due under this Agreement without the written consent of the Deputy Director of the Division.

B.2.9 [Reserved.]

B.3 RATES, FEES AND CHARGES.

(a) The Recipient must, to the extent permitted by law, fix, prescribe and collect rates, fees and charges for the System during each Fiscal Year which are reasonable, fair, and nondiscriminatory and which will be sufficient to meet the requirements of Section 6.13(a) and (b) of the Indenture, including the requirement to generate Revenues in the amounts necessary to cover Operations and Maintenance Costs, and must ensure that Net Revenues are equal to at least 1.25 times the Annual Debt Service with respect to all outstanding Parity Obligations, including this Obligation and at least 1.00 the Annual Debt Service with respect to all outstanding Subordinate Obligations. So long as the Recipient has complied with its obligations under Section 6.13 of the Indenture and Exhibit D of this Agreement, the failure to

yield the amount of Revenues as set forth in the Indenture, or failure of Net Revenues to equal at least 1.25 times Annual Debt Service with respect to all outstanding Parity Obligations and at least 1.00 times Annual Debt Service with respect to all outstanding Subordinate Obligations at the end of the Recipient's fiscal year, shall not cause an event of default under the Indenture or this Agreement, so long as the Recipient has complied with Section 6.13 of the Indenture at the commencement of the succeeding fiscal year of the Recipient.

(b) The Recipient may make adjustments from time to time in such rates, fees and charges and may make such classification thereof as it deems necessary, but shall not reduce the rates, fees and charges then in effect unless the Net Revenues after such reduced rates, fees, and charges are put into effect will at all times be sufficient to meet the requirements of this section.

(c) Upon consideration of a voter initiative to reduce Revenues, the Recipient's Authorized Representative must make a written finding regarding the effect of such a reduction on the Recipient's ability to satisfy the rate covenant set forth in this Section. The Recipient's Authorized Representative must request, if necessary, the authorization of the Recipient's decision-maker or decision-making body to file litigation to challenge any such initiative that it finds will render it unable to satisfy the rate covenant set forth in Section B.3 of Exhibit B of this Agreement and its obligation to operate and maintain the Project for its Useful Life. The Recipient must diligently pursue and bear, if necessary, any and all costs related to such challenge. The Recipient must notify and regularly update the State Water Board regarding the status of any such challenge.

B.4 ADDITIONAL DEBT.

(a) The Recipient's future debt that is secured by Revenues pledged herein may not be senior to this Obligation.

(b) The Recipient may issue additional parity debt in accordance with sections 3.04-3.07 of the Indenture, as set forth in Exhibit D, Legal Special Condition No. 4 of this Agreement.

(c) The Recipient may issue subordinate debt so long as the Recipient, in connection with the System, is in compliance with the requirement in Exhibit B.3(a) of this Agreement to establish, maintain and collect rates and charges with respect to the System sufficient to pay the Recipient's System commercial paper notes, and all other System Obligations, including the proposed additional subordinate debt. Draws on the Recipient's System commercial paper notes listed in the definition of Subordinate Obligations in Section 5 of this Agreement, up to the amount currently authorized pursuant to these commercial paper notes at the time of execution of this Agreement, will not cause the Recipient to have to demonstrate coverage requirements pursuant to this Exhibit B.4(c).

B.5 NO LIENS.

The Recipient must not make any pledge of or place any lien on the Project, System, or Revenues except as otherwise provided or permitted by each of the Indenture and this Agreement.

EXHIBIT C – PAYMENT SCHEDULE

See the attached preliminary Payment Schedule. The final Payment Schedule will be forwarded to the Recipient after all disbursements have been paid and construction of the Project has been completed.

California DWSRF Payment Schedule

Principal is paid over: 30 Years
Interest rate: 1.10000%

Project No. 3810001-001C - San Francisco, Public Utilities Commission of the City and County of
Agreement: D2102030 - based on Actual + Projected Disbursements

Mountain Tunnel Improvement Project

Ref Num	Due Date	Date Received	Principal Payment	Interest Rate%	Interest Payment	Total P and I Payment	Total Payment	Ending Balance	CPI Interest
1	9/30/2028		6,742,685.75	1.100	2,623,399.80	9,366,085.55	9,366,085.55	231,476,265.25	0.00
2	9/30/2029		6,819,846.63	1.100	2,546,238.92	9,366,085.55	9,366,085.55	224,656,418.62	0.00
3	9/30/2030		6,894,864.95	1.100	2,471,220.60	9,366,085.55	9,366,085.55	217,761,553.67	0.00
4	9/30/2031		6,970,708.46	1.100	2,395,377.09	9,366,085.55	9,366,085.55	210,790,845.21	0.00
5	9/30/2032		7,047,386.25	1.100	2,318,699.30	9,366,085.55	9,366,085.55	203,743,458.96	0.00
6	9/30/2033		7,124,907.50	1.100	2,241,178.05	9,366,085.55	9,366,085.55	196,618,551.46	0.00
7	9/30/2034		7,203,281.48	1.100	2,162,804.07	9,366,085.55	9,366,085.55	189,415,269.98	0.00
8	9/30/2035		7,282,517.58	1.100	2,083,567.97	9,366,085.55	9,366,085.55	182,132,752.40	0.00
9	9/30/2036		7,362,625.27	1.100	2,003,460.28	9,366,085.55	9,366,085.55	174,770,127.13	0.00
10	9/30/2037		7,443,614.15	1.100	1,922,471.40	9,366,085.55	9,366,085.55	167,326,512.98	0.00
11	9/30/2038		7,525,493.91	1.100	1,840,591.64	9,366,085.55	9,366,085.55	159,801,019.07	0.00
12	9/30/2039		7,608,274.34	1.100	1,757,811.21	9,366,085.55	9,366,085.55	152,192,744.73	0.00
13	9/30/2040		7,691,965.36	1.100	1,674,120.19	9,366,085.55	9,366,085.55	144,500,779.37	0.00
14	9/30/2041		7,776,576.98	1.100	1,589,508.57	9,366,085.55	9,366,085.55	136,724,202.39	0.00
15	9/30/2042		7,862,119.32	1.100	1,503,966.23	9,366,085.55	9,366,085.55	128,862,083.07	0.00
16	9/30/2043		7,948,602.64	1.100	1,417,482.91	9,366,085.55	9,366,085.55	120,913,480.43	0.00
17	9/30/2044		8,036,037.27	1.100	1,330,048.28	9,366,085.55	9,366,085.55	112,877,443.16	0.00
18	9/30/2045		8,124,433.68	1.100	1,241,651.87	9,366,085.55	9,366,085.55	104,753,009.48	0.00
19	9/30/2046		8,213,802.45	1.100	1,152,283.10	9,366,085.55	9,366,085.55	96,539,207.03	0.00
20	9/30/2047		8,304,154.27	1.100	1,061,931.28	9,366,085.55	9,366,085.55	88,235,052.76	0.00
21	9/30/2048		8,395,499.97	1.100	970,585.58	9,366,085.55	9,366,085.55	79,839,552.79	0.00
22	9/30/2049		8,487,850.47	1.100	878,235.08	9,366,085.55	9,366,085.55	71,351,702.32	0.00
23	9/30/2050		8,581,216.82	1.100	784,868.73	9,366,085.55	9,366,085.55	62,770,485.50	0.00
24	9/30/2051		8,675,610.21	1.100	690,475.34	9,366,085.55	9,366,085.55	54,094,875.29	0.00
25	9/30/2052		8,771,041.92	1.100	595,043.63	9,366,085.55	9,366,085.55	45,323,833.37	0.00
26	9/30/2053		8,867,523.38	1.100	498,562.17	9,366,085.55	9,366,085.55	36,456,309.99	0.00
27	9/30/2054		8,965,066.14	1.100	401,019.41	9,366,085.55	9,366,085.55	27,491,243.85	0.00
28	9/30/2055		9,063,681.87	1.100	302,403.68	9,366,085.55	9,366,085.55	18,427,561.98	0.00
29	9/30/2056		9,163,382.37	1.100	202,703.18	9,366,085.55	9,366,085.55	9,264,179.61	0.00
30	9/30/2057		9,264,179.61	1.100	101,905.98	9,366,085.59	9,366,085.59	0.00	0.00
			238,218,951.00		42,763,615.54	280,982,566.54	280,982,566.54		0.00

EXHIBIT D – SPECIAL CONDITIONS

Technical Special Conditions:

The plans and specifications of the water treatment unit that will temporarily provide drinking water supply to the Recipients employees at the Moccasin location must be submitted to DDW and DFA for review and comments prior to going to bid.

Environmental Special Conditions:

The documents identified below are incorporated by reference and the Recipient shall comply with the conditions and recommendations therein:

1. The letter dated October 22, 2019, from Julianne Polanco of the State Historic Preservation Office (SHPO), to Jason Kuiken of the United States Forest Service, including, but not limited to, the following:
 - a. Staging area SF-32 will not be subjected to ground disturbance. The staging area will be covered with geotextile fabric and gravel to prevent rutting of the ground surface during construction and removed at the end of the Project.
 - b. Priest Reservoir and Dam: The Recipient will stain the shotcrete walls to match earth tones of the surrounding hillsides to match same stain split-face concrete masonry block of the existing Substation and Sampler Control Building for above ground structure to complement the historic character and maintain visual integrity of the setting of the Priest Reservoir Basin.
2. The Mitigation Monitoring and Reporting Program adopted by the San Francisco Public Utilities Commission on November 2, 2019 for the Project. The Recipient shall implement all mitigation measures therein.

In the Recipient's Quarterly Reports submitted pursuant to this Agreement, the Recipient shall include a discussion of its status of its compliance with environmental measures identified in this Exhibit D, with separate sections clearly labeled and titled, discussing the status of Recipient's compliance.

In the Recipient's Project Completion Report pursuant to this Agreement, the Recipient shall include a discussion of its compliance with environmental measures identified in this Exhibit D, with separate sections clearly labeled and titled, discussing the status of Recipients compliance.

Legal Special Conditions:

1. In accordance with the Recipient's current practice of providing quarterly financial updates to the Recipient's governing body, not more frequently than quarterly during each Fiscal Year in which the Obligation is outstanding, the Recipient shall determine whether Net Revenues for the then current Fiscal Year (calculated on a current Fiscal Year basis and excluding any transfers from reserve funds, rate stabilization funds, or retained Revenues from any prior Fiscal Years; and calculated in accordance with the method of calculation set forth in the Indenture) are anticipated to fall below 1.1 times debt service for such Fiscal Year, and in such event, shall notify the Division within 30 days of such determination. Notwithstanding the foregoing, such determination shall not constitute a violation by the Recipient of a material provision of this Agreement provided the Recipient has sufficient Revenues to pay all Operations and Maintenance Costs and avoid any payment-related default under this Obligation and all Parity Obligations in the current Fiscal Year. Within 60 days after providing such notice, the Recipient shall prepare a document detailing the Recipient's anticipated Revenues, Operations and Maintenance Costs, and debt service requirements for the next three years, and demonstrating its abilities to make all debt service payments and pay all Operations and Maintenance Costs. The Recipient shall also detail any

corrective actions the Recipient intends to undertake to ensure fiscal sustainability, including if necessary, raising rates and charges. This document must be satisfactory to the Division.

2. Other Material Obligations include:

The Recipient has no outstanding Material Obligations, other than System Obligations.

3. For the purpose of the definitions of "Maximum Annual Debt Service," "Parity Obligations," and "Revenues," capitalized terms that are not otherwise defined in Section 5 of this Agreement have the following meaning (capitalized terms in the following definitions that are not defined in Section 5 of this Agreement or in this Exhibit D have the meaning prescribed to them in the Indenture):

a. The term "Accreted Value" means, with respect to any Capital Appreciation Bond, the principal amount thereof plus the interest accrued thereon from its date, compounded at the approximate interest rate thereof on each May 1 and November 1. The Accreted Values at any date to which reference is made shall be the amounts set forth in the Accreted Value Table.

b. The term "Additional Bonds" means bonds, notes or other obligations of the Commission payable from Revenues and ranking on a parity with the Bonds and authorized to be issued under and pursuant to Section 3.07.

c. The term "Board of Supervisors" means the Board of Supervisors of the City from time to time or any other governing board of the City hereafter provided for pursuant to law.

d. The term "Bonds" means the San Francisco Water Revenue Bonds authorized by, and at any time Outstanding pursuant to, the Indenture or any Supplemental Indenture, including any Additional Bonds authorized by, and at any time Outstanding pursuant to, this Indenture and any Supplemental Indenture, and includes bonds, notes or other evidences of indebtedness (other evidence of indebtedness includes Parity State Loans, but only for the purposes of (i) the calculation of "Maximum Annual Debt Service", "Annual Debt Service", "Debt Service" and "Average Annual Debt Service" and (ii) Sections 5.01, 6.13, 7.01 and 7.02 of the Indenture) payable from Revenues on a parity with the Outstanding Bonds.

e. The term "Capital Appreciation Bonds" means all or any portion of a Series of Bonds designated as Capital Appreciation Bonds and on which interest is compounded and paid at maturity or on prior redemption.

f. The term "Current Interest Bonds" means all or any portion of a Series of Bonds designated as Current Interest Bonds and which pay interest at least semiannually to the Owners thereof excluding the first payment of interest thereon.

g. The term "Federal Securities" means United States treasury notes, bonds, bills or certificates of indebtedness, or obligations for which the faith and credit of the United States of America are pledged for the payment of principal and interest (including obligations issued or held in book entry form and securities which represent an undivided interest in such direct obligations), and also any securities now or hereafter authorized, both the principal of and interest on which is guaranteed directly by the full faith and credit of the United States of America, and including interest strips held in book-entry form by the Federal Reserve Bank of New York of bonds issued by the Resolution Funding Corporation. For the 2002 Series A Bonds, the 2002 Refunding Series B Bonds and all Additional Bonds issued subsequent to the 2002 Series A Bonds and the 2002 Refunding Series B Bonds, the term "Federal Securities" shall also include bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies and provided such obligations are backed by the full faith and credit of the United States of America (stripped securities are only permitted if they have been stripped by the agency itself): (i) direct obligations or fully guaranteed

certificates of beneficial ownership of the U.S. Export-Import Bank; (ii) certificates of beneficial ownership of the Rural Economic Community Development Administration (formerly the Farmers Home Administration); (iii) obligations of the Federal Financing Bank; (iv) debentures of the Federal Housing Administration; (v) participation certificates of the General Services Administration; (vi) guaranteed Title XI financings of the U.S. Maritime Administration; and (vii) project notes, local authority bonds, new communities debentures and U.S. public housing notes and bonds of the U.S. Department of Housing and Urban Development.

h. The term "Minimum Sinking Fund Account Payments" means the aggregate amounts required by this Indenture and any subsequent Supplemental Indenture or Supplemental Indentures to be deposited in Sinking Fund Accounts for the payment of Term Bonds.

i. The term "Moody's" means Moody's Investors Service, Inc., a corporation duly organized and existing under and by virtue of the laws of the State of Delaware, and its successors and assigns, except that if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, then the term "Moody's" shall be deemed to refer to any other nationally recognized securities rating agency selected by the Commission and approved by the Trustee.

j. The term "Outstanding," when used as of any particular time with reference to Bonds, means (subject to the provisions of Section 9.03) all Bonds theretofore executed, issued and delivered by the Commission under this Indenture except-

- i. Bonds theretofore cancelled by the Trustee or surrendered to the Trustee for cancellation;
- ii. Bonds for the payment or redemption of which funds or securities in the necessary amount (as set forth in Section 10.01) shall have theretofore been deposited with a fiduciary (whether upon or prior to the maturity or redemption date of such Bonds), provided that, if such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as in Article IV provided or provision satisfactory to the Trustee shall have been made for the giving of such notice; and
- iii. Bonds in lieu of or in substitution for which other Bonds shall have been executed, issued and delivered by the Commission pursuant to Section 2.08.

For purposes of this definition and within the meaning of Article X of this Indenture, Bonds the principal of or interest on which has been paid by a Municipal Bond Insurer shall not be deemed paid by or on behalf of the Commission, shall not be defeased and shall remain Outstanding under this Indenture until paid by the Commission.

k. The term "Parity State Loans" means those loan agreements or installment sale agreements entered into between the Commission and the State of California (or any board, department or agency thereof) to finance additions, betterments, extensions, repairs, renewals or replacements to the Enterprise, which by their terms, are repayable from Revenues on a parity basis with debt service on the Bonds.

l. The term "Rebate Fund" means the fund established and so designated for a Series of Bonds.

m. The term "Refundable Credits" means (a) with respect to a Series of Bonds issued as Build America Bonds under Section 54AA of the Code, the amounts which are payable by the Federal government under Section 6431 of the Code, which the Commission has elected to receive under Section 54AA(g)(1) of the Code, and (b) with respect to a Series of Bonds issued as Build America Bonds under any other provisions of the Code that creates, in the determination of the Commission,

a substantially similar direct-pay subsidy program, the amounts which are payable by the Federal government under the applicable provisions of the Code, which the Commission has elected to receive under the applicable provisions of the Code.

n. The term "S&P" means Standard & Poor's Ratings Services, a corporation duly organized and existing under and by virtue of the laws of the State of New York, and its successors and assigns, except that if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, then the term "S&P" shall be deemed to refer to any other nationally recognized securities rating agency selected by the Commission and approved by the Trustee.

o. The term "Serial Bonds" means all or any portion of a Series of Bonds designated as Serial Bonds and for which no Minimum Sinking Fund Account Payments are provided.

p. The term "Series" means any series of Bonds executed, authenticated and delivered pursuant to this Indenture and identified as a separate Series of Bonds, including any Additional Bonds issued pursuant to a Supplemental Indenture and Sections 3.04, 3.05 and 3.06 of this Indenture.

q. The term "Tender Indebtedness" means any Bonds or portions of Bonds a feature of which is an option, on the part of the Bondowners, or an obligation, under the terms of such Bonds, to tender all or a portion of such Bonds to the Commission, the Trustee or other fiduciary or agent for payment or purchase and requiring that such Bonds or portions of Bonds be purchased if properly presented.

r. The term "Term Bonds" means all or any portion of a Series of Bonds designated as Term Bonds and which are payable at or before their specified maturity date or dates from Minimum Sinking Fund Account Payments established for that purpose and calculated to retire such Bonds on or before their specified maturity date or dates.

s. The term "Variable Rate Indebtedness" means any portion of indebtedness the interest rate on which is not fixed at the time of incurrence of such indebtedness, and has not at some subsequent date been fixed, at a single numerical rate for the entire term of the indebtedness.

4. Sections 3.04-3.07 of the Indenture shall have the following meaning:

SECTION 3.04. Issuance of Additional Series of Bonds -- General. In addition to the Series of 1987 Bonds, the Commission may, subject to the requirements of the Law, by Supplemental Indenture establish one or more other Series of Bonds payable from Revenues on a parity with the Series of 1987 Bonds and secured by a lien upon and pledge of Revenues equal to the lien and pledge securing the Series of 1987 Bonds, and the Commission may issue and the Trustee may authenticate and deliver Bonds of any Series so established, in such principal amount and for such lawful purpose or purposes (including refunding of any Bonds issued hereunder and then Outstanding) as shall be determined by the Commission in said Supplemental Indenture, but only upon compliance by the Commission with the provisions of Section 3.06, and subject to the following specific conditions, which are hereby made conditions precedent to the issuance of any such additional Series of Bonds:

- (a) The Commission shall not be in default under this Indenture or any Supplemental Indenture.
- (b) The Supplemental Indenture providing for the issuance of such additional Series of Bonds shall require that the Bond Reserve Fund to be established pursuant to Section 5.02 be increased, if and to the extent necessary, forthwith upon the receipt of the proceeds of the sale of such additional Series of Bonds to an amount at least equal to the Required Reserve. Said deposit may be made from such proceeds or any other source, as provided in said Supplemental Indenture.

- (c) The Bonds of such additional Series shall be payable as to principal either semiannually on May 1 and November 1 of each year in which principal falls due or annually on November 1 of each year in which principal falls due, provided that Term Bonds of any Series shall have a principal maturity date of November 1. The Bonds of such additional Series that are Current Interest Bonds shall be payable as to interest semiannually on May 1 and November 1 of each year excepting the first year, provided that the first installment of interest may be payable on either May 1 or November 1 and shall be for a period of not longer than twelve months and that the interest shall be payable thereafter semiannually on May 1 and November 1, and further provided that interest on any Bonds constituting Parity State Loans, Variable Rate Indebtedness or Tender Indebtedness may be payable on such Payment Dates as shall be specified in the loan agreement, installment sale agreement or Supplemental Indenture providing for the issuance of such Bonds.
- (d) Fixed serial maturities or mandatory Minimum Sinking Fund Account Payments, or any combination thereof, shall be established in amounts sufficient to provide for the retirement of all of the Bonds of such additional Series on or before their respective maturity dates, unless such Bonds are Balloon Indebtedness.
- (e) The aggregate principal amount of Bonds issued hereunder shall not exceed any limitation imposed by law or by any Supplemental Indenture.
- (f) The representations and estimates set forth in the certificates and written reports required by Section 3.06(c)(1) can be made by the parties required to give such certificates and written reports.
- (g) If then required by law, the issuance of such additional Series of Bonds shall have been approved by the qualified voters voting on a proposition to authorize the issuance of said Series of Bonds.

SECTION 3.05. Issuance of Additional Series of Bonds for Refunding. In addition to the Series of 1987 Bonds, the Commission may, subject to the requirements of the Law, by Supplemental Indenture establish one or more other Series of Bonds payable from Revenues on a parity with the Series of 1987 Bonds and secured by a lien upon and pledge of Revenues equal to the lien and pledge securing the Series of 1987 Bonds, and the Commission may issue, and the Trustee may authenticate and deliver, Bonds of any Series so established, for the purpose of refunding any Bonds issued hereunder and then Outstanding, but only upon compliance by the Commission with the provisions of Section 3.06, and subject to the following specific conditions, which are hereby made conditions precedent to the issuance of any such additional Series of Bonds:

- (a) The Supplemental Indenture providing for the issuance of such additional Series of Bonds shall require that the Bond Reserve Fund to be established pursuant to Section 5.02 be increased, if necessary, forthwith upon the receipt of the proceeds of the sale of such additional Series of Bonds to an amount at least equal to the Required Reserve. Said deposit may be made from such proceeds or any other source, as provided in said Supplemental Indenture.
- (b) The Bonds of such additional Series shall be payable as to principal either semiannually on May 1 and November 1 of each year in which principal falls due or annually on November 1 of each year in which principal falls due, provided that Term Bonds of any Series shall have a principal maturity date of November 1. The Bonds of such additional Series that are Current Interest Bonds shall be payable as to interest semiannually on May 1 and November 1 of each year excepting the first year, provided that the first installment of interest may be payable on either May 1 or November 1 and shall be for a period of not longer than twelve months and that the interest shall be payable thereafter semiannually on May 1 and November 1, and further provided that interest on any Bonds constituting Variable Rate Indebtedness or Tender Indebtedness may be payable on such Payment Dates as shall be specified in the Supplemental Indenture providing for the issuance of such Bonds.
- (c) Fixed serial maturities or mandatory Minimum Sinking Fund Account Payments, or any combination thereof, shall be established in amounts sufficient to provide for the retirement of all of the Bonds of such additional Series on or before their respective maturity dates, unless such Bonds are Balloon Indebtedness.

- (d) The aggregate principal amount of Bonds issued hereunder shall not exceed any limitation imposed by law or by any Supplemental Indenture.
- (e) The proceeds of the Bonds of such additional Series shall be used, together with any other available moneys, to refund (by defeasance, current refunding or crossover refunding) all or a portion of the Bonds then Outstanding, and the Average Annual Debt Service for the Bonds of such additional Series (during the period from their issuance to their last maturity date) shall be equal to or less than the Average Annual Debt Service on the Bonds to be refunded (during the period from the issuance of the additional Series to the last maturity date of the Bonds to be refunded).
- (f) The statements set forth in the certificate required by Section 3.06(c)(2) can be made by the party required to give such certificate.
- (g) If then required by law, the issuance of such additional Series of Bonds shall have been approved by the qualified voters voting on a proposition to authorize the issuance of said Series of Bonds.

SECTION 3.06. Proceedings for the Issuance of Additional Series of Bonds. Whenever the Commission shall determine to issue an additional Series of Bonds pursuant to Section 3.04 or 3.05, as the case may be, the Commission shall execute or adopt a Supplemental Indenture providing for the issuance of such additional Series of Bonds, specifying the maximum principal amount of Bonds of such Series and prescribing the terms and conditions of such additional Series of Bonds, including the terms and conditions of any Letter of Credit Agreement with respect to the Letter of Credit securing such additional Series of Bonds, if any.

Such Supplemental Indenture shall prescribe the form or forms of Bonds of such additional Series and, subject to the provisions of Section 3.04 or 3.05, as the case may be, shall provide for the distinctive designation, denominations, methods of execution and numbering, dating, maturity dates, interest rates, interest payment dates, provisions for redemption prior to maturity and methods and places of payment of principal and interest.

The Commission may by such Supplemental Indenture prescribe any other provisions respecting the Bonds of such Series not inconsistent with the terms of this Indenture, including registration, transfer and exchange provisions, provisions for the payment of principal and interest and sinking fund provisions. Before such additional Series of Bonds shall be issued and delivered, the Commission shall file the following documents with the Trustee:

- (a) An Opinion of Counsel setting forth (1) that such counsel has examined the Supplemental Indenture and found it to be in compliance with the requirements of this Indenture; (2) that the execution and delivery of the additional Series of Bonds have been sufficiently and duly authorized by the Commission; and (3) that said additional Series of Bonds, when duly executed by the Commission and, if required, authenticated and delivered by the Trustee, will be valid and binding special obligations of the Commission, payable from Revenues as provided herein.
- (b) If such additional Series of Bonds are being issued pursuant to Section 3.04, a Certificate of the Commission that the requirement of Section 3.04(a) has been met.
- (c) The required certificates and reports under subparagraph (1) or (2) below:
 - (1) If the additional Series of Bonds are being issued pursuant to Section 3.04, the following certificates:
 - (A) A Certificate of the Commission setting forth (i) for any period of 12 consecutive calendar months out of the 18 calendar months next preceding the authentication and delivery of such Series of Bonds, the Net Revenues for such 12-month period, and (ii) the Annual Debt Service for such 12-month period, and demonstrating that for such 12-month period Net Revenues equaled at least 1.25 times Annual Debt Service;
 - (B) If any portion of the proceeds of such Series of Bonds is to be used to finance construction, a certificate of the Consulting Engineers setting forth (i) the estimated date of completion for the portion of the Project for which such Series of Bonds is being issued and for any other uncompleted portion of the Project, and (ii) an estimate of the cost of construction of such portion of the Project and of any other uncompleted portion of the Project;

(C) A written report of a Qualified Independent Consultant setting forth for each of the next three Fiscal Years, or if any portion of the proceeds of such Series of Bonds is to be used to finance construction, the three Fiscal Years following the Fiscal Year in which the Consulting Engineers estimate such portion of the Project will be completed, estimates of (i) Revenues, (ii) Operation and Maintenance Costs of the Enterprise and (iii) Net Revenues; and

(D) A Certificate of the Commission setting forth (i) the estimates of Net Revenues, as set forth in the written report of the Qualified Independent Consultant pursuant to paragraph (C) above, for each of such three Fiscal Years, (ii) the Annual Debt Service for each of such three Fiscal Years, including Annual Debt Service as estimated in such Certificate of the Commission with respect to future Series of Bonds, if any, which such Certificate of the Commission shall estimate (based on the estimate of the Consulting Engineers of the cost of construction of such portion of the Project and other uncompleted portions of the Project) will be required to complete payment of the cost of construction of such portion of the Project and any other uncompleted portion of the Project, and demonstrating that the estimated Net Revenues in each of the Fiscal Years set forth in (i) above is at least equal to 1.25 times the Annual Debt Service for the corresponding Fiscal Year as set forth in (ii) above.

Said certificate or certificates or written report shall be filed after the sale of the additional Series of Bonds proposed to be issued (but prior to the delivery thereof and receipt of payment therefor), and shall, with respect to such additional Series of Bonds, be based upon the actual interest rate or rates determined at the time of sale thereof.

(2) If the additional Series of Bonds are being issued pursuant to Section 3.05, a certificate of an Independent Certified Public Accountant that the requirements of paragraph (e) of Section 3.05 have been met. Said certificate shall be filed after the sale of the additional Series of Bonds proposed to be issued (but prior to the delivery thereof and receipt of payment therefor), and shall, with respect to such additional Series of Bonds, be based upon the actual interest rate or rates determined at the time of sale thereof.

(d) The Supplemental Indenture, duly executed or certified and approved by the Trustee. Upon the delivery to the Trustee of the foregoing instruments, the Trustee shall authenticate and deliver said additional Series of Bonds, in the aggregate principal amount specified in such Supplemental Indenture, to, or upon the Written Request of, the Commission, when such additional Series of Bonds shall have been presented to it for that purpose.

None of the limitations or restrictions on the issuance of additional Series of Bonds set forth in this Section shall be applicable to any additional Series of Bonds which are to be issued solely for the purpose of refunding and retiring all of the Bonds issued hereunder and then Outstanding, and nothing in this Indenture contained shall limit the issuance of any additional Series of Bonds if, after the issuance and delivery of such additional Series of Bonds, none of the Bonds theretofore authorized hereunder will be Outstanding or the Commission shall have discharged the entire indebtedness on all Bonds Outstanding in one of the ways authorized by Article X.

SECTION 3.07. No Issuance of Additional Bonds or Other Obligations Except as Permitted Herein; Exceptions. So long as any of the Bonds remain Outstanding, the Commission may issue any Additional Bonds or obligations payable from Revenues on a parity with the Bonds only pursuant to Sections 3.04, 3.05 and 3.06, except under any of the following conditions, in which case none of the limitations or restrictions on the issuance of additional Series of Bonds set forth in Sections 3.04, 3.05 and 3.06 shall be applicable, except as set forth below:

(a) if the Owners of a majority in aggregate amount of the Bond Obligation and any Credit Provider consent in writing to the issuance of such Additional Bonds or obligations; or

(b) the obligation constitutes debt of the Commission (including without limitation loan agreements and installment sale agreements entered into between the Commission and the State of California (or any board, department or agency thereof) to finance or refinance additions, betterments, extensions, repairs, renewals or replacements to the Enterprise) payable by its terms from Revenues on a subordinate basis to the payment of Debt Service on the Bonds.

In addition, the Commission may enter into Parity State Loans if (i) no Event of Default has occurred and is continuing under this Indenture or any Supplemental Indenture (and no event has occurred which, but for the passage of time or the giving of notice, would constitute an Event of Default under the Indenture or

any Supplemental Indenture); (ii) the payment of Parity State Loan principal and interest shall meet the requirements of Section 3.04(c); and (iii) in connection with the execution and delivery of such Parity State Loans, the Commission delivers the certificates set forth in Section 3.06(c)(1), taking into account that for purposes of Section 3.06(c)(1) the reference to "Series of Bonds" includes Parity State Loans.

5. RUSSIAN SANCTIONS

The Recipient represents that the Recipient is not a target of economic sanctions imposed in response to Russia's actions in Ukraine imposed by the United States government or the State of California. The Recipient is required to comply with the economic sanctions imposed in response to Russia's actions in Ukraine, including with respect to, but not limited to, the federal executive orders identified in California Executive Order N-6-22, located at <https://www.gov.ca.gov/wp-content/uploads/2022/03/3.4.22-Russia-Ukraine-Executive-Order.pdf> and the sanctions identified on the United States Department of the Treasury website (<https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/ukraine-russia-related-sanctions>). The Recipient is required to comply with all applicable reporting requirements regarding compliance with the economic sanctions, including, but not limited to, those reporting requirements set forth in California Executive Order N-6-22 for all Recipients with one or more agreements with the State of California with an aggregated value of Five Million Dollars (\$5,000,000) or more. Notwithstanding any other provision in this Agreement, failure to comply with the economic sanctions and all applicable reporting requirements may result in termination of this Agreement.

For Recipients with an aggregated agreement value of Five Million Dollars (\$5,000,000) or more with the State of California, reporting requirements include, but are not limited to, information related to steps taken in response to Russia's actions in Ukraine, including but not limited to:

1. Desisting from making any new investments or engaging in financial transactions with Russian institutions or companies that are headquartered or have their principal place of business in Russia;
2. Not transferring technology to Russia or companies that are headquartered or have their principal place of business in Russia; and
3. Direct support to the government and people of Ukraine.

EXHIBIT E – GENERAL TERMS AND CONDITIONS

E.1 REPRESENTATIONS & WARRANTIES.

The Recipient represents, warrants, and commits to the following as of the Eligible Work Start Date and continuing thereafter for the term of this Agreement:

E.1.1 Application and General Recipient Commitments.

The Recipient has not made any untrue statement of a material fact in its application for this financial assistance, or omitted to state in its application a material fact that makes the statements in its application not misleading.

The Recipient agrees to comply with all terms, provisions, conditions, and commitments of this Agreement, including all incorporated documents.

The Recipient agrees to fulfill all assurances, declarations, representations, and commitments in its application, accompanying documents, and communications filed in support of its request for funding under this Agreement.

E.1.2 Authorization and Validity.

The execution and delivery of this Agreement, including all incorporated documents, has been duly authorized by the Recipient. Upon execution by both parties, this Agreement constitutes a valid and binding obligation of the Recipient, enforceable in accordance with its terms, except as such enforcement may be limited by law.

E.1.3 No Violations.

The execution, delivery, and performance by Recipient of this Agreement, including all incorporated documents, do not materially violate any provision of any law or regulation in effect as of the date set forth on the first page hereof, or result in any breach or default under any contract, obligation, indenture, or other instrument to which Recipient is a party or by which Recipient is bound as of the date set forth on the Cover Page.

E.1.4 No Litigation.

There are no pending or, to Recipient's knowledge, threatened actions, claims, investigations, suits, or proceedings before any governmental authority, court, or administrative agency which materially affect or would have a material adverse effect on the financial condition or operations of the Recipient, the System, the Revenues, and/or the Project, other than as previously disclosed in writing to the State Water Board by the Recipient.

There are no proceedings, actions, or offers by a public entity to acquire by purchase or the power of eminent domain the System or any of the real or personal property related to or necessary for the Project.

E.1.5 Property Rights and Water Rights.

The Recipient owns or has sufficient property rights in the Project property for the longer of the Useful Life or the term of this Agreement, either in fee simple or for a term of years that is not subject to third-party revocation during the Useful Life of the Project.

The Recipient possesses all water rights necessary for this Project.

E.1.6 Solvency and Insurance.

None of the transactions contemplated by this Agreement will be or have been made with an actual intent to hinder, delay, or defraud any present or future creditors of Recipient. The Recipient is solvent and will not be rendered insolvent by the transactions contemplated by this Agreement. The Recipient is able to pay its debts as they become due. The Recipient maintains sufficient insurance coverage considering the scope of this Agreement, including, for example but not necessarily limited to, general liability, automobile liability, workers compensation and employer liability, professional liability. The Recipient's obligation to maintain sufficient insurance coverage may be satisfied by a reasonable system of self-insurance, as established in Section E.3.25 of this Agreement.

E.1.7 Legal Status and Eligibility.

The Recipient is a duly constituted public commission of the City and County of San Francisco duly organized and validly existing pursuant to its Charter and the Constitution and the laws of the State of California. Recipient must at all times maintain its current legal existence and preserve and keep in full force and effect its legal rights and authority. The Recipient acknowledges that changes to its legal or financial status may affect its eligibility for funding under this Agreement and commits to maintaining its eligibility. Within the preceding ten years, the Recipient has not failed to demonstrate compliance with state or federal audit disallowances.

E.1.8 Financial Statements and Continuing Disclosure.

The financial statements of Recipient previously delivered to the State Water Board as of the date(s) set forth in such financial statements: (a) are materially complete and correct; (b) present fairly the financial condition of the Recipient; and (c) have been prepared in accordance with GAAP. Since the date(s) of such financial statements, there has been no material adverse change in the financial condition of the Recipient, nor have any assets or properties essential to the proper operation of the System or to the maintenance of the Revenues reflected on such financial statements been sold, transferred, assigned, mortgaged, pledged or encumbered, except as previously disclosed in writing by Recipient and approved in writing by the State Water Board.

Except as previously disclosed to the Division, the Recipient is current in its continuing disclosure obligations associated with its System Obligations, if any.

E.1.9 System Obligations.

The Recipient has no System Obligations other than those defined in this Agreement.

E.1.10 No Other Material Debt.

The Recipient has no Other Material Obligations, other than those set forth in Exhibit D.

E.2 DEFAULTS AND REMEDIES

In addition to any other remedy set forth in this Agreement, the following remedies are available under this Agreement.

E.2.1 Return of Funds; Acceleration; and Additional Payments.

Notwithstanding any other provision of this Agreement, if the Division determines that an Event of Default has occurred, the Recipient shall, upon demand, immediately do each of the following:

- i. return to the State Water Board any grant or principal forgiveness amounts received pursuant to this Agreement;
- ii. subject to the limitations set forth in Sections 7.01 and 7.02 of the Indenture, accelerate the payment of any principal owed under this Agreement, all of which shall be immediately due and payable;
- iii. pay interest at the highest legal rate on all of the foregoing; and
- iv. pay any Additional Payments.

E.2.2 Reserved.

E.2.3 Judicial remedies.

Whenever the State Water Board determines that an Event of Default shall have occurred, the State Water Board may enforce its rights under this Agreement by any judicial proceeding, whether at law or in equity. Without limiting the generality of the foregoing, the State Water Board may:

- i. by suit in equity, require the Recipient to account for amounts relating to this Agreement as if the Recipient were the trustee of an express trust;
- ii. by mandamus or other proceeding, compel the performance by the Recipient and any of its officers, agents, and employees of any duty under the law or of any obligation or covenant under this Agreement, including but not limited to the imposition and collection of rates for the services of the System sufficient to meet all requirements of this Agreement; and
- iii. take whatever action at law or in equity as may appear necessary or desirable to the State Water Board to collect the Payments then due or thereafter to become due, or to enforce performance of any obligation or covenant of the Recipient under this Agreement.

E.2.4 Termination.

Upon an Event of Default, the State Water Board may terminate this Agreement. Interest shall accrue on all amounts due at the highest legal rate of interest from the date that the State Water Board delivers notice of termination to the Recipient.

E.2.5 Damages for Breach of Tax-Exempt Status.

In the event that any breach of any of the provisions of this Agreement by the Recipient results in the loss of tax-exempt status for any bonds of the State or any subdivision or agency thereof, or if such breach results in an obligation on the part of the State or any subdivision or agency thereof to reimburse the federal government by reason of any arbitrage profits, the Recipient must immediately reimburse the State or any subdivision or agency thereof in an amount equal to any damages paid by or loss incurred by the State or any subdivision or agency thereof due to such breach.

E.2.6 Damages for Breach of Federal Conditions.

In the event that any breach of any of the provisions of this Agreement by the Recipient results in the failure of Project Funds to be used pursuant to the provisions of this Agreement, or if such breach results in an obligation on the part of the State or any subdivision or agency thereof to reimburse the federal government, the Recipient must immediately reimburse the State or any subdivision or agency thereof in an amount equal to any damages paid by or loss incurred by the State or any subdivision or agency thereof due to such breach.

E.2.7 Remedies and Limitations.

None of the remedies available to the State Water Board shall be exclusive of any other remedy, and each such remedy shall be cumulative and in addition to every other remedy given hereunder or now or hereafter existing at law or in equity. The State Water Board may exercise any remedy, now or hereafter existing, without exhausting and without regard to any other remedy.

Any claim of the Recipient is limited to the rights and remedies provided to the Recipient under this Agreement and is subject to the claims procedures provided to the Recipient under this Agreement.

E.2.8 Non-Waiver.

Nothing in this Agreement shall affect or impair the Recipient's Obligation to pay Payments as provided herein or shall affect or impair the right of the State Water Board to bring suit to enforce such payment. No delay or omission of the State Water Board in the exercise of any right arising upon an Event of Default shall impair any such right or be construed to be a waiver of any such Event of Default. The State Water Board may exercise from time to time and as often as shall be deemed expedient by the State Water Board, any remedy or right provided by law or pursuant to this Agreement.

E.2.9 Status Quo.

If any action to enforce any right or exercise any remedy shall be brought and either discontinued or determined adversely to the State Water Board, then the State Water Board shall be restored to its former position, rights and remedies as if no such action had been brought.

E.3 STANDARD CONDITIONS

E.3.1 Access, Inspection, and Public Records.

The Recipient must ensure that the State Water Board, the Governor of the State, the United States Environmental Protection Agency, the Office of Inspector General, any member of Congress, or any authorized representative of the foregoing, will have safe and suitable access to the Project site at all reasonable times during Project construction and thereafter for the term of the Agreement. The Recipient acknowledges that, except for a subset of information regarding archaeological records, the Project records and locations are public records, including but not limited to all of the submissions accompanying the application, all of the documents incorporated into this Agreement by reference, and all reports, Reimbursement Requests, and supporting documentation submitted hereunder.

E.3.2 Accounting and Auditing Standards; Financial Management Systems; Records Retention.

(a) The Recipient must maintain project accounts according to GAAP as issued by the Governmental Accounting Standards Board (GASB) or its successor. The Recipient must maintain GAAP-compliant project accounts, including GAAP requirements relating to the reporting of infrastructure assets.

(b) The Recipient must comply with federal standards for financial management systems. The Recipient agrees that, at a minimum, its fiscal control and accounting procedures will be sufficient to permit preparation of reports required by the federal government and tracking of Project funds to a level of expenditure adequate to establish that such funds have not been used in violation of federal or state law or the terms of this Agreement. To the extent applicable, the Recipient is bound by, and must comply with, the provisions and requirements of the federal Single Audit Act of 1984 and 2 CFR Part 200, subpart F, and updates or revisions, thereto.

(c) Without limitation of the requirement to maintain Project accounts in accordance with GAAP, the Recipient must:

- i. Establish an official file for the Project which adequately documents all significant actions relative to the Project;
- ii. Establish separate accounts which will adequately and accurately depict all amounts received and expended on the Project, including all assistance funds received under this Agreement;
- iii. Establish separate accounts which will adequately depict all income received which is attributable to the Project, specifically including any income attributable to assistance funds disbursed under this Agreement;
- iv. Establish an accounting system which will accurately depict final total costs of the Project, including both direct and indirect costs;
- v. Establish such accounts and maintain such records as may be necessary for the State to fulfill federal reporting requirements, including any and all reporting requirements under federal tax statutes or regulations; and
- vi. If Force Account is used by the Recipient for any phase of the Project, other than for planning, design, and construction engineering and administration provided for by allowance, accounts will be established which reasonably document all employee hours charged to the Project and the associated tasks performed by each employee.

(d) The Recipient must maintain separate books, records and other material relative to the Project. The Recipient must also retain such books, records, and other material for itself and for each contractor or subcontractor who performed or performs work on this project for a minimum of thirty-six (36) years after Completion of Construction. The Recipient must require that such books, records, and other material are subject at all reasonable times (at a minimum during normal business hours) to inspection, copying, and audit by the State Water Board, the California State Auditor, the Bureau of State Audits, the United States Environmental Protection Agency (USEPA), the Office of Inspector General, the Internal Revenue Service, the Governor, or any authorized representatives of the aforementioned. The Recipient must allow and must require its contractors to allow interviews during normal business hours of any employees who might reasonably have information related to such records. The Recipient agrees to include a similar duty regarding audit, interviews, and records retention in any contract or subcontract related to the performance of this Agreement. The provisions of this section survive the term of this Agreement.

E.3.3 Amendment.

No amendment or variation of the terms of this Agreement shall be valid unless made in writing and signed by both the Recipient and the Deputy Director or designee.

Requests for amendments must be in writing and directed to the contact listed in Section 4 and to the Division's Chief of Loans and Grants Administration Section.

E.3.4 Assignability.

This Agreement is not assignable by the Recipient, either in whole or in part, without the consent of the State Water Board in the form of a formal written amendment to this Agreement.

E.3.5 Audit.

(a) The Division may call for an audit of financial information relative to the Project if the Division determines that an audit is desirable to assure program integrity or if an audit becomes necessary because of state or federal requirements. If an audit is called for, the audit must be performed by a

certified public accountant independent of the Recipient and at the cost of the Recipient. The audit must be in the form required by the Division.

(b) Audit disallowances must be returned to the State Water Board.

E.3.6 Bonding.

Where contractors are used, the Recipient must not authorize construction to begin until each contractor has furnished a performance bond in favor of the Recipient in the following amounts: faithful performance (100%) of contract value; labor and materials (100%) of contract value. This requirement shall not apply to any contract for less than \$25,000.00.

E.3.7 Competitive Bidding

Recipient must adhere to any applicable state law or local ordinance for competitive bidding and applicable labor laws.

E.3.8 Compliance with Applicable Laws, Rules, and Requirements.

The Recipient must, at all times, comply with and require its contractors and subcontractors to comply with all applicable federal and state laws, rules, guidelines, regulations, and requirements. Without limitation of the foregoing, to the extent applicable, the Recipient must:

- (a) Comply with the provisions of the adopted environmental mitigation plan, if any, for the term of this Agreement;
- (b) Comply with the Policy;
- (c) Comply with and require compliance with the state and federal requirements set forth elsewhere in this Agreement.

E.3.9 Computer Software.

The Recipient certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

E.3.10 Conflict of Interest.

The Recipient certifies that its owners, officers, directors, agents, representatives, and employees are in compliance with applicable state and federal conflict of interest laws.

E.3.11 Continuous Use of Project; No Lease, Sale, Transfer of Ownership, or Disposal of Project.

The Recipient agrees that, except as provided in this Agreement, it will not abandon, substantially discontinue use of, lease, sell, transfer ownership of, or dispose of all or a significant part or portion of the Project during the Useful Life of the Project without prior written approval of the Division. Such approval may be conditioned as determined to be appropriate by the Division, including a condition requiring repayment of all disbursed Project Funds or all or any portion of all remaining funds covered by this Agreement together with accrued interest and any penalty assessments that may be due.

E.3.12 Data Management.

The Recipient will undertake appropriate data management activities so that Project data can be incorporated into statewide data systems.

E.3.13 Disputes.

(a) The Recipient may appeal a staff decision within 30 days to the Deputy Director of the Division or designee, for a final Division decision. The Recipient may appeal a final Division decision to the State Water Board within 30 days. The Office of the Chief Counsel of the State Water Board will prepare a summary of the dispute and make recommendations relative to its final resolution, which will be provided to the State Water Board's Executive Director and each State Water Board Member. Upon the motion of any State Water Board Member, the State Water Board will review and resolve the dispute in the manner determined by the State Water Board. Should the State Water Board determine not to review the final Division decision, this decision will represent a final agency action on the dispute.

(b) This clause does not preclude consideration of legal questions, provided that nothing herein shall be construed to make final the decision of the State Water Board, or any official or representative thereof, on any question of law.

(c) Recipient must continue with the responsibilities under this Agreement during any dispute.

(d) This section relating to disputes does not establish an exclusive procedure for resolving claims within the meaning of Government Code sections 930 and 930.4.

E.3.14 Environmental Clearance.

(a) Notwithstanding any other provision, the State Water Board has no binding obligation to provide funding under this Agreement except for activities excluded from, not subject to, or exempt under the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA). No work that is subject to CEQA or NEPA may proceed under this Agreement until the State Water Board has provided approval to proceed. Upon receipt and review of the Recipient's environmental documents, the State Water Board shall make the appropriate environmental findings before determining whether to approve construction or implementation funding for the Project under this Agreement. Providing approval for such construction or implementation funding is fully discretionary. The State Water Board may require changes in the scope of work or additional mitigation as a condition to providing construction or implementation funding under this Agreement. Recipient shall not perform any work subject to CEQA and/or NEPA before the State Water Board completes its environmental review and specifies any changes in scope or additional mitigation that may be required. Proceeding with work subject to CEQA and/or NEPA without approval by the State Water Board shall constitute a breach of a material provision of this Agreement.

(b) If this Project includes modification of a river or stream channel, the Recipient must fully mitigate environmental impacts resulting from the modification. The Recipient must provide documentation that the environmental impacts resulting from such modification will be fully mitigated considering all of the impacts of the modification and any mitigation, environmental enhancement, and environmental benefit resulting from the Project, and whether, on balance, any environmental enhancement or benefit equals or exceeds any negative environmental impacts of the Project.

E.3.15 Governing Law.

This Agreement is governed by and shall be interpreted in accordance with the laws of the State of California.

E.3.16 Income Restrictions.

The Recipient agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Recipient under this Agreement must be paid by the Recipient to the State Water Board, to the extent that they are properly allocable to costs for which the Recipient has been reimbursed by the State Water Board under this Agreement.

E.3.17 Indemnification and State Reviews.

The parties agree that review or approval of Project plans and specifications by the State Water Board is for administrative purposes only, including conformity with application and eligibility criteria, and expressly not for the purposes of design defect review or construction feasibility, and does not relieve the Recipient of its responsibility to properly plan, design, construct, operate, and maintain the Project. To the extent permitted by law, the Recipient agrees to indemnify, defend, and hold harmless the State Water Board, the Bank, and any trustee, and their officers, employees, and agents for the Bonds, if any (collectively, "Indemnified Persons"), against any loss or liability arising out of any claim or action brought against any Indemnified Persons from and against any and all losses, claims, damages, liabilities, or expenses, of every conceivable kind, character, and nature whatsoever arising out of, resulting from, or in any way connected with (1) the System or the Project or the conditions, occupancy, use, possession, conduct, or management of, work done in or about, or the planning, design, acquisition, installation, or construction, of the System or the Project or any part thereof; (2) the carrying out of any of the transactions contemplated by this Agreement or any related document; (3) any violation, related to the Project or the financing, of any applicable law, rule or regulation, any environmental law (including, without limitation, the Federal Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act, the California Hazardous Substance Account Act, the Federal Water Pollution Control Act, the Clean Air Act, the Toxic Substances Control Act, the Occupational Safety and Health Act, the Safe Drinking Water Act, the California Hazardous Waste Control Law, and California Water Code Section 13304, and any successors to said laws), rule or regulation or the release of any toxic substance on or near the System; or (4) any untrue statement or alleged untrue statement of any material fact or omission or alleged omission to state a material fact necessary to make the statements required to be stated therein, in light of the circumstances under which they were made, not misleading with respect to any information provided by the Recipient for use in any disclosure document utilized in connection with any of the transactions contemplated by this Agreement, except those arising from the gross negligence or willful misconduct of the Indemnified Persons. The Recipient must also provide for the defense and indemnification of the Indemnified Persons in any contractual provision extending indemnity to the Recipient in any contract let for the performance of any work under this Agreement, and must cause the Indemnified Persons to be included within the scope of any provision for the indemnification and defense of the Recipient in any contract or subcontract. To the fullest extent permitted by law, the Recipient agrees to pay and discharge any judgment or award entered or made against Indemnified Persons with respect to any such claim or action, and any settlement, compromise or other voluntary resolution. The provisions of this section survive the term of this Agreement.

E.3.18 Independent Actor.

The Recipient, and its agents and employees, if any, in the performance of this Agreement, shall act in an independent capacity and not as officers, employees, or agents of the State Water Board.

E.3.19 Integration.

This Agreement constitutes the complete and final agreement between the parties. No oral or written understanding or agreement not incorporated in this Agreement shall be binding on either party.

E.3.20 Leveraging Covenants.

- (a) Notwithstanding any other provision hereof, the Recipient covenants and agrees that it will comply with the Tax Covenants set forth in Exhibit F of this Agreement.
- (b) The Recipient covenants to furnish such financial, operating and other data pertaining to the Recipient as may be requested by the State Water Board to: (i) enable the State Water Board to cause the issuance of Bonds and provide for security therefor; or (ii) enable any underwriter of Bonds issued for the benefit of the State Water Board to comply with Rule 15c2-12(b)(5). The Recipient further covenants to provide the State Water Board with copies of all continuing disclosure documents or reports that are disclosed pursuant to (i) the Recipient's continuing disclosure undertaking or undertakings made in connection with any outstanding System Obligation, (ii) the terms of any outstanding System Obligation, or (iii) a voluntary disclosure of information related to an outstanding System Obligation. The Recipient must disclose such documents or reports to the State Water Board at the same time such documents or reports are submitted to any dissemination agent, trustee, nationally recognized municipal securities information repository, the Municipal Securities Rulemaking Board's Electronic Municipal Market Access (EMMA) website or other person or entity.

E.3.21 No Discrimination.

- (a) The Recipient must comply with Government Code section 11135 and the implementing regulations (Cal. Code Regs, tit. 2, § 11140 et seq.), including, but not limited to, ensuring that no person is unlawfully denied full and equal access to the benefits of, or unlawfully subjected to discrimination in the operation of, the Project or System on the basis of sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation as such terms are defined under California law, for as long as the Recipient retains ownership or possession of the Project.
- (b) If Project Funds are used to acquire or improve real property, the Recipient must include a covenant of nondiscrimination running with the land in the instrument effecting or recording the transfer of such real property and in the event the Recipient fails to do so, such covenant will be deemed to be a part of any such instrument, pursuant to Section 11146(d) of Title 2 of the California Code of Regulations.
- (c) The Recipient must comply with the federal American with Disabilities Act of 1990 and implementing regulations as required by Government Code section 11135(b).
- (d) The Recipient's obligations under this section shall survive the term of this Agreement.
- (e) During the performance of this Agreement, Recipient and its contractors and subcontractors must not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, sexual orientation, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, denial of family care leave, or genetic information, gender, gender identity, gender expression, or military and veteran status.
- (f) The Recipient, its contractors, and subcontractors must ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.
- (g) The Recipient, its contractors, and subcontractors must comply with the provisions of the Fair Employment and Housing Act and the applicable regulations promulgated thereunder. (Gov. Code, §12990, subds. (a)-(f) et seq.; Cal. Code Regs., tit. 2, § 7285 et seq.) Such regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full.

(h) The Recipient, its contractors, and subcontractors must comply with all applicable federal civil rights regulations, including statutory and national policy requirements. (2 CFR § 200.300). This includes, to the greatest extent practicable and to the extent permitted by law, the requirement to respect and protect the freedom of persons and organizations to engage in political and religious speech. (Executive Order 13798).

(i) The Recipient, its contractors, and subcontractors must give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

(j) The Recipient must include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Agreement.

E.3.22 No Third Party Rights.

The parties to this Agreement do not create rights in, or grant remedies to, any third party as a beneficiary of this Agreement, or of any duty, covenant, obligation, or undertaking established herein.

E.3.23 No Obligation of the State.

Any obligation of the State Water Board herein contained shall not be an obligation, debt, or liability of the State and any such obligation shall be payable solely out of the moneys encumbered pursuant to this Agreement.

E.3.24 Notice.

Upon the occurrence of any of the following events, the Recipient must provide notice as set forth below.

- (a) Within 24 hours of the following, the Recipient must notify the Division by phone at (916) 327-9978 and by email to Maria.Pang@waterboards.ca.gov and Uyen.Tinh-Le@waterboards.ca.gov and DrinkingWaterSRF@waterboards.ca.gov:
 - i. The seizure of, or levy on, any Revenues securing this Agreement;
 - ii. Any discovery of any potential tribal cultural resource and/or archaeological or historical resource. Should a potential tribal cultural resource and/or archaeological or historical resource be discovered during construction or Project implementation, the Recipient must ensure that all work in the area of the find will cease until a qualified archaeologist has evaluated the situation and made recommendations regarding preservation of the resource, and the Division has determined what actions should be taken to protect and preserve the resource. The Recipient must implement appropriate actions as directed by the Division.
- (b) Within five (5) business days, the Recipient must notify the Division by phone at (916) 327-9978; by email to Lance.Reese@waterboards.ca.gov Maria.Pang@waterboards.ca.gov and Uyen.Tinh-Le@waterboards.ca.gov and DrinkingWaterSRF@waterboards.ca.gov; and by mail to the contact address set forth in Section 4 of this Agreement of the occurrence of any of the following events:
 - i. Bankruptcy, insolvency, receivership or similar event of the Recipient, or actions taken in anticipation of any of the foregoing;
 - ii. Change of ownership of the Project or the System or change of management or service contracts, if any, for operation of the System;
 - iii. Loss, theft, damage, or impairment to Project, the Revenues or the System, if material;
 - iv. Failure to meet any debt service coverage test in Exhibit B of this agreement;

- v. [Reserved.];
 - vi. Listed Events and Events of Default, except as otherwise set forth in this section;
 - vii. Failure to observe or perform any covenant or comply with any condition in this Agreement.
 - viii. An offer from a public entity to purchase the Project or the System or any portion thereof, or any of the real or personal property related to or necessary for the Project;
 - ix. A proceeding or action by a public entity to acquire the Project or the System by power of eminent domain;
 - x. Incurrence of a System Obligation or Other Material Obligation by the Recipient; or
 - xi. A default, event of acceleration, termination event, modification of terms, or other similar event under the terms of a System Obligation or Other Material Obligation of the Recipient, any of which reflect financial difficulties.
- (c) Within ten (10) business days, the Recipient must notify the Division by phone at (916) 327-9978, by email to Maria.Pang@waterboards.ca.gov and Uyen.Trinh-Le@waterboards.ca.gov and DrinkingWaterSRF@waterboards.ca.gov, and by mail to the contact address set forth in Section 4 of this Agreement of the following events:
- i. Material defaults on System Obligations or Other Material Obligations, other than this Obligation;
 - ii. Unscheduled draws on debt service reserves held for System Obligations, other than this Obligation, if any, reflecting financial difficulties;
 - iii. Unscheduled draws on credit enhancements on System Obligations, if any, reflecting financial difficulties;
 - iv. Substitution of credit or liquidity providers, if any or their failure to perform related to Parity Obligations;
 - v. Any material litigation pending or threatened with respect to the Project or the Recipient's technical, managerial or financial capacity to operate the System or the Recipient's continued existence
 - vi. Circulation of a petition to repeal, reduce, or otherwise challenge the Recipient's rates for services of the System
 - vii. Consideration of dissolution, or disincorporation, or any other event that could materially impair the Revenues;
 - viii. Adverse tax opinions, the issuance by the Internal Revenue Service or proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices of determinations with respect to the tax status of any tax-exempt bonds;
 - ix. Rating changes on outstanding System Obligations, if any;
 - x. Issuance of additional Parity Obligations; or
 - xi. Enforcement actions by or brought on behalf of the State Water Board or Regional Water Board;
 - xii. Any investigation, other than routine or random audits, by the District Attorney, California State Auditor, Bureau of State Audits, United States Environmental Protection Agency's Office of Inspector General, the Internal Revenue Service, Securities and Exchange Commission, a grand jury, or any other state or federal agency, relating to the Recipient's financial management, accounting procedures, or internal fiscal controls;
- (d) The Recipient must notify the Division promptly by phone at (916) 327-9978, by email to Maria.Pang@waterboards.ca.gov and Uyen.Trinh-Le@waterboards.ca.gov and DrinkingWaterSRF@waterboards.ca.gov, and by mail to the contact address set forth in Section 4 of this Agreement of any of the following events:

- i. The discovery of a false statement of fact or representation made in this Agreement or in the application to the Division for this financial assistance, or in any certification, report, or request for reimbursement made pursuant to this Agreement, by the Recipient, its employees, agents, or contractors;
- ii. Any substantial change in scope of the Project. The Recipient must undertake no substantial change in the scope of the Project until prompt written notice of the proposed change has been provided to the Division and the Division has given written approval for the change;
- iii. Cessation of all major construction work on the Project where such cessation of work is expected to or does extend for a period of thirty (30) days or more;
- iv. Any circumstance, combination of circumstances, or condition, which is expected to or does delay Completion of Construction for a period of ninety (90) days or more;
- v. Discovery of any unexpected endangered or threatened species, as defined in the federal Endangered Species Act. Should a federally protected species be unexpectedly encountered during construction of the Project, the Recipient agrees to promptly notify the Division. This notification is in addition to the Recipient's obligations under the federal Endangered Species Act;
- vi. Any Project monitoring, demonstration, or other implementation activities required in Exhibit A or Exhibit D of this Agreement, if any;
- vii. Any public or media event publicizing the accomplishments and/or results of this Agreement and provide the opportunity for attendance and participation by state representatives with at least ten (10) working days' notice to the Division;
- viii. Any allegation of research misconduct involving research activities that are supported in whole or in part with EPA funds under this Project, as required by Exhibit E.4.3(xxvi);
- ix. Any events requiring notice to the Division pursuant to the provisions of Exhibit E to this Agreement;
- x. Completion of Construction of the Project, and actual Project Completion;
- xi. The award of the prime construction contract for the Project;
- xii. Initiation of Construction of the Project.

E.3.25 Operation and Maintenance; Insurance.

The Recipient agrees to staff, operate and maintain all portions of the System during its Useful Life in accordance with all applicable state and federal laws, rules, and regulations.

While the Obligation shall be outstanding, the Recipient will procure and maintain or cause to be maintained insurance on the System with responsible insurers, or as part of a reasonable system of self-insurance, in such amounts and against such risks (including damage to or destruction of the System) as are usually covered in connection with systems similar to the System. Such insurance may be maintained by the maintenance of a self-insurance plan so long as any such plan provides for (i) the establishment by the Recipient of a separate segregated self-insurance fund, or self-insurance program established to accomplish similar purposes and acceptable to the State Water Board, funded in an amount determined (initially and on at least an annual basis) by Recipient (by the division or divisions experienced in the field of risk management) and (ii) the establishment and maintenance of a claims processing and risk management program.

In the event of any damage to or destruction of the System caused by the perils covered by such insurance, the net proceeds thereof shall be applied to the reconstruction, repair or replacement of the damaged or destroyed portion of the System. The Recipient must begin such reconstruction, repair or replacement as expeditiously as possible, and must pay out of such net proceeds all costs and expenses in connection with such reconstruction, repair or replacement so that the same must be completed and

the System must be free and clear of all claims and liens. If such net proceeds are insufficient to reconstruct, repair, or restore the System to the extent necessary to enable the Recipient to pay all remaining unpaid principal portions of the Payments, if any, in accordance with the terms of this Agreement, the Recipient must provide additional funds to restore or replace the damaged portions of the System.

Recipient agrees that for any policy of insurance concerning or covering the construction of the Project, it will cause, and will require its contractors to cause, a certificate of insurance to be issued showing the State Water Board, its officers, agents, employees, and servants as additional insured; and must provide the Division with a copy of all such certificates prior to the commencement of construction of the Project.

E.3.26 Permits, Subcontracting, and Remedies.

Recipient must procure all permits, licenses and other authorizations necessary to accomplish the work contemplated in this Agreement, pay all charges and fees, and give all notices necessary and incidental to the due and lawful prosecution of the work. Signed copies of any such permits or licenses must be submitted to the Division before any construction begins.

The Recipient must not contract or allow subcontracting with excluded parties. The Recipient must not contract with any party who is debarred or suspended or otherwise excluded from or ineligible for participation in any work overseen, directed, funded, or administered by the State Water Board program for which this funding is authorized. For any work related to this Agreement, the Recipient must not contract with any individual or organization on the State Water Board's List of Disqualified Businesses and Persons that is identified as debarred or suspended or otherwise excluded from or ineligible for participation in any work overseen, directed, funded, or administered by the State Water Board program for which funding under this Agreement is authorized. The State Water Board's List of Disqualified Businesses and Persons is located at http://www.waterboards.ca.gov/water_issues/programs/enforcement/fwa/dbp.shtml

E.3.27 Professionals.

The Recipient agrees that only licensed professionals will be used to perform services under this Agreement where such services are called for. All technical reports required pursuant to this Agreement that involve planning, investigation, evaluation, design, or other work requiring interpretation and proper application of engineering, architectural, or geologic sciences, shall be prepared by or under the direction of persons registered to practice in California pursuant to Business and Professions Code, sections 5536.1, 6735, 7835, and 7835.1. To demonstrate compliance with California Code of Regulations, title 16, sections 415 and 3065, all technical reports must contain a statement of the qualifications of the responsible registered professional(s). As required by these laws, completed technical reports must bear the signature(s) and seal(s) of the registered professional(s) in a manner such that all work can be clearly attributed to the professional responsible for the work.

E.3.28 Prevailing Wages.

The Recipient agrees to be bound by all applicable provisions of State Labor Code regarding prevailing wages. The Recipient must monitor all agreements subject to reimbursement from this Agreement to ensure that the prevailing wage provisions of the State Labor Code are being met.

In addition, the Recipient agrees to comply with the provisions of Exhibit G the Davis-Bacon requirements incorporated by reference pursuant to Section 3(e)(vi) of this Agreement.

E.3.29 Public Funding.

This Project is publicly funded. Any service provider or contractor with which the Recipient contracts must not have any role or relationship with the Recipient, that, in effect, substantially limits the Recipient's ability to exercise its rights, including cancellation rights, under the contract, based on all the facts and circumstances.

E.3.30 Recipient's Responsibility for Work.

The Recipient shall be responsible for all work and for persons or entities engaged in work performed pursuant to this Agreement, including, but not limited to, contractors, subcontractors, suppliers, and providers of services. The Recipient shall be responsible for responding to any and all disputes arising out of its contracts for work on the Project. The State Water Board will not mediate disputes between the Recipient and any other entity concerning responsibility for performance of work.

E.3.31 Related Litigation.

Under no circumstances may the Recipient use funds from any reimbursement under this Agreement to pay costs associated with any litigation the Recipient pursues against the State Water Board or any Regional Water Quality Control Board. Regardless of the outcome of any such litigation, and notwithstanding any conflicting language in this Agreement, the Recipient agrees to repay all of the disbursed funds plus interest in the event that Recipient does not complete the project.

E.3.32 Rights in Data.

The Recipient agrees that all data, plans, drawings, specifications, reports, computer programs, operating manuals, notes, and other written or graphic work produced in the performance of this Agreement are subject to the rights of the State as set forth in this section. The State shall have the right to reproduce, publish, and use all such work, or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so. If any such work is copyrightable, the Recipient may copyright the same, except that, as to any work which is copyrighted by the Recipient, the State reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, and use such work, or any part thereof, and to authorize others to do so, and to receive electronic copies from the Recipient upon request.

E.3.33 State Water Board Action; Costs and Attorney Fees.

Any remedy provided in this Agreement is in addition to and not in derogation of any other legal or equitable remedy available to the State Water Board as a result of breach of this Agreement by the Recipient, whether such breach occurs before or after completion of the Project, and exercise of any remedy provided by this Agreement by the State Water Board shall not preclude the State Water Board from pursuing any legal remedy or right which would otherwise be available. In the event of litigation between the parties hereto arising from this Agreement, it is agreed that each party shall bear its own costs and attorney fees.

E.3.34 Timeliness.

Time is of the essence in this Agreement.

E.3.35 [Reserved.]

E.3.36 Unenforceable Provision.

In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

E.3.37 Venue.

Any action arising out of this Agreement shall be filed and maintained in the Superior Court in and for the County of Sacramento, California.

E.3.38 Waiver and Rights of the State Water Board.

Any waiver of rights by the State Water Board with respect to a default or other matter arising under this Agreement at any time shall not be considered a waiver of rights with respect to any other default or matter. Any rights and remedies of the State Water Board provided for in this Agreement are in addition to any other rights and remedies provided by law.

E.4 MISCELLANEOUS STATE AND FEDERAL REQUIREMENTS

E.4.1 [Reserved.]

E.4.2 State Cross-Cutters.

Recipient represents that it complies and covenants to maintain compliance with the following for the term of the Agreement:

- i. The California Environmental Quality Act (CEQA), as set forth in Public Resources Code 21000 et seq. and in the CEQA Guidelines at Title 14, Division 6, Chapter 3, Section 15000 et seq.
- ii. Water Conservation requirements, including regulations in Division 3 of Title 23 of the California Code of Regulations.
- iii. Monthly Water Diversion Reporting requirements, including requirements set forth in Water Code section 5103.
- iv. Public Works Contractor Registration with Department of Industrial Relations requirements, including requirements set forth in Sections 1725.5 and 1771.1 of the Labor Code.
- v. Volumetric Pricing & Water Meters requirements, including the requirements of Water Code sections 526 and 527.
- vi. Urban Water Management Plan requirements, including the Urban Water Management Planning Act (Water Code, § 10610 et seq.).
- vii. Urban Water Demand Management requirements, including the requirements of Section 10608.56 of the Water Code.
- viii. Delta Plan Consistency Findings requirements, including the requirements of Water Code section 85225 and California Code of Regulations, title 23, section 5002.
- ix. Agricultural Water Management Plan Consistency requirements, including the requirements of Water Code section 10852.

- x. Charter City Project Labor Requirements, including the requirements of Labor Code section 1782 and Public Contract Code section 2503.

E.4.3 Federal Requirements and Cross-Cutters for SRF Funding.

The Recipient acknowledges, warrants compliance with, and covenants to continuing compliance with the following federal terms and conditions for the Useful Life of the Project:

- i. Unless the Recipient has obtained a waiver from USEPA on file with the State Water Board or unless this Project is not a project for the construction, alteration, maintenance or repair of a public water system or treatment work, the Recipient shall not purchase "iron and steel products" produced outside of the United States on this Project. Unless the Recipient has obtained a waiver from USEPA on file with the State Water Board or unless this Project is not a project for the construction, alteration, maintenance or repair of a public water system or treatment work, the Recipient hereby certifies that all "iron and steel products" used in the Project were or will be produced in the United States. For purposes of this section, the term "iron and steel products" means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. "Steel" means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.
- ii. The Recipient must include in full the Wage Rate Requirements (Davis-Bacon) language incorporated by reference herein pursuant to Section 3(e)(vi) of this Agreement in all construction contracts and subcontracts.
- iii. The Recipient must comply with the signage requirements set forth in Exhibit A.
- iv. The Recipient shall notify the State Water Board and the USEPA contact of public or media events publicizing the accomplishment of significant events related to this Project and provide the opportunity for attendance and participation by federal representatives with at least ten (10) working days' notice.
- v. The Recipient shall comply with applicable EPA general terms and conditions found at <http://www.epa.gov/ogd>.
- vi. No Recipient may receive funding under this Agreement unless it has provided its DUNS number to the State Water Board.
- vii. The Recipient represents and warrants that it and its principals are not excluded or disqualified from participating in this transaction as such terms are defined in Parts 180 and 1532 of Title 2 of the Code of Federal Regulations (2 CFR). If the Recipient is excluded after execution of this Agreement, the Recipient shall notify the Division within ten (10) days and shall inform the Division of the Recipient's exclusion in any request for amendment of this Agreement. The Recipient shall comply with Subpart C of Part 180 of 2 CFR, as supplemented by Subpart C of Part 1532 of 2 CFR. Such compliance is a condition precedent to the State Water Board's performance of its obligations under this Agreement. When entering into a covered transaction as defined in Parts 180 and 1532 of 2 CFR, the Recipient shall require the other party to the covered transaction to comply with Subpart C of Part 180 of 2 CFR, as supplemented by Subpart C of Part 1532 of 2 CFR.
- viii. To the extent applicable, the Recipient shall disclose to the State Water Board any potential conflict of interest consistent with USEPA's Final Financial Assistance Conflict of Interest Policy

at <https://www.epa.gov/grants/epas-final-financial-assistance-conflict-interest-policy>. A conflict of interest may result in disallowance of costs.

- ix. USEPA and the State Water Board have the right to reproduce, publish, use and authorize others to reproduce, publish and use copyrighted works or other data developed under this assistance agreement.
- x. Where an invention is made with Project Funds, USEPA and the State Water Board retain the right to a worldwide, nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention owned by the Recipient. The Recipient must utilize the Interagency Edison extramural invention reporting system at <http://iEdison.gov> and shall notify the Division when an invention report, patent report, or utilization report is filed.
- xi. The Recipient agrees that any reports, documents, publications or other materials developed for public distribution supported by this Agreement shall contain the Disclosure statement set forth in Exhibit A.
- xii. The Recipient acknowledges that it is encouraged to follow guidelines established under Section 508 of the Rehabilitation Act, codified at 36 CFR Part 1194, with respect to enabling individuals with disabilities to participate in its programs supported by this Project.
- xiii. The Recipient, its employees, contractors and subcontractors and their employees warrants that it will not engage in severe forms of trafficking in persons, procure a commercial sex act during the term of this Agreement, or use forced labor in the performance of this Agreement. The Recipient must include this provision in its contracts and subcontracts under this Agreement. The Recipient must inform the State Water Board immediately of any information regarding a violation of the foregoing. The Recipient understands that failure to comply with this provision may subject the State Water Board to loss of federal funds. The Recipient agrees to compensate the State Water Board for any such funds lost due to its failure to comply with this condition, or the failure of its contractors or subcontractors to comply with this condition. The State Water Board may unilaterally terminate this Agreement if the Recipient that is a private entity is determined to have violated the foregoing.
- xiv. The Recipient certifies to the best of its knowledge and belief that:
 - a. No federal appropriated funds have been paid or will be paid, by or on behalf of the Recipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 - b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with this Agreement, the Recipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions, and notify the State Water Board.

The Recipient shall require this certification from all parties to any contract or agreement that the Recipient enters into and under which the Recipient incurs costs for which it seeks reimbursement under this Agreement.

- xv. The Recipient must comply with the following federal non-discrimination requirements:

- a. Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, and national origin, including limited English proficiency (LEP).
 - b. Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities.
 - c. The Age Discrimination Act of 1975, which prohibits age discrimination.
 - d. Section 13 of the Federal Water Pollution Control Act Amendments of 1972, which prohibits discrimination on the basis of sex.
 - e. 40 CFR Part 7, as it relates to the foregoing.
- xvi. If the Project relates to construction of a publicly owned treatment works, where the Recipient contracts for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or architectural related services, the Recipient shall ensure that any such contract is negotiated in the same manner as a contract for architectural and engineering services is negotiated under chapter 11 of title 40, United States Code, or an equivalent State qualifications-based requirement as determined by the State Water Board.
- xvii. If the Project relates to construction of a publicly owned treatment works, the Recipient certifies that it has developed and is implementing a fiscal sustainability plan for the Project that includes an inventory of critical assets that are a part of the Project, an evaluation of the condition and performance of inventoried assets or asset groupings, a certification that the Recipient has evaluated and will be implementing water and energy conservation efforts as part of the plan, and a plan for maintaining, repairing, and, as necessary, replacing the Project and a plan for funding such activities.
- xviii. Executive Order No. 11246. The Recipient shall include in its contracts and subcontracts related to the Project the following provisions:
 - "During the performance of this contract, the contractor agrees as follows:"(a) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.*
 - "(b) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.*
 - "(c) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.*
 - "(d) The contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.*

"(e) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

"(f) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

"(g) The contractor will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of Sept. 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, That in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States."

- xix. The Recipient agrees to comply with the requirements of USEPA's Program for Utilization of Small, Minority and Women's Business Enterprises as set forth in Exhibit A.
- xx. Procurement Prohibitions under Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans; 42 USC § 7606; 33 USC § 1368. Except where the purpose of this Agreement is to remedy the cause of the violation, the Recipient may not procure goods, services, or materials from suppliers excluded under the federal System for Award Management: <http://www.sam.gov/>.
- xxi. Uniform Relocation and Real Property Acquisition Policies Act, Pub. L. 91-646, as amended; 42 USC §§4601-4655. The Recipient must comply with the Act's implementing regulations at 49 CFR 24.101 through 24.105.
- xxii. The Recipient agrees that if its network or information system is connected to USEPA networks to transfer data using systems other than the Environmental Information Exchange Network or USEPA's Central Data Exchange, it will ensure that any connections are secure.
- xxiii. All geospatial data created pursuant to this Agreement that is submitted to the State Water Board for use by USEPA or that is submitted directly to USEPA must be consistent with Federal Geographic Data Committee endorsed standards. Information on these standards may be found at www.fgdc.gov.
- xxiv. If the Recipient is a water system that serves 500 or fewer persons, the Recipient represents that it has considered publicly-owned wells as an alternative drinking water supply.
- xxv. The Recipient represents that it is not a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the

authority responsible for collecting the tax liability; and it is not a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

- xxvi. The Recipient agrees to immediately notify the Project Manager in writing about any allegation of research misconduct involving research activities that are supported in whole or in part with EPA funds under this Project, including fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results, or ordering, advising, or suggesting that subordinates engage in research misconduct.
- xxvii. The Recipient agrees to comply with, and require all contractors and subcontractors to comply with, EPA's Scientific Integrity Policy, available at <https://www.epa.gov/osa/policy-epa-scientific-integrity>, when conducting, supervising, and communicating science and when using or applying the results of science. For purposes of this condition scientific activities include, but are not limited to, computer modelling, economic analysis, field sampling, laboratory experimentation, demonstrating new technology, statistical analysis, and writing a review article on a scientific issue.

The Recipient shall not suppress, alter, or otherwise impede the timely release of scientific findings or conclusions; intimidate or coerce scientists to alter scientific data, findings, or professional opinions or exert non-scientific influence on scientific advisory boards; knowingly misrepresent, exaggerate, or downplay areas of scientific uncertainty; or otherwise violate the EPA's Scientific Integrity Policy. The Recipient must refrain from acts of research misconduct, including publication or reporting, as described in EPA's Policy and Procedures for Addressing Research Misconduct, Section 9.C, and must ensure scientific findings are generated and disseminated in a timely and transparent manner, including scientific research performed by contractors and subcontractors.

- xxviii. The Recipient agrees to comply with the Animal Welfare Act of 1966 (7 USC 2131-2156). Recipient also agrees to abide by the "U.S. Government Principles for the Utilization and Care of Vertebrate Animals used in Testing, Research, and Training," available at <http://grants.nih.gov/grants/olaw/references/phspol.htm#USGovPrinciples>.

EXHIBIT F – TAX CERTIFICATE

F.1 Purpose.

The purpose of this Exhibit F is to establish the reasonable expectations of the Recipient regarding the Project and the Project Funds, and is intended to be and may be relied upon for purposes of Sections 103, 141 and 148 of the Code and as a certification described in Section 1.148-2(b)(2) of the Treasury Regulations. This Exhibit F sets forth certain facts, estimates and circumstances which form the basis for the Recipient's expectation that neither the Project nor the Bond Funded Portion of the Project Funds is to be used in a manner that would cause the Obligation to be classified as "arbitrage bonds" under Section 148 of the Code or "private activity bonds" under Section 141 of the Code.

F.2 Tax Covenant.

The Recipient agrees that it will not take or authorize any action or permit any action within its reasonable control to be taken, or fail to take any action within its reasonable control, with respect to the Project which would result in the loss of the exclusion of interest on the Bonds from gross income for federal income tax purposes under Section 103 of the Code.

F.3 Governmental Unit.

The Recipient is a state or local governmental unit as defined in Section 1.103-1 of the Treasury Regulations or an instrumentality thereof (a "Governmental Unit") and is not the federal government or any agency or instrumentality thereof.

F.4 Financing of a Capital Project.

The Recipient will use the Project Funds to finance costs it has incurred or will incur for the construction, reconstruction, installation or acquisition of the Project. Such costs shall not have previously been financed with the proceeds of any other issue of tax-exempt obligations, other than with proceeds of the Recipient's existing commercial paper program.

F.5 Ownership and Operation of Project.

The Recipient exclusively owns and, except as provided in Section F.12 hereof, operates the Project.

F.6 Temporary Period.

The Recipient reasonably expects that at least eighty-five percent (85%) of the Bond Funded Portion of the Project Funds will be allocated to expenditures for the Project within five (5) years of the earlier of the effective date of this Agreement or the date the Bonds are issued ("Applicable Date"). The Recipient has incurred, or reasonably expects that it will incur within six (6) months of the Applicable Date, a substantial binding obligation (i.e., not subject to contingencies within the control of the Recipient or a related party) to a third party to expend at least five percent (5%) of the Bond Funded Portion of the Project Funds on Project Costs. The completion of acquisition, construction, improvement and equipping of the Project and the allocation of the Bond Funded Portion of the Project Funds to Project Costs will proceed with due diligence. In the judgment of the Recipient and the [Architect/Engineer], the Project involves a substantial amount of construction. The Recipient hereby certifies and the [Architect/Engineer] has certified in the certificate attached to this Agreement that a five (5) year period is required for construction of the Project.

F.7 Working Capital.

No operational expenditures of the Recipient or any related entity are being, have been or will be financed or refinanced with Project Funds.

F.8 Expenditure of Proceeds.

The Bond Funded Portion of the Project Funds shall be used exclusively for the following purposes: (i) Reimbursement Expenditures (as defined in Section F.20 below), (ii) Preliminary Expenditures (as defined in Section F.20 below) in an aggregate amount not exceeding twenty percent (20%) of the Bond Funded Portion of the Project Funds, (iii) capital expenditures relating to the Project originally paid by the Recipient on or after the date hereof, (iv) interest on the Obligation through the later of three (3) years after the Applicable Date or one (1) year after the Project is placed in service, and (v) initial operating expenses directly associated with the Project in the aggregate amount not more than five percent (5%) of the Bond Funded Portion of the Project Funds.

F.9 Private Use and Private Payments.

No portion of the Project Funds or the Project is being, has been or will be used in the aggregate for any activities that constitute a Private Use (as defined below). No portion of the principal of or interest with respect to the Payments will be secured by any interest in property (whether or not the Project) used for a Private Use or in payments in respect of property used for a Private Use, or will be derived from payments in respect of property used for a Private Use. "Private Use" means any activity that constitutes a trade or business that is carried on by persons or entities, other than a Governmental Unit. The leasing of the Project or the access by or the use of the Project by a person or entity other than a Governmental Unit on a basis other than as a member of the general public shall constitute a Private Use. Use by or on behalf of the State of California or any of its agencies, instrumentalities or subdivisions or by any local Governmental Unit and use as a member of the general public will be disregarded in determining whether a Private Use exists. Use under an arrangement that conveys priority rights or other preferential benefits is generally not use on the same basis as the general public. Arrangements providing for use that is available to the general public at no charge or on the basis of rates that are generally applicable and uniformly applied do not convey priority rights or other preferential benefits. For this purpose, rates may be treated as generally applicable and uniformly applied even if (i) different rates apply to different classes of users, such as volume purchasers, if the differences in rates are customary and reasonable; or (ii) a specially negotiated rate arrangement is entered into, but only if the user is prohibited by federal law from paying the generally applicable rates, and the rates established are as comparable as reasonably possible to the generally applicable rates. An arrangement that does not otherwise convey priority rights or other preferential benefits is not treated, nevertheless, as general public use if the term of the use under the arrangement, including all renewal options, is greater than 200 days. For this purpose, a right of first refusal to renew use under the arrangement is not treated as a renewal option if (i) the compensation for the use under the arrangement is redetermined at generally applicable, fair market value rates that are in effect at the time of renewal; and (ii) the use of the financed property under the same or similar arrangements is predominantly by natural persons who are not engaged in a trade or business.

F.10 No Sale, Lease or Private Operation of the Project.

The Project (or any portion thereof) will not be sold or otherwise disposed of, in whole or in part, to any person who is not a Governmental Unit prior to the final maturity date of the Obligation. The Project will not be leased to any person or entity that is not a Governmental Unit prior to the final maturity date of the Obligation. Except as permitted under Section F.12 hereof, the Recipient will not enter any contract or arrangement or cause or permit any contract or arrangement to be entered with persons or entities that are not Governmental Units if that contract or arrangement would confer on such persons or entities any right to use the Project on a basis different from the right of members of the general public. The contracts or arrangements contemplated by the preceding sentence include but are not limited to management contracts, take or pay contracts or put or pay contracts, and capacity guarantee contracts.

F.11 No Disproportionate or Unrelated Use.

No portion of the Project Funds or the Project is being, has been, or will be used for a Private Use that is unrelated or disproportionate to the governmental use of the Project Funds.

F.12 Management and Service Contracts.

The Recipient represents that, as of the date hereof, it is not a party to any contract, agreement or other arrangement with any persons or entities engaged in a trade or business (other than Governmental Units) that involve the management or operation of property or the provision of services at or with respect to the Project that does not comply with the standards of the Treasury Regulations, Revenue Procedure 97-13, as modified by Revenue Procedure 2001-39 and IRS Notice 2014-67, or Revenue Procedure 2017-13, as applicable. The Recipient represents that it will not be party to any such contract, agreement or arrangement with any person or entity that is not a Governmental Unit for the management of property or the provision of services at or with respect to the Project, while the Obligation (including any obligation or series thereof issued to refund the Obligation, as the case may be) is outstanding, except: (a) with respect to any contract, agreement or arrangement that does not constitute "private business use" of the Project under Code §141(b), or (b) with respect to any contract, agreement or arrangement that complies with (i) Revenue Procedure 97-13, 1997-1 C.B. 632, as amended by Revenue Procedure 2001-39, 2001-2 C.B. 38, and as amplified by Notice 2014-67, with respect to contracts entered into before August 18, 2017 and not materially modified or extended after August 18, 2017, or (ii) Revenue Procedure 2017-13, with respect to contracts entered into or materially modified or extended on or after August 18, 2017, or (c) with respect to any contract, agreement or arrangement that does not give rise to use of the Bond Funded Portion of the Project Funds or the Project by a non-Governmental Unit of more than the amount of such non-qualified use permitted by the Code, or (d) in the event that the Recipient receives an opinion of counsel, satisfactory to the State Water Board and the Bank and expert in the issuance of state and local government bonds the interest on which is excluded from gross income under Section 103 of the Code ("Nationally-Recognized Bond Counsel"), that such contract, agreement or arrangement will not adversely affect the exclusion of the interest on the Obligation from gross income for federal income taxation purposes.

F.13 No Disposition of Financed Property.

As of the date hereof, the Recipient does not expect to sell or otherwise dispose of any portion of the Project, in whole or in part, prior to the final maturity date of the Obligation.

F.14 Useful Life of Project.

As of the date hereof, the Recipient reasonably expects that the economic useful life of the Project, commencing at Project Completion, will be at least equal to the term of this Agreement, as set forth in Exhibit A hereto.

F.15 Payments.

Payments generally are expected to be derived from assessments, taxes, fees, charges or other current Revenues of the Recipient in each year, and such current Net Revenues are expected to equal or exceed the Payments during each payment period. Any amounts accumulated in a sinking fund or bona fide debt service fund to pay Payments (whether or not deposited to a fund or account established by the Recipient) will be disbursed to pay Payments within thirteen months of the initial date of accumulation or deposit. Any such fund used for the payment of Payments will be depleted once a year except for a reasonable carryover amount not exceeding the greater of earnings on such fund or one-twelfth of the Payments in either case for the immediately preceding year.

F.16 No Other Replacement Proceeds.

The Recipient will not use any of the Bond Funded Portion of the Project Funds to replace or substitute other funds of the Recipient that were otherwise to be used to finance the Project or which are or will be used to acquire securities, obligations or other investment property reasonably expected to produce a yield that is materially higher than the yield on the Bonds.

F.17 No Sinking or Pledged Fund.

Except as set forth in Section F.18 below, the Recipient will not create or establish any sinking fund or pledged fund which will be used to pay Payments on the Obligation within the meaning of Section 1.148-1(c) of the Treasury Regulations. If any sinking fund or pledged fund comes into being with respect to the Obligation before the Obligation has been fully retired which may be used to pay the Payments, the Recipient will invest such sinking fund and pledged fund moneys at a yield that does not exceed the yield on the Bonds.

F.18 [Reserved.]

F.19 Reimbursement Resolution.

The "reimbursement resolution" adopted by the Recipient is incorporated herein by reference, pursuant to Section 3(e) of the Agreement.

F.20 Reimbursement Expenditures.

Reimbursements are disallowed, except as specifically authorized in Exhibit B or Exhibit D of this Agreement. To the extent so authorized, a portion of the Bond Funded Portion of the Project Funds may be applied to reimburse the Recipient for Project Costs paid before the date hereof, so long as the Project Cost was (i) not paid prior to sixty (60) days before the Recipient's adoption of a declaration of official intent to finance the Project, (ii) not paid more than eighteen (18) months prior to the date hereof or the date the Project was placed-in-service, whichever is later, and (iii) not paid more than five (5) years prior to the date hereof (collectively, "Reimbursement Expenditures"), unless such cost is attributable to a "preliminary expenditure." Preliminary expenditure for this purpose means architectural, engineering, surveying, soil testing and similar costs incurred prior to the commencement of construction or rehabilitation of the Project, but does not include land acquisition, site preparation and similar costs incident to the commencement of acquisition, construction or rehabilitation of the Project. Preliminary expenditures may not exceed 20% of the Bond Funded Portion of the Project Funds.

F.21 Change in Use of the Project.

The Recipient reasonably expects to use all of the Bond Funded Portion of the Project Funds and the Project for the entire stated term to maturity of the Obligation. Absent an opinion of Nationally-Recognized Bond Counsel to the effect that such use of the Bond Funded Portion of the Project Funds will not adversely affect the exclusion from federal gross income of interest on the Bonds pursuant to Section 103 of the Code, the Recipient will use the Bond Funded Portion of the Project Funds and the Project solely as set forth in this Agreement.

F.22 Rebate Obligations.

If the Recipient satisfies the requirements of one of the spending exceptions to rebate specified in Section 1.148-7 of the Treasury Regulations, amounts earned from investments, if any, acquired with the Bond Funded Portion of the Project Funds will not be subject to the rebate requirements imposed under Section 148(f) of the Code. If the Recipient fails to satisfy such requirements for any period, it will notify the State

Water Board and the Bank immediately and will comply with the provisions of the Code and the Treasury Regulations at such time, including the payment of any rebate amount calculated by the State Water Board or the Bank.

F.23 No Federal Guarantee.

The Recipient will not directly or indirectly use any of the Bond Funded Portion of the Project Funds in any manner that would cause the Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code, taking into account various exceptions including any guarantee related to investments during an initial temporary period until needed for the governmental purpose of the Bonds, investments as part of a bona fide debt service fund, investments of a reasonably required reserve or replacement fund, investments in bonds issued by the United States Treasury, investments in refunding escrow funds or certain other investments permitted under the Treasury Regulations.

F.24 No Notices or Inquiries from IRS.

Within the last 10 years, the Recipient has not received any notice of a final action of the Internal Revenue Service that determines that interest paid or payable on any debt obligation of the Recipient is or was includable in the gross income of an owner or beneficial owner thereof for federal income tax purposes under the Code.

F.25 Amendments.

The provisions in this Exhibit may be amended, modified or supplemented at any time to reflect changes in the Code upon obtaining written approval of the State Water Board and the Bank and an opinion of Nationally-Recognized Bond Counsel to the effect that such amendment, modification or supplement will not adversely affect the exclusion from federal gross income of interest on the Bonds pursuant to Section 103 of the Code.

F.26 Reasonable Expectations.

The Recipient warrants that, to the best of its knowledge, information and belief, and based on the facts and estimates as set forth in the tax covenants in this Exhibit, the expectations of the Recipient as set forth in this Exhibit are reasonable. The Recipient is not aware of any facts or circumstances that would cause it to question the accuracy or reasonableness of any representation made in the provisions in this Exhibit.

F.27 Assignment.

The Recipient consents to any pledge, sale, or assignment to the Bank or a trustee for the benefit of the owners of the Bonds, if any, at any time of any portion of the State Water Board's estate, right, title, and interest and claim in, to and under this Agreement and the right to make all related waivers and agreements in the name and on behalf of the State Water Board, as agent and attorney-in-fact, and to perform all other related acts which are necessary and appropriate under this Agreement, if any, and the State Water Board's estate, right, title, and interest and claim in, to and under this Agreement to Payments (but excluding the State Water Board's rights to Additional Payments and to notices, opinions and indemnification under each Obligation).

F.28 No Hedge Bonds.

As of the Applicable Date, the Recipient reasonably expects to spend the Bond Funded Portion of the Project Funds in accordance with the following schedule: (i) at least 10% spent within one (1) year of the Applicable Date; (ii) at least 30% spent within two (2) years of the Applicable Date; (iii) at least 60% spent

within three (3) years of the Applicable Date; and (iv) at least 85% spent within five (5) years of the Applicable Date, as shown in the schedule attached to the certificate of the Architect/Engineer.

CERTIFICATE OF ENGINEER
REGARDING EXTENDED CONSTRUCTION PERIOD

In connection with the above-referenced obligations (the "Bonds"), the San Francisco Public Utilities Commission hereby certifies and represents as follows, based upon information available to us:

1. This Certificate is being given to the California State Water Resources Control Board (the "State Water Board") and the San Francisco Public Utilities Commission (the "Recipient").

2. The undersigned is authorized to make this certification.

3. We have been retained by the Recipient to prepare a certification with respect to the construction, renovation, reconstruction, rehabilitation and equipping of the Mountain Tunnel Improvement Project (the "Project") as set forth in the schedule attached hereto. It is our understanding that Project Funds provided by the State Water Board will be used to pay all or a portion of the costs of the Project.

4. I am the project manager for the Mountain Tunnel Improvements Project (MTIP) employed by the Recipient. I am a civil engineer, licensed by the State of California. I provide project management services to the Recipient with respect to the Project. The scope of engagement for the project manager includes but is not limited to; developing, managing and overseeing project budgets and schedules, approving monthly payments of consultant and contractors work, change management including overseeing and reviewing change orders during construction, attending weekly construction progress meetings, and coordination and communication with client representatives, stakeholders, consultants, City staff and management and project team members

5. I am familiar with the design and construction of facilities such as the Project, have extensive knowledge and experience in scheduling and managing such projects, and am able to review objectively and evaluate design and construction schedules. I am familiar with the portion of the Project the Recipient expects to finance with Project Funds. I have reviewed the construction contracts, the construction schedules, the architectural agreements, the design requirements, the engineering contracts, the design contracts and other pertinent documents and tasks relating to the Project.

6. Based on my understanding of the Project and information provided to me by the Recipient, I am of the opinion that the Recipient will spend at least \$ 202,486,312 (eighty-five percent (85%) of the Project Funds) for costs of the Project within five (5) years of the date of hereof. Further, I am of the opinion that the Project, in the aggregate, will be substantially completed in accordance with the schedule of estimated completion attached hereto.

I recognize and understand that this Certification will be relied upon by the Recipient in order to certify as to certain facts and expectations regarding the use and expenditure of the Project Funds and the construction, renovation, reconstruction, rehabilitation and equipping of the Project.

In addition, I recognize and understand that the representations and certifications contained herein will be relied upon by the State Water Board, and its bond counsel, for purposes of rendering its opinion that interest on the Bonds is excluded from gross income for federal income tax purposes.

Dated: March 21, 2022

San Francisco Public Utilities Commission

By: Randy R. Anderson
Randy R. Anderson. P.E.
MTIP Project Manager

EXHIBIT H - PROJECT SCHEDULE

(attached itemization and schedule of project expenditures)

Activity Description	Start	Finish	At Completion Total Cost
Mountain Tunnel Improvement Project	Oct-03-11	Jun-03-27	\$238,218,950.99
Mountain Tunnel Lining (CUH10002)	Oct-03-11	Dec-29-17	\$17,878.15
Mountain Tunnel Bypass	Oct-18-11	Dec-29-17	\$5,929,803.95
Mountain Tunnel Improvements	Aug-29-16	Jun-03-27	\$232,271,268.89
Project Management	Dec-11-17	Jun-03-27	\$6,918,361.80
Environmental Review	Jul-02-17	Aug-27-20	\$2,737,373.10
Right of Way	May-31-17	Dec-31-19	\$20,012.69
Design	Dec-12-17	Oct-31-19	\$11,888,396.16
Bid & Award	Aug-01-19	Jan-28-21	\$1,463,146.37
Construction Management	Aug-29-16	Dec-03-26	\$47,893,657.70
Construction	Mar-26-18	Dec-03-26	\$161,350,321.08
Closeout	Dec-04-26	Jun-03-27	\$0.00