



San Francisco Water Power Sewer

Services of the San Francisco Public Utilities Commission

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August 24, 2018

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

Dear Ms. Calvillo,

Please find the WIFIA Loan Agreement executed between the San Francisco Public Utilities Commission and the U.S. Environmental Protection Agency (EPA) on July 27, 2018 in the amount of \$699,242,023. The WIFIA Loan was entered into pursuant to the "Water Infrastructure Finance and Innovation Act (WIFIA)" authorized by Congress in 2014. The WIFIA Loan will fund 49% of the costs of the Wastewater Enterprise's Biosolids Digester Facility Project ("BDFP") plus certain eligible expenses. The BDFP is the largest project of the Wastewater Enterprise's "Sewer System Improvement Program". Payment of the WIFIA Loan will be secured by a pledge of the Wastewater Enterprise's net revenues, as provided and in accordance with the Wastewater Indenture. The WIFIA Loan is on a parity lien basis with the SFPUC's outstanding Wastewater Revenue Bonds and Clean Water State Revolving Fund ("SRF") Loans entered into with the California State Water Resources Control Board.

The Loan Agreement is being provided in accordance with Board of Supervisors Ordinances 111-16 and 144-18 (file numbers 160471 and 180452, respectively) which authorized the Wastewater Enterprise to fund capital projects with revenue bonds or other forms of indebtedness.

Sincerely,

Richard Morales
Debt Manager
San Francisco Public Utilities Commission

London Breed
Mayor

Ike Kwon
President

Vince Courtney
Vice President

Ann Moller Caen
Commissioner

Francesca Vietor
Commissioner

Anson Moran
Commissioner

Harlan L. Kelly, Jr.
General Manager

OUR MISSION: To provide our customers with high-quality, efficient and reliable water, power and sewer services in a manner that values environmental and community interests and sustains the resources entrusted to our care.



EXECUTION VERSION

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

WIFIA LOAN AGREEMENT

For Up to \$699,242,023

With the

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

For the

**BIOSOLIDS DIGESTER FACILITIES PROJECT
(WIFIA – N17128CA)**

Dated as of July 27, 2018

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WIFIA LOAN AGREEMENT

THIS WIFIA LOAN AGREEMENT (this “**Agreement**”), dated as of July 27, 2018, is by and between the **PUBLIC UTILITIES COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO**, a commission duly organized and existing under and pursuant to the Charter of the City and County of San Francisco and the laws of the State of California (the “**State**”), with an address at 525 Golden Gate Avenue, San Francisco, California 94102 (the “**Borrower**”), and the **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**, an agency of the United States of America, acting by and through the Administrator of the Environmental Protection Agency (the “**Administrator**”), with an address at 1200 Pennsylvania Avenue NW, Washington DC 20460 (the “**WIFIA Lender**”),

RECITALS:

WHEREAS, the Congress of the United States of America enacted the Water Infrastructure Finance and Innovation Act, as amended by Section 1445 of the Fixing America’s Surface Transportation Act of 2015, as further amended by Section 5008 of the Water Infrastructure Improvements For the Nation Act of 2016 (collectively, as the same may be amended from time to time, the “**Act**” or “**WIFIA**”), which is codified as 33 U.S.C. §§ 3901-3914; and

WHEREAS, the Act authorizes the WIFIA Lender to enter into agreements to provide financial assistance with one or more eligible entities to make secured loans with appropriate security features to finance a portion of the eligible costs of projects eligible for assistance; and

WHEREAS, the Borrower has requested that the WIFIA Lender make the WIFIA Loan (as defined herein) in a principal amount not to exceed \$699,242,023 (excluding interest that is capitalized in accordance with the terms hereof) to be used to pay a portion of the Eligible Project Costs (as defined herein) related to the Project (as defined herein) pursuant to the application for WIFIA financial assistance dated December 22, 2017 (the “**Application**”); and

WHEREAS, as of the date hereof, the Administrator has approved WIFIA financial assistance for the Project to be provided in the form of the WIFIA Loan, subject to the terms and conditions contained herein; and

WHEREAS, based on the Application and the representations, warranties and covenants set forth herein, the WIFIA Lender proposes to make funding available to the Borrower through the purchase of the WIFIA Bond (as defined herein), upon the terms and conditions set forth herein; and

WHEREAS, the WIFIA Bond will be issued by the Borrower pursuant to the WIFIA Supplemental Indenture (as defined herein); and

WHEREAS, the Borrower agrees to repay any amount due pursuant to this Agreement and the WIFIA Bond in accordance with the terms and provisions hereof and of the WIFIA Bond; and

WHEREAS, the WIFIA Lender has entered into this Agreement in reliance upon, among other things, the information and representations of the Borrower set forth in the Application and the supporting information provided by the Borrower.

NOW, THEREFORE, the premises being as stated above, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged to be adequate, and intending to be legally bound hereby, it is hereby mutually agreed by and between the Borrower and the WIFIA Lender as follows:

Section 1. Definitions.

Unless the context otherwise requires, capitalized terms used in this Agreement shall have the meanings set forth below in this Section 1 (*Definitions*) or as otherwise defined in this Agreement. Any term used in this Agreement that is defined by reference to any other agreement shall continue to have the meaning specified in such agreement, whether or not such agreement remains in effect.

“**Act**” has the meaning provided in the recitals hereto.

“**Additional Bonds**” means any Bonds permitted under Section 16(a) (*Negative Covenants – Indebtedness*) and under the Indenture, which Bonds are issued or incurred after the Effective Date and payable from Net System Revenues on a parity basis with debt service on the Bonds that are Outstanding.

“**Additional Parity Obligations**” means Additional Bonds, Additional Parity State Loans and any other obligation issued or incurred by the Borrower after the Effective Date that is permitted under Section 16(a) (*Negative Covenants – Indebtedness*) and authorized under the terms of the Indenture to be secured on a parity with the WIFIA Bond.

“**Additional Parity State Loans**” means any Parity State Loans permitted under Section 16(a) (*Negative Covenants – Indebtedness*) and under the Indenture, which Parity State Loans are entered into or incurred after the Effective Date between the Borrower and the State (or any board, department or agency thereof) to finance additions, betterments, extensions, repairs, renewals or replacements to the System and which, by their terms, are payable from Net System Revenues on a parity basis with debt service on the Bonds.

“**Additional Principal Project Contract**” means any contract, agreement, letter of intent, understanding or instrument entered into by (or on behalf of) the Borrower after the Effective Date with respect to the Project, in each case, (a) pursuant to which the Borrower has payment obligations in excess of \$40,000,000 in the aggregate and (b) the termination of which could reasonably be expected to have a Material Adverse Effect, but excluding in any case any (i) insurance policies, (ii) Governmental Approvals and (iii) agreements, documents and instruments (A) providing for, governing or evidencing any Permitted Debt and any related

Permitted Lien for such Permitted Debt or (B) entered into to consummate any Permitted Investment.

“**Administrator**” has the meaning provided in the preamble hereto.

“**Agreement**” has the meaning provided in the preamble hereto.

“**Anticipated WIFIA Loan Disbursement Schedule**” means the schedule set forth in **Exhibit B** (*Anticipated WIFIA Loan Disbursement Schedule*), reflecting the anticipated disbursement of proceeds of the WIFIA Loan, as such schedule may be amended from time to time pursuant to clause (c) of Section 4 (*Disbursement Conditions*).

“**Application**” has the meaning provided in the recitals hereto.

“**Authorized Representative**” means, with respect to the Borrower, such officers or individuals that have authorization from the applicable governing body to perform the act being referred to.

“**Bank Secrecy Act**” means the Bank Secrecy Act of 1970, as amended, and the regulations promulgated thereunder.

“**Bankruptcy Related Event**” means, with respect to any Person, (a) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of such Person or any of its debts, or of a substantial part of the assets thereof, under any Insolvency Laws, or (ii) the appointment of a receiver, trustee, liquidator, custodian, sequestrator, conservator or similar official for such Person or for a substantial part of the assets thereof and, in any case referred to in the foregoing subclauses (i) and (ii), such proceeding or petition shall continue undismissed for sixty (60) days or an order or decree approving or ordering any of the foregoing shall be entered; (b) such Person shall (i) apply for or consent to the appointment of a receiver, trustee, liquidator, custodian, sequestrator, conservator or similar official therefor or for a substantial part of the assets thereof, (ii) generally not be paying its debts as they become due unless such debts are the subject of a bona fide dispute, or become unable to pay its debts generally as they become due, (iii) solely with respect to the Borrower, fail to make a payment of WIFIA Debt Service in accordance with the provisions of Section 9 (*Payment of Principal and Interest*) and such failure is not cured within thirty (30) days following notification by the WIFIA Lender of failure to make such payment, (iv) make a general assignment for the benefit of creditors, (v) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition with respect to it described in clause (a) of this definition, (vi) commence a voluntary proceeding under any Insolvency Law, or file a voluntary petition seeking liquidation, reorganization, an arrangement with creditors or an order for relief under any Insolvency Law, (vii) file an answer admitting the material allegations of a petition filed against it in any proceeding referred to in the foregoing subclauses (i) through (v), inclusive, of this clause (b), or (viii) take any action for the purpose of effecting any of the foregoing, including seeking approval or legislative enactment by any Governmental Authority to authorize commencement of a voluntary proceeding under any Insolvency Law; (c) solely with respect to the Borrower, (i) the Trustee shall commence a process pursuant to which all or a substantial part of the System Revenues may be sold or

otherwise disposed of in a public or private sale or disposition pursuant to a foreclosure of the Liens thereon securing the Parity Obligations, or (ii) the Trustee shall commence a process pursuant to which all or a substantial part of the System Revenues may be sold or otherwise disposed of pursuant to a sale or disposition of the System Revenues in lieu of foreclosure; or (d) solely with respect to the Borrower, the Trustee shall transfer, pursuant to directions issued by the Bondholders, funds on deposit in any of the System Accounts upon the occurrence and during the continuation of a System Event of Default under this Agreement or an event of default under the Indenture Documents for application to the prepayment or repayment of any principal amount of the Parity Obligations other than in accordance with the provisions of the Indenture.

“**Base Case Financial Model**” means a financial model prepared by the Borrower forecasting the capital costs of the System (including the Project) and the rates, revenues, operating expenses and major maintenance requirements of the System for time periods through the Final Maturity Date and based upon assumptions and methodology provided by the Borrower and acceptable to the WIFIA Lender as of the Effective Date, which model shall be provided to the WIFIA Lender as a fully functional Microsoft Excel – based financial model or such other format requested by the WIFIA Lender.

“**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 by law.

“**Bond**” has the meaning provided in the Indenture and includes the WIFIA Bond.

“**Bond Amortization Schedule**” means the Bond Amortization Schedule reflected in the applicable column of **Exhibit F** (*WIFIA Debt Service*), as amended from time to time in accordance with Section 7 (*Outstanding WIFIA Bond Balance; Revisions to Exhibit F and Bond Amortization Schedule*).

“**Bond Reserve Fund**” has the meaning provided in the Indenture.

“**Bond Reserve Fund Policy**” has the meaning provided in the Indenture.

“**Bondholder**” means, when used with respect to the WIFIA Bond, the WIFIA Lender (and any subsequent registered holder of the WIFIA Bond) and, when used with respect to any other Bond or Obligation, the registered owner of such Bond or Obligation in accordance with the Indenture.

“**Borrower**” has the meaning provided in the preamble hereto.

“**Borrower Fiscal Year**” means (a) as of the Effective Date, a fiscal year of the Borrower commencing on July 1 of any calendar year and ending on June 30 of the immediately succeeding calendar year or (b) such other fiscal year as the Borrower may hereafter adopt.

“**Borrower’s Authorized Representative**” means any Person who shall be designated as such pursuant to Section 27 (*Borrower’s Authorized Representative*).

“**Business Day**” means any day other than a Saturday, a Sunday or a day on which offices of the Government or the State are authorized to be closed or on which commercial banks

are authorized or required by law, regulation or executive order to be closed in New York, New York or San Francisco, California.

“**Capital Expenditures**” means expenditures made or liabilities incurred for the acquisition of any assets, improvements or replacements thereto that have a useful life of more than one (1) year and that are capitalized in accordance with GAAP.

“**Capital Project Account**” has the meaning provided in the Indenture.

“**Capital Project Fund**” has the meaning provided in the Indenture.

“**Capitalized Interest Period**” means the period from (and including) the First Disbursement Date to (and including) the first day of the initial Payment Period, subject to earlier termination as set forth in Section 9(c) (*Payment of Principal and Interest – Capitalized Interest Period*).

“**Charter**” means the Charter of the City as it now exists or as it may hereafter be amended, and any new or successor Charter.

“**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 as a successor thereto.

“**Code**” means the Internal Revenue Code of 1986, as amended from time to time, or any successor tax code.

“**Congress**” means the Congress of the United States of America.

“**Construction Period**” means the period from the Effective Date through the Substantial Completion Date.

“**Construction Period Servicing Fee**” has the meaning set forth in Section 30(b)(i) (*Fees and Expenses – Construction Period Servicing Fee*).

“**Control**” means, when used with respect to any particular Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or partnership or other ownership interests, by contract or otherwise, and the terms “**Controlling**” and “**Controlled by**” have meanings correlative to the foregoing.

“**CPI**” means the Consumer Price Index for All Urban Consumers (CPI-U) for the U.S. City Average for All Items, 1982-84=100 (not seasonally adjusted) or its successor, published by the Bureau of Labor Statistics and located at <https://www.bls.gov/news.release/cpi.t01.htm>.

“**Debt Service**” has the meaning provided in the Indenture.

“**Debt Service Payment Commencement Date**” means April 1, 2026; provided that, if the Capitalized Interest Period ends pursuant to Section 9(c) (*Payment of Principal and Interest – Capitalized Interest Period*) due to the occurrence of a System Event of Default or a Project Event of Default, the Debt Service Payment Commencement Date shall be the first Semi-Annual Payment Date immediately following the end of the Capitalized Interest Period.

“**Default Rate**” means an interest rate equal to the sum of (a) the WIFIA Interest Rate plus (b) 200 basis points.

“**Development Default**” means (a) the Borrower fails to diligently prosecute the work related to the Project or (b) the Borrower fails to achieve Substantial Completion of the Project within twenty-four (24) months following the Projected Substantial Completion Date.

“**Disbursement Date**” means any date on which the WIFIA Lender makes a disbursement of WIFIA Loan proceeds pursuant to Section 4 (*Disbursement Conditions*).

“**Dollars**” and “**\$**” means the lawful currency of the United States of America.

“**Effective Date**” means the date of this Agreement.

“**Eligible Project Costs**” means amounts in the Project Budget, substantially all of which are paid by or for the account of the Borrower in connection with the Project, including, as applicable, prior Project expenditures preceding the date of the Application, all of which shall arise from the following:

- (a) development-phase activities, including planning, feasibility analysis (including any related analysis necessary to carry out an eligible project), revenue forecasting, environmental review, permitting, preliminary engineering and design work and other preconstruction activities;
- (b) construction, reconstruction, rehabilitation, and replacement activities;
- (c) the acquisition of real property or an interest in real property (including water rights, land relating to the Project and improvements to land), environmental mitigation (including acquisitions pursuant to Section 3905(8) of Title 33 of the United States Code), construction contingencies, and acquisition of equipment; or
- (d) capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction;

provided that Eligible Project Costs must be consistent with all other applicable federal law, including the Act.

“**Environmental Laws**” has the meaning provided in Section 13(r) (*Representations and Warranties of Borrower – Environmental Matters*).

“**EPA**” means the United States Environmental Protection Agency.

“**Event of Loss**” means any event or series of events that causes any portion of the System to be damaged, destroyed or rendered unfit for normal use for any reason whatsoever, including through a failure of title, or any loss of such property through eminent domain.

“**Existing Indebtedness**” means indebtedness of the Borrower that has been issued or incurred prior to the Effective Date, as listed and described in **Schedule III**.

“**Existing Principal Project Contract**” means each contract of the Borrower set forth in Part A of **Schedule 13(n)**.

“**Federal Fiscal Year**” or “**FFY**” means the fiscal year of the Government, which is the twelve (12) month period that ends on September 30 of the specified calendar year and begins on October 1 of the preceding calendar year.

“**Final Maturity Date**” means the earlier of (a) April 1, 2059 or (b) the Semi-Annual Payment Date immediately preceding the date that is thirty-five (35) years following the Substantial Completion Date.

“**Financial Plan**” means the financial plan(s) and financial projection(s) to be delivered by the Borrower to the WIFIA Lender pursuant to Section 22 (*System Financial Planning and Reporting*).

“**Financial Statements**” has the meaning provided in Section 13(x) (*Representations and Warranties of Borrower – Financial Statements*).

“**First Disbursement Date**” means the date on which the WIFIA Lender makes the first disbursement of WIFIA Loan proceeds pursuant to Section 4 (*Disbursement Conditions*).

“**GAAP**” means generally accepted accounting principles for governmental entities, as established by GASB, in effect from time to time in the United States of America.

“**GASB**” means the Government Accounting Standards Board, or any successor entity with responsibility for establishing accounting rules for governmental entities.

“**Government**” means the United States of America and its departments and agencies.

“**Governmental Approvals**” means all authorizations, consents, approvals, waivers, exceptions, variances, filings, permits, orders, licenses, exemptions and declarations of or with any Governmental Authority.

“**Governmental Authority**” means any federal, state, provincial, county, city, town, village, municipal or other government or governmental department, commission, council, court, board, bureau, agency, authority or instrumentality (whether executive, legislative, judicial, administrative or regulatory), of or within the United States of America or its territories or possessions, including the State and its counties and municipalities, and their respective courts, agencies, instrumentalities and regulatory bodies, or any entity that acts “on behalf of” any of the foregoing, whether as an agency or authority of such body.

“**Indemnatee**” has the meaning provided in Section 17 (*Indemnification*).

“**Indenture**” means that certain Indenture, dated as of January 1, 2003, by and between the Borrower and the Trustee, as amended and supplemented from time to time (including by the WIFIA Supplemental Indenture).

“**Indenture Documents**” means the Indenture, each Supplemental Indenture, and each other agreement, instrument and document executed and delivered pursuant to or in connection with any of the foregoing.

“**Insolvency Laws**” means the United States Bankruptcy Code, 11 U.S.C. § 101 *et seq.*, as from time to time amended and in effect, and any state bankruptcy, insolvency, receivership, conservatorship or similar law now or hereafter in effect.

“**Interest Fund**” means the fund of that name established pursuant to Section 5.02 of the Indenture for the purposes specified in Section 5.03 of the Indenture.

“**Interest Only Period**” means the period commencing on the First Disbursement Date and ending on the Semi-Annual Payment Date occurring on April 1, 2043 (or on such earlier date as all amounts due or to become due to the WIFIA Lender hereunder have been irrevocably paid in full in cash).

“**Investment Grade Rating**” means a public rating no lower than ‘BBB-’, ‘Baa3’, ‘bbb-’, ‘BBB (low)’, or higher, from a Nationally Recognized Rating Agency.

“**Letter of Credit Agreement**” has the meaning provided in the Indenture.

“**Lien**” means any mortgage, pledge, hypothecation, assignment, mandatory deposit arrangement, encumbrance, attachment, lien (statutory or other), charge or other security interest, or preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever, including any sale-leaseback arrangement, any conditional sale or other title retention agreement, any financing lease having substantially the same effect as any of the foregoing, and the filing of any financing statement or similar instrument under the UCC or any other applicable law.

“**Loss Proceeds**” means any proceeds of builders’ risk or casualty insurance or proceeds of eminent domain proceedings resulting from any Event of Loss.

“**Material Adverse Effect**” means a material adverse effect on (a) the System, the Project or the System Revenues; (b) the business, operations, properties, condition (financial or otherwise) or prospects of the Borrower; (c) the legality, validity or enforceability of any material provision of any Indenture Document, WIFIA Loan Document or Principal Project Contract; (d) the ability of the Borrower or any Principal Project Party to enter into, perform or comply with any of its material obligations under any Indenture Document, WIFIA Loan Document or Principal Project Contract; (e) the validity, enforceability or priority of the Liens provided under the Indenture Documents on the Net System Revenues in favor of the Secured

Parties; or (f) the WIFIA Lender's rights or remedies available under any WIFIA Loan Document.

“Nationally Recognized Rating Agency” means any nationally recognized statistical rating organization identified as such by the Securities and Exchange Commission.

“NEPA” means the National Environmental Policy Act of 1969, as amended, and any successor statute of similar import, and regulations thereunder, in each case as in effect from time to time.

“NEPA Determination” means the Categorical Exclusion for the Project issued by EPA on June 20, 2018 in accordance with NEPA.

“Net Loss Proceeds” means Loss Proceeds after excluding any proceeds of delay-in-start-up insurance, proceeds covering liability of the Borrower to third parties and Loss Proceeds used or to be used by the Borrower to repair or restore the System in accordance with Section 6.20 of the Indenture.

“Net System Revenues” means all of the System Revenues less all Operations and Maintenance Expenses.

“Obligations” means debt of the Borrower that is secured by a pledge and lien on Net System Revenues, including both Parity Obligations and Subordinated Obligations.

“OFAC” means the Office of Foreign Assets Control of the United States Department of the Treasury.

“Operating Period Servicing Fee” has the meaning set forth in Section 30(c)(i) (*Fees and Expenses – Operating Period Servicing Fee*).

“Operations and Maintenance Expenses” means the reasonable and necessary costs of operating and maintaining the System, calculated on generally accepted 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), and the payment of pension charges and proportionate payments to such compensation and other insurance or outside reserve funds as the Borrower may establish or the Board of Supervisors may require with respect to employees of the Borrower, as provided in the Charter; provided, however, that the term “Operations and Maintenance Expenses” excludes in all cases (a) depreciation and obsolescence charges or reserves therefor, (b) amortization of intangibles or other bookkeeping entries of a similar nature, (c) 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, (d) charges for the payment of principal and interest on any revenue bonds or other indebtedness heretofore or hereafter issued for System purposes and (e) such costs as are scheduled to be paid by the Borrower from moneys other than Revenues, such moneys to be clearly available for such purpose.

“Organizational Documents” means: (a) with respect to any Person that is a Governmental Authority, (i) the constitutional and statutory provisions that are the basis for the existence and authority of such Governmental Authority, including any enabling statutes, ordinances or public charters and any other organic laws establishing such Governmental Authority and (ii) the bylaws, code of regulations, operating procedures or other organizational documents of or adopted by such Governmental Authority by which such Governmental Authority, its powers, operations or procedures or its securities, bonds, notes or other obligations are governed or from which such powers are derived; and (b) with respect to any Person that is not a Governmental Authority, (i) to the extent such Person is a corporation, the certificate or articles of incorporation and the by-laws of such Person, (ii) to the extent such Person is a limited liability company, the certificate of formation or articles of formation or organization and operating or limited liability company agreement of such Person and (iii) to the extent such Person is a partnership, joint venture, trust or other form of business, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization or formation of such Person.

“Outstanding” has the meaning provided in the Indenture.

“Outstanding WIFIA Bond Balance” means the sum of (a) the aggregate principal amount of the WIFIA Bond drawn by the Borrower (*i.e.*, the sum of the WIFIA Loan proceeds disbursed by the WIFIA Lender pursuant to Section 4 (*Disbursement Conditions*)) plus (b) capitalized interest added to the principal balance of the WIFIA Bond during the Capitalized Interest Period pursuant to Section 9(c) (*Payment of Principal and Interest – Capitalized Interest Period*) minus (c) the aggregate principal amount of the WIFIA Bond repaid by the Borrower, as determined in accordance with Section 7 (*Outstanding WIFIA Bond Balance; Revisions to Exhibit F and Bond Amortization Schedule*).

“Parity Obligations” means the Bonds, any Parity State Loans, any other Existing Indebtedness of the Borrower that is on a parity with the Bonds as of the Effective Date pursuant to the terms of the Indenture and any Additional Parity Obligations.

“Parity State Loans” means (a) those loan agreements entered into between the Borrower and the State (or any board, department or agency thereof) listed under the heading “Parity State Loans” in **Schedule III** and (b) any Additional Parity State Loans.

“Patriot Act” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, as amended, and all regulations promulgated thereunder.

“Payment Default” has the meaning provided in Section 19(a)(i) (*System Events of Default and Remedies – Payment Default*).

“Payment Period” means any period of six (6) months from (and including) a Semi-Annual Payment Date to (but excluding) the immediately succeeding Semi-Annual Payment

Date; provided that the first Payment Period shall be the six (6) month period ending on the date immediately prior to the Debt Service Payment Commencement Date.

“Permitted Debt” means:

- (a) Existing Indebtedness;
- (b) the WIFIA Bond;
- (c) Additional Parity Obligations; and
- (d) Subordinated Obligations.

“Permitted Investments” means any “Permitted Investment” under and as defined in the Indenture.

“Permitted Liens” means Liens permitted by the terms of the Indenture.

“Person” means and includes an individual, a general or limited partnership, a joint venture, a corporation, a limited liability company, a trust, an unincorporated organization and any Governmental Authority.

“Pre-Funded Eligible Project Costs” has the meaning provided in Section 4(d) (*Disbursement Conditions*).

“Pre-Funded Eligible Project Costs Documentation” has the meaning provided in Section 4(d) (*Disbursement Conditions*).

“Principal Fund” means the fund of that name established pursuant to Section 5.02 of the Indenture for the purposes specified in Section 5.04 of the Indenture.

“Principal Project Contracts” means the Existing Principal Project Contracts and any Additional Principal Project Contracts.

“Principal Project Party” means any Person (other than the Borrower) party to a Principal Project Contract.

“Professional Utility Consultant” means any independent licensed professional engineer, certified public accountant, or other independent person or firm, selected by the Borrower and reasonably acceptable to the WIFIA Lender, having skill and experience with the operation and maintenance of sewer systems of comparable size and character to the System in such areas as are relevant to the purposes for which such entity is retained, including the establishment of rates and charges; provided that the WIFIA Lender shall be deemed to have consented to any proposed Professional Utility Consultant so long as Borrower shall have provided the WIFIA Lender with thirty (30) Business Days’ advance written notice of such proposed Professional Utility Consultant, together with supporting information concerning the qualifications of such proposed Professional Utility Consultant, and the WIFIA Lender shall not have objected in writing within such thirty (30) Business Day period (upon the conclusion of

which period such proposed Professional Utility Consultant shall become the Professional Utility Consultant).

“**Project**” means the design and construction of new solids treatment, odor control, energy recovery and related facilities, as more particularly described in the Application and referred to as the Biosolids Digester Facilities Project, at the Borrower’s existing Southeast Water Pollution Control Plant located in the City.

“**Project BANs**” means the interim bond anticipation notes or other temporary financing to be issued by the Borrower from time to time after the Effective Date and during the Construction Period, the proceeds of which will be applied to the payment of Eligible Project Costs.

“**Project Budget**” means the budget for the Project in the aggregate amount of \$1,427,024,537.67 attached to this Agreement as **Schedule I** showing a summary of Total Project Costs with a breakdown of all Eligible Project Costs and the estimated sources and uses of funds for the Project, as amended from time to time with the approval of the WIFIA Lender.

“**Project Event of Default**” has the meaning provided in Section 20 (*Project Events of Default and Remedies*).

“**Project Schedule**” means (a) the initial schedule or schedules on which the timetables for the Project are set forth, attached as **Schedule II**, and (b) any updates thereto included in the periodic reports submitted to the WIFIA Lender pursuant to Section 23(b) (*Project Oversight and Monitoring – Reporting*) and most recently approved by the WIFIA Lender.

“**Projected Substantial Completion Date**” means May 1, 2024, as such date may be adjusted in accordance with Section 23 (*Project Oversight and Monitoring*).

“**Rate Covenant**” has the meaning provided in Section 15(k) (*Affirmative Covenants – Rate Covenant*).

“**Rating Category**” means one of the generic rating categories of a Nationally Recognized Rating Agency without regard to any refinement or gradation of such rating by a numerical modifier or otherwise.

“**Rebate Account**” means an account (or Rebate Fund (as defined in the Indenture)) established under the Indenture Documents to hold or account for earnings that may have to be rebated to the federal government as a condition of maintaining tax-exempt status of obligations the interest on which is excludable from gross income of the holder of the obligations.

“**Related Documents**” means the Indenture Documents, the WIFIA Loan Documents, Letter of Credit Agreements (if any) and the Principal Project Contracts.

“**Requisition**” has the meaning provided in Section 4(a) (*Disbursement Conditions*).

“**Reserve Account**” means an account established in the Bond Reserve Fund as security for a Series of Bonds issued under the Indenture.

“**Revenue Fund**” has the meaning provided in the Indenture.

“**Secured Parties**” means the WIFIA Lender, each other Bondholder and each holder of any other Parity Obligation pursuant to the Indenture Documents.

“**Semi-Annual Payment Date**” means each April 1 and October 1.

“**Senior State Loans**” has the meaning provided in the Indenture.

“**Series of Bonds**” has the meaning provided in the Indenture.

“**Servicer**” means such entity or entities as the WIFIA Lender shall designate from time to time to perform, or assist the WIFIA Lender in performing, certain duties hereunder.

“**Servicing Fee**” means the Servicing Set-Up Fee and any Construction Period Servicing Fee or Operating Period Servicing Fee.

“**Servicing Set-Up Fee**” has the meaning provided in Section 30(a) (*Fees and Expenses – Servicing Set-Up Fee*).

“**Sinking Fund Account**” means any special account or accounts established by the Indenture or any Supplemental Indenture or Indentures in the Principal Fund for the payment of Term Bonds.

“**Sixth Supplemental Indenture**” means the Sixth Supplemental Indenture to the Indenture to be entered into after the Effective Date between the Borrower and the Trustee, subject to the provisions of Article IX of the Indenture, in the form set forth as **Schedule 16(b)**.

“**State**” has the meaning provided in the preamble hereto.

“**Subordinated Obligations**” means any Obligation that (a) is fully subordinated in priority of payment (as to both principal, interest, and security interest in pledged collateral, and whether such payment is made upon default or acceleration) to payment of amounts due with respect to the Parity Obligations (including the WIFIA Bond); and (b) is further limited with respect to voting rights to matters that (i) diminish the pledge of Net System Revenues with respect to such Obligations; (ii) change the times or amounts of payment on such Obligations; or (iii) reduce any voting rights in respect of such Obligations.

“**Substantial Completion**” means the stage at which the Project is considered to perform the functions for which the Project is designed, which the Borrower anticipates will be the stage of “Construction Final Completion – Biosolids Digester Facilities” as reflected in the Project Schedule and in the applicable Principal Project Contracts.

“**Substantial Completion Date**” means the date on which the Borrower certifies to the WIFIA Lender, with evidence satisfactory to the WIFIA Lender, that Substantial Completion has occurred.

“Supplemental Indenture” means a supplement to or modification of the provisions of the Indenture entered into by the Borrower and the Trustee in accordance with the terms of the Indenture, authorizing the issuance of Additional Parity Obligations or amending the terms of the Indenture.

“System” means the whole and each and every part of the municipal sanitary waste and storm water collection, treatment and disposal system and auxiliary or related facilities of the Borrower, including all of the presently existing system of the Borrower for the collection, treatment and disposal of sanitary waste and storm water, and all future additions, betterments, and extensions to that system or any part thereof. The System includes the Project.

“System Accounts” means the Capital Project Fund and each Capital Project Account (including the WIFIA Project Account), the Bond Reserve Fund and each Reserve Account, the Revenue Fund, the Principal Fund, any Sinking Fund Account (including the WIFIA Sinking Fund Account) and the Interest Fund, in each case, as established pursuant to the Indenture.

“System Event of Default” has the meaning provided in Section 19 (*System Events of Default and Remedies*).

“System Revenues” means all gross revenues of the System, including all charges received for and all other income and receipts derived by the Borrower from the operation of the System, or arising from the System, including connection and installation charges, but excluding (a) any money received by or for the account the Borrower from the levy or collection of taxes; (b) moneys received from the State and the United States of America and required to be deposited in restricted funds; (c) refundable deposits made to establish credit; (d) advances and contributions made to the Borrower to be applied to construction; (e) moneys received constituting casualty insurance proceeds with respect to all or any part of the System and moneys received constituting other insurance proceeds; (f) moneys received from the sale or disposition of all or any part of the System; (g) moneys received upon the taking by or under the threat of eminent domain of all or any part of the System; (h) proceeds from Bonds issued by the Borrower or proceeds from loans or other indebtedness obtained by the Borrower; and (i) moneys or securities received by the Borrower as gifts or grants, the use of which is restricted by the donor or grantor. The term “System Revenues” includes (x) all interest or other income (excluding profits or losses from the sale or disposition of Permitted Investments or other securities owned by or on behalf of the Borrower) derived from the deposit or investment of any moneys in any fund or account established hereunder (excluding any Rebate Account 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, and (y) any other moneys, proceeds and other amounts that the Borrower determines should be “Revenues” under the Indenture.

“Term Bonds” has the meaning provided in the Indenture.

“Total Project Costs” means (a) the costs paid or incurred or to be paid or incurred by the Borrower in connection with or incidental to the acquisition, design, construction and equipping of the Project, including legal, administrative, engineering, planning, design, insurance and costs of issuance; (b) amounts, if any, required by the Indenture Documents or the WIFIA Loan Documents to be paid into any fund or account upon the incurrence of the WIFIA Loan

and, if issued or incurred in connection with the Project, any Parity Obligations or Subordinated Obligations; (c) payments when due (whether at the maturity of principal, the due date of interest, or upon optional or mandatory prepayment) during the Construction Period in respect of any indebtedness of the Borrower, in each case in connection with the Project (other than the WIFIA Loan); and (d) costs of equipment and supplies and initial working capital and reserves required by the Borrower for the commencement of operation of the Project, including general administrative expenses and overhead of the Borrower.

“**Trustee**” means U.S. Bank National Association, acting as an independent trustee with the duties and powers provided in the Indenture, its successors and assigns, and any other corporation or association which may at any time be substituted in its place, as provided in Section 8.01 of the Indenture.

“**Uncontrollable Force**” means any cause beyond the control of the Borrower, including: (a) a hurricane, tornado, flood or similar occurrence, landslide, earthquake, fire or other casualty, strike or labor disturbance, freight embargo, act of a public enemy, explosion, war, blockade, terrorist act, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, sabotage, cyber-attack, or act of God (provided, that the Borrower shall not be required to settle any strike or labor disturbance in which it may be involved) or (b) the order or judgment of any federal, state or local court, administrative agency or governmental officer or body, if it is not also the result of willful or negligent action or a lack of reasonable diligence of the Borrower and the Borrower does not control the administrative agency or governmental officer or body; provided, that the diligent contest in good faith of any such order or judgment shall not constitute or be construed as a willful or negligent action or a lack of reasonable diligence of the Borrower.

“**Uniform Commercial Code**” or “**UCC**” means the Uniform Commercial Code, as in effect from time to time in the State.

“**Variable Rate Indebtedness**” has the meaning provided in the Indenture.

“**WIFIA**” has the meaning provided in the recitals hereto.

“**WIFIA Bond**” means the Bond delivered by the Borrower in substantially the form of **Exhibit A** (*Form of WIFIA Supplemental Indenture (including WIFIA Bond form)*) and issued pursuant to the WIFIA Supplemental Indenture.

“**WIFIA Debt Service**” means with respect to any Semi-Annual Payment Date occurring on or after the Debt Service Payment Commencement Date, the principal portion of the Outstanding WIFIA Bond Balance and any interest payable thereon (including interest accruing after the date of any filing by the Borrower of any petition in bankruptcy or the commencement of any bankruptcy, insolvency or similar proceeding with respect to the Borrower), in each case, due and payable on such Semi-Annual Payment Date in accordance with the provisions of Section 9(d) (*Payment of Principal and Interest – Payment of WIFIA Debt Service*).

“**WIFIA Interest Rate**” has the meaning provided in Section 6 (*Interest Rate*).

“**WIFIA Lender**” has the meaning provided in the preamble hereto.

“**WIFIA Lender’s Authorized Representative**” means the Administrator and any other Person who shall be designated as such pursuant to Section 28 (*WIFIA Lender’s Authorized Representative*).

“**WIFIA Loan**” means the secured loan, as evidenced by the WIFIA Bond, made by the WIFIA Lender to the Borrower on the terms and conditions set forth herein, pursuant to the Act, in a principal amount not to exceed \$699,242,023 (excluding interest that is capitalized in accordance with the terms hereof), to be used in respect of Eligible Project Costs paid or incurred by or on behalf of the Borrower.

“**WIFIA Loan Documents**” means this Agreement, the WIFIA Bond, the WIFIA Supplemental Indenture, and the other Indenture Documents.

“**WIFIA Project Account**” has the meaning provided in the WIFIA Supplemental Indenture.

“**WIFIA Sinking Fund Account**” has the meaning provided in the WIFIA Supplemental Indenture.

“**WIFIA Supplemental Indenture**” means that certain Ninth Supplemental Indenture to the Indenture, dated as of the Effective Date, by and between the Borrower and the Trustee, authorizing, among other things, the issuance of the WIFIA Bond and in the form set forth in **Exhibit A** (*Form of WIFIA Supplemental Indenture (including WIFIA Bond form)*).

Section 2. Interpretation.

(a) Unless the context shall otherwise require, the words “hereto,” “herein,” “hereof” and other words of similar import refer to this Agreement as a whole.

(b) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders and vice versa.

(c) Words importing the singular number shall include the plural number and vice versa unless the context shall otherwise require.

(d) The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.”

(e) Whenever the Borrower’s knowledge is implicated in this Agreement or the phrase “to the Borrower’s knowledge” or a similar phrase is used in this Agreement, the Borrower’s knowledge or such phrase(s) shall be interpreted to mean to the best of the Borrower’s knowledge after reasonable and diligent inquiry and investigation. Unless the context shall otherwise require, references to any Person shall be deemed to include such Person’s successors and permitted assigns.

(f) Unless the context shall otherwise require, references to preambles, recitals, Sections, subsections, clauses, schedules, exhibits, appendices and provisions are to the applicable preambles, recitals, Sections, subsections, clauses, schedules, exhibits, appendices and provisions of this Agreement.

(g) The schedules and exhibits to this Agreement, and the appendices and schedules to such exhibits, are hereby incorporated by reference and made an integral part of this Agreement.

(h) The headings or titles of this Agreement and its Sections, schedules or exhibits, as well as any table of contents, are for convenience of reference only and shall not define or limit its provisions.

(i) Unless the context shall otherwise require, all references to any resolution, contract, agreement, lease or other document shall be deemed to include any amendments or supplements to, or modifications or restatements or replacements of, such documents that are approved from time to time in accordance with the terms thereof and hereof.

(j) Every request, order, demand, application, appointment, notice, statement, certificate, consent or similar communication or action hereunder by any party shall, unless otherwise specifically provided, be delivered in writing in accordance with Section 38 (*Notices; Payment Instructions*) and signed by a duly authorized representative of such party.

(k) References to “disbursements of WIFIA Loan Proceeds” or similar phrasing shall be construed as meaning the same thing as “paying the purchase price of the WIFIA Bond”.

(l) Whenever the Agreement requires a change in principal amount, interest rate or amortization schedule of the WIFIA Loan, it is intended that such change be reflected in the WIFIA Bond. Whenever there is a prepayment of the WIFIA Loan, it is intended that such prepayment be implemented through a redemption of the WIFIA Bond.

Section 3. WIFIA Loan Amount.

The principal amount of the WIFIA Loan, which shall be evidenced by the WIFIA Bond, shall not exceed \$699,242,023 (excluding interest that is capitalized in accordance with the terms hereof). WIFIA Loan proceeds available to be drawn shall be disbursed from time to time in accordance with Section 4 (*Disbursement Conditions*) and Section 12(b) (*Conditions Precedent – Conditions Precedent to All Disbursements*).

Section 4. Disbursement Conditions.

(a) WIFIA Loan proceeds shall be disbursed solely in respect of Eligible Project Costs paid or incurred and approved for payment by or on behalf of the Borrower in connection with the Project. If the Borrower intends to utilize the WIFIA Loan proceeds to make progress payments for Project construction work performed under the Principal Project Contracts, the Borrower shall demonstrate to the satisfaction of the WIFIA Lender that such

progress payments are commensurate with the value of the work that has been completed. Each disbursement of the WIFIA Loan shall be made pursuant to a requisition and certification (a “**Requisition**”) in the form set forth in **Appendix One** (*Form of Requisition*) to **Exhibit D-1** (*Requisition Procedures*), along with all documentation and other information required thereby, submitted by the Borrower to, and approved by, the WIFIA Lender, all in accordance with the procedures of **Exhibit D-1** (*Requisition Procedures*) and subject to the requirements of this Section 4 (*Disbursement Conditions*) and the conditions set forth in Section 12(b) (*Conditions Precedent – Conditions Precedent to All Disbursements*); provided, however, that no disbursements of WIFIA Loan proceeds shall be made on or after the date that is one (1) year after the Substantial Completion Date.

(b) The Borrower shall deliver copies of each Requisition to the WIFIA Lender, the Servicer (if any) on or before the first (1st) Business Day of each month for which a disbursement is requested. If the WIFIA Lender shall expressly approve a Requisition or shall not expressly deny a Requisition, disbursements of funds shall be made on the fifteenth (15th) day of the month for which a disbursement has been requested, or on the next succeeding Business Day if such fifteenth (15th) day is not a Business Day. Express WIFIA Lender approval or denial shall be substantially in the form annexed hereto as **Appendix Two** (*[Approval/Disapproval] of the WIFIA Lender*) to **Exhibit D-1** (*Requisition Procedures*). In no event shall disbursements be made more than once each month. At the time of any disbursement, the sum of all prior disbursements of WIFIA Loan proceeds and the disbursement then to be made shall not exceed the cumulative disbursements through the end of the then-current Federal Fiscal Year set forth in the Anticipated WIFIA Loan Disbursement Schedule, as the same may be amended from time to time in accordance with the terms of this Agreement. Any scheduled disbursement (as reflected in the Anticipated WIFIA Loan Disbursement Schedule) that remains undrawn at the end of any Federal Fiscal Year shall be available for disbursement in subsequent years, subject to this Section 4 (*Disbursement Conditions*).

(c) The Borrower may amend the Anticipated WIFIA Loan Disbursement Schedule by submitting a revised version thereof to the WIFIA Lender no later than thirty (30) days prior to the proposed effective date of such amendment, together with a detailed explanation of the reasons for such revisions. Such revised Anticipated WIFIA Loan Disbursement Schedule shall become effective upon the WIFIA Lender’s approval thereof, which approval shall be granted in the WIFIA Lender’s sole discretion. Unused draw authority from a prior Federal Fiscal Year automatically rolls forward to be available in the succeeding Federal Fiscal Year, having the effect of automatically updating the Anticipated WIFIA Loan Disbursement Schedule without need for the WIFIA Lender’s approval.

(d) The Borrower anticipates that it will draw down all or a portion of the proceeds of the WIFIA Loan to reimburse the Borrower for Eligible Project Costs paid by or on behalf of the Borrower prior to such disbursement of WIFIA Loan proceeds, whether paid from funds of the Borrower or proceeds of Obligations issued by the Borrower, including for the purpose of paying or redeeming such Obligations (“**Pre-Funded Eligible Project Costs**”). Following the Effective Date, as a condition of Pre-Funded Eligible Project Costs being Eligible Project Costs, the Borrower shall deliver to the WIFIA Lender and the Servicer (if any), no later than one hundred eighty (180) days following the calendar quarter in which such expenditures

were made, invoices and records evidencing that such expenditures are Eligible Project Costs (the “**Pre-Funded Eligible Project Costs Documentation**”), irrespective of whether such costs were paid with the proceeds of Obligations of the Borrower or with other Borrower funds. Eligible Project Costs incurred prior to the Effective Date shall not be considered Pre-Funded Eligible Project Costs for purposes of this subsection.

(e) Each time the Borrower delivers Pre-Funded Eligible Project Costs Documentation to the WIFIA Lender, and the Servicer (if any), the Borrower shall also deliver to such entities a certificate, substantially in the form of **Exhibit D-2** (*Certification of Pre-Funded Eligible Project Costs Documentation*) and duly executed by the Borrower’s Authorized Representative, certifying as to the following:

(i) the amount of Pre-Funded Eligible Project Costs for which reimbursement will be sought from the WIFIA Loan, the period of time for which such Pre-Funded Eligible Project Costs Documentation is being provided, and the sources of all such funding;

(ii) that the funds for which reimbursement will be sought were expended solely in connection with the payment or reimbursement of Eligible Project Costs; and

(iii) that there does not currently exist any System Event of Default or Project Event of Default or any event or condition that, with the lapse of time or giving of notice, would constitute a System Event of Default or Project Event of Default or, if there does currently exist any such event or condition (without limitation), the certificate shall specify all the actions that the Borrower is taking to remedy such event or condition.

(f) The Pre-Funded Eligible Project Costs Documentation submitted pursuant to clause (d) and the certificate delivered pursuant to clause (e) must be satisfactory to the WIFIA Lender. The Pre-Funded Eligible Project Costs Documentation must provide sufficient detail to enable the WIFIA Lender to verify that such costs are Eligible Project Costs paid by or on behalf of the Borrower. The Pre-Funded Eligible Project Costs Documentation and the certificate must provide sufficient detail to enable the WIFIA Lender to verify that proceeds of any Project BANs were expended for Eligible Project Costs for the Project and to audit such other Eligible Project Costs paid by or on behalf of the Borrower. The certificate and the Pre-Funded Eligible Project Costs Documentation are intended to document Eligible Project Costs in connection with the reimbursement of such Eligible Project Costs or for the purpose of paying or redeeming, in whole or part, only those Project BANs in respect of which the proceeds were used to pay such documented Eligible Project Costs. The WIFIA Lender shall review each such certificate for compliance with WIFIA disbursement requirements. Within fourteen (14) Business Days following the receipt of the Pre-Funded Eligible Project Costs Documentation and the accompanying certificate, the WIFIA Lender shall deliver a notice to the Borrower confirming the Eligible Project Costs set forth in the certificate that have been approved, or notifying the Borrower as to which Eligible Project Costs have not been approved, and confirming the cumulative amount of Eligible Project Costs approved as of the notice date. Such approved amounts of Eligible Project Costs will be disbursed at such time as the Borrower submits a Requisition in respect of such approved amounts in accordance with clauses (a) and (b)

above. The Borrower shall not submit a Requisition that seeks reimbursement of any Eligible Project Costs for which the related Pre-Funded Eligible Project Costs Documentation was not delivered to the WIFIA Lender and the Servicer (if any) at least one (1) month prior to the date such Requisition is submitted.

Section 5. Term.

The term of the WIFIA Loan shall extend from the Effective Date to the Final Maturity Date or to such earlier date as all amounts due or to become due to the WIFIA Lender hereunder and under the WIFIA Bond have been irrevocably paid in full in immediately available funds.

Section 6. Interest Rate.

The interest rate with respect to the Outstanding WIFIA Bond Balance (the “**WIFIA Interest Rate**”) shall be three and nine hundredths percent (3.09%) per annum. Commencing on the First Disbursement Date, interest will accrue and be computed on the Outstanding WIFIA Bond Balance (as well as on any past due interest) from time to time on the basis of a 360-day year of twelve (12) thirty (30) day months, and will be compounded semi-annually on each Semi-Annual Payment Date occurring during the Capitalized Interest Period; provided that, in the event of any Payment Default or any Project Event of Default, the Borrower shall pay interest on the Outstanding WIFIA Bond Balance at the Default Rate, (a) in the case of any Payment Default, from (and including) its due date to (but excluding) the date of actual payment and (b), in the case of any Project Event of Default, from (and including) the date of such occurrence until (and excluding) the date such Project Event of Default has been cured in accordance with the terms of this Agreement. The WIFIA Lender shall provide written notice to the Borrower and the Trustee of any Payment Default or Project Event of Default, which notice shall specify the effective date of the Default Rate and shall be deemed conclusive absent manifest error; provided that no failure or delay on the part of the WIFIA Lender to provide such notice and no defect in any such notice shall affect in any manner the Borrower’s obligations hereunder or under any other WIFIA Loan Document.

Section 7. Outstanding WIFIA Bond Balance; Revisions to Exhibit F and Bond Amortization Schedule.

(a) The Outstanding WIFIA Bond Balance will be (i) increased on each occasion on which the WIFIA Lender disburses loan proceeds hereunder (commencing with the First Disbursement Date) by the amount of such disbursement of loan proceeds; (ii) increased on each occasion on which interest on the WIFIA Loan is capitalized pursuant to the provisions of Section 9(c) (*Payment of Principal and Interest – Capitalized Interest Period*), by the amount of interest so capitalized; and (iii) decreased upon each payment or prepayment of the Outstanding WIFIA Bond Balance, by the amount of principal so paid. The WIFIA Lender shall, within thirty (30) days following (w) each Disbursement Date, (x) each Semi-Annual Payment Date following the First Disbursement Date, (y) the last day of the Capitalized Interest Period, and (z) each prepayment date (as the case may be), make a notation on the WIFIA Bond of the Outstanding WIFIA Bond Balance as of such applicable date and advise the Borrower and the Trustee by written notice of the amount of the Outstanding WIFIA Bond Balance as of such

applicable date, and its determination of such balance in any such notice shall be deemed conclusive absent manifest error; provided that neither the failure to make any such notation or to provide any such notice, nor any delay or error in any such notation or notice shall affect in any manner the Borrower's obligations hereunder or under any other WIFIA Loan Document.

(b) The WIFIA Lender is hereby authorized to modify the Bond Amortization Schedule included in **Exhibit F** (*WIFIA Debt Service*) and the information included in the exhibits to the WIFIA Bond from time to time, in accordance with the principles set forth below in this clause (b) and in clause (c) of this Section to reflect (i) any change to the Outstanding WIFIA Bond Balance, (ii) any change to the date and amount of any principal or interest due and payable or to become due and payable by the Borrower under this Agreement, and (iii) such other administrative information as the WIFIA Lender may determine is necessary for administering the WIFIA Loan and this Agreement. Any calculations described above shall be rounded up to the nearest whole cent. Any partial prepayments of the Outstanding WIFIA Bond Balance pursuant to Section 10 (*Prepayment*) shall be applied in accordance with Section 10(e) (*Prepayment – General Prepayment Instructions*). Absent manifest error, the WIFIA Lender's determination of such matters as set forth on **Exhibit F** (*WIFIA Debt Service*) and in the exhibits to the WIFIA Bond shall be conclusive evidence thereof; provided that neither the failure to make any such recordation nor any error in any such recordation shall affect in any manner the Borrower's obligations hereunder or under any other WIFIA Loan Document. The WIFIA Lender shall provide the Borrower and the Trustee with notification of the Outstanding WIFIA Bond Balance pursuant to clause (a) of this Section 7 (*Outstanding WIFIA Bond Balance; Revisions to Exhibit F and Bond Amortization Schedule*), as well as a copy of **Exhibit F** (*WIFIA Debt Service*) as revised, but no failure to provide or delay in providing the Borrower or the Trustee with such copy shall affect any of the obligations of the Borrower under this Agreement or the other WIFIA Loan Documents.

(c) The Dollar amounts set forth in the Bond Amortization Schedule in **Exhibit F** (*WIFIA Debt Service*), as of the Effective Date, have been determined based on the Anticipated WIFIA Loan Disbursement Schedule in effect on the Effective Date. Such Dollar amounts are therefore subject to change in connection with a modification of the Bond Amortization Schedule. Any such change shall be consistent with the percentages of principal payments set forth in the Bond Amortization Schedule as of the Effective Date, as specified in clause (ii) of Section 9(d) (*Payment of Principal and Interest – Payment of WIFIA Debt Service*) and subject to adjustment only as expressly provided in clause (iii) of Section 9(d) (*Payment of Principal and Interest – Payment of WIFIA Debt Service*).

Section 8. Security and Priority; Flow of Funds.

(a) As security for the WIFIA Bond, the Borrower has in the Indenture irrevocably pledged all of the Net System Revenues to the punctual payment of the principal of and interest and redemption premium, if any, on the Bonds (including the WIFIA Bond) and the other Parity Obligations. The Borrower affirms such pledge under this Agreement. The WIFIA Bond shall be secured at all times in right of payment and right of security on a parity with all other Bonds issued under the Indenture, including any Additional Bonds, and other Parity Obligations. As security for the payment of all other obligations under this Agreement not evidenced by the WIFIA Bond, including the Borrower's indemnification obligations pursuant to

Section 17 (*Indemnification*), the Borrower hereby irrevocably pledges all of the Net System Revenues on a subordinate basis after payment of all Parity Obligations. All payment obligations of the Borrower are subject to the limitations specified in Section 11.01 of the Indenture.

(b) Except (i) for Permitted Liens, or (ii) to the extent otherwise provided in clause (a) of this Section 8 (*Security and Priority; Flow of Funds*), the Net System Revenues will be free and clear of any pledge, Lien, charge or encumbrance thereon or with respect thereto, of equal rank with or senior to the pledge of the Borrower created under the Indenture Documents for the benefit of the WIFIA Lender, and all organizational, regulatory or other necessary action on the part of the Borrower with respect to the foregoing has been duly and validly taken; provided that, in accordance with the WIFIA Supplemental Indenture, each disbursement of WIFIA Loan proceeds will require the certificates and the opinion of bond counsel to the Borrower specified in Section 12(b)(xiv) (*Conditions Precedent – Conditions Precedent to All Disbursements*).

(c) The Borrower shall not use System Revenues to make any payments or satisfy any obligations other than in accordance with the provisions of this Section 8 (*Security and Priority; Flow of Funds*) and the Indenture Documents and shall not apply any portion of the System Revenues in contravention of this Agreement or the Indenture Documents.

(d) The Indenture provides that all System Revenues shall be deposited in the Revenue Fund and that all moneys in the Revenue Fund, including earnings thereon, shall be appropriated, transferred, expended or used for the following purposes, and only in accordance with the following priority:

- (i) the payment of Operations and Maintenance Expenses;
- (ii) the payment of Bonds (including the WIFIA Bond), Parity State Loans, and other Parity Obligations, including amounts due as reimbursement under any Letter of Credit Agreement, as provided in Article V of the Indenture and, as applicable, any Supplemental Indenture; and
- (iii) any other lawful purpose of the Borrower.

Section 9. Payment of Principal and Interest.

(a) Payment Dates. The Borrower agrees to pay the principal of and interest on the WIFIA Bond by making payments in accordance with the provisions of this Agreement and the Indenture Documents on each Semi-Annual Payment Date, beginning on the Debt Service Payment Commencement Date, and on each other date on which payment thereof is required to be made hereunder (including the Final Maturity Date and any date on which payment is due by reason of the acceleration of the maturity of the WIFIA Bond or otherwise); provided that if any such date is not a Business Day, payment shall be made on the next Business Day following such date.

(b) Interest Commencement Date. With respect to the WIFIA Bond, interest shall accrue and be payable only on those amounts for which a Requisition has been submitted and funds (or such portion of funds as have been approved by WIFIA Lender) have been made available to the Borrower for use on the Project in accordance with Section 4 (*Disbursement Conditions*). Interest on amounts capitalized pursuant to the following Section 9(c) (*Payment of Principal and Interest – Capitalized Interest Period*) shall commence on the date such interest is added to the principal balance of the WIFIA Bond during the Capitalized Interest Period.

(c) Capitalized Interest Period. No payment of the principal of or interest on the WIFIA Bond is required to be made during the Capitalized Interest Period. On each Semi-Annual Payment Date occurring during the Capitalized Interest Period, interest accrued on the WIFIA Bond in the six (6) month period ending immediately prior to such date, including both interest accrued on the Outstanding WIFIA Bond Balance as of the prior Semi-Annual Payment Date and interest accrued on any disbursement of WIFIA Loan proceeds during such period, shall be capitalized and added to the Outstanding WIFIA Bond Balance. For the avoidance of doubt, the interest in respect of the last day of the Capitalized Interest Period will not be capitalized but will be payable on the Debt Service Payment Commencement Date, together with all interest accrued in respect of the initial Payment Period. Notwithstanding the foregoing, the Capitalized Interest Period shall end immediately upon written notification to the Borrower and the Trustee by the WIFIA Lender that a System Event of Default or a Project Event of Default has occurred, in which case the provisions of this Section shall no longer apply and payments of principal and interest shall be currently due and payable in accordance with the terms hereof and interest shall no longer be capitalized. For purposes of this subsection, a System Event of Default under clause (v) of Section 19(a) (*System Events of Default and Remedies – Cross Default with Financing Documents*) shall be deemed to have occurred upon the occurrence of any nonpayment of principal of, interest on, or redemption price of any Parity Obligations when due, regardless of whether the holders of the applicable Parity Obligations or the Trustee for the applicable Parity Obligations, or any legal order, has waived, permitted deferral of, or forgiven any such payment.

(d) Payment of WIFIA Debt Service.

(i) During the Interest Only Period, the WIFIA Debt Service payable by the Borrower shall consist of one hundred percent (100%) of the amount of interest then due and payable on the Outstanding WIFIA Bond Balance, and no payment of principal will be due and payable. Such payments shall be made in accordance with Section 9(e) (*Payment of Principal and Interest – Manner of Payment*).

(ii) On each Semi-Annual Payment Date occurring after the Interest Only Period, the Borrower shall pay WIFIA Debt Service in the amounts set forth in respect of such Semi-Annual Payment Date on **Exhibit F** (*WIFIA Debt Service*), as the same may be revised as provided in Section 7 (*Outstanding WIFIA Bond Balance; Revisions to Exhibit F and Bond Amortization Schedule*), which payments shall be made in accordance with Section 9(e) (*Payment of Principal and Interest – Manner of Payment*). The schedule of WIFIA Debt Service payments set forth on **Exhibit F** (*WIFIA Debt Service*) shall be calculated by the WIFIA Lender as of the last day of the Capitalized Interest Period such that after the Debt Service Payment Commencement

Date, subject to the provisions of this Section 9(d) (*Payment of Principal and Interest – Payment of WIFIA Debt Service*), there shall be payable semi-annual payments of principal and semiannual payments of interest in order for the Outstanding WIFIA Bond Balance to be reduced to \$0 on the Final Maturity Date (assuming that interest accrues during such period on the principal balance of such WIFIA Bond at the rate per annum set forth in Section 6 (*Interest Rate*), that all WIFIA Debt Service payments are made in a timely manner during such period, and that no additional payments of principal or interest on the WIFIA Bond are made during such period); provided that there shall be due and payable on the Final Maturity Date of the WIFIA Bond all amounts of principal and interest not otherwise paid pursuant to the provisions of this Agreement and the WIFIA Bond. On each Semi-Annual Payment Date occurring after the Interest Only Period, the Borrower shall pay the principal amount corresponding to such date as shown in **Exhibit F** (*WIFIA Debt Service*), and each such principal amount shall, subject to Section 10(e) (*Prepayment – General Prepayment Instructions*), be calculated to equal the product of the Outstanding WIFIA Bond Balance (as of the end of the Capitalized Interest Period) multiplied by the percentage set forth for such Semi-Annual Payment Date on **Exhibit F** (*WIFIA Debt Service*).

(iii) If the Final Maturity Date is determined to be earlier than April 1, 2059, the percentages shown on **Exhibit F** (*WIFIA Debt Service*) shall be amended so that the percentage allocated to any Semi-Annual Payment Date following the earlier Final Maturity Date will be allocated pro-rata among the Semi-Annual Payment Dates occurring after the Interest Only Period and prior to the earlier Final Maturity Date, and such calculations shall be included in the WIFIA Lender’s calculation of WIFIA Debt Service pursuant to clause (ii) of this Section 9(d) (*Payment of Principal and Interest – Payment of WIFIA Debt Service*) and reflected in a modified Bond Amortization Schedule pursuant to Section 7 (*Outstanding WIFIA Bond Balance; Revisions to Exhibit F and Bond Amortization Schedule*).

(iv) The Borrower shall calculate the amortization requirements for the WIFIA Loan (i.e., the Minimum Sinking Fund Account Payments (as defined in the Indenture) required to be made on the WIFIA Bond) and provide such calculations in the form of an amended Minimum Sinking Fund Account Payment Schedule (as defined in the WIFIA Supplemental Indenture) to the WIFIA Lender in accordance with Section 44.05(c) of the WIFIA Supplemental Indenture. The WIFIA Lender will promptly review and confirm or correct the calculations made by the Borrower, and reflect such final amounts (as approved by the WIFIA Lender) on exhibit B-2 of the WIFIA Bond and **Exhibit F** (*WIFIA Debt Service*) hereto; provided that the failure to confirm or correct such calculations or to make any such revisions shall not affect in any manner the Borrower’s obligations hereunder or under any other WIFIA Loan Document.

(e) Manner of Payment. Payments under this Agreement (and the WIFIA Bond which payments shall not be duplicative) shall be made by wire transfer on or before each Semi-Annual Payment Date in Dollars and in immediately available funds in accordance with payment instructions provided by the WIFIA Lender pursuant to Section 38 (*Notices; Payment Instructions*), as modified in writing from time to time by the WIFIA Lender. The Borrower

may make any such payment or portion thereof (or direct the Trustee to make such payment) with funds then on deposit in the Interest Fund and/or Principal Fund, as applicable.

(f) Final Maturity Date. Notwithstanding anything herein to the contrary, the Outstanding WIFIA Bond Balance and any accrued interest thereon shall be due and payable in full on the Final Maturity Date (or on any earlier date on which the WIFIA Bond is subject to mandatory redemption prior to maturity thereof or shall be accelerated, in either case pursuant to the provisions of this Agreement and the Indenture).

(g) WIFIA Bond. As evidence of the Borrower's obligation to repay the WIFIA Loan, the Borrower shall issue and deliver to the WIFIA Lender, on or prior to the Effective Date, the WIFIA Bond, having a maximum principal amount (excluding capitalized interest) of \$699,242,023 (subject to increase or decrease as herein provided), bearing interest at the rate set forth in Section 6 (*Interest Rate*) and having principal and interest payable on the same dates set forth herein. Without limiting any other obligation under this Agreement, in the event of any inconsistency between the payment provisions of the WIFIA Bond as set forth in the WIFIA Supplemental Indenture, including the WIFIA Bond, and the payment provisions set forth in this Section 9 (*Payment of Principal and Interest*) and in Section 10 (*Prepayment*), the provisions of the WIFIA Supplemental Indenture and the WIFIA Bond shall control.

(h) No Defeasance. Anything to the contrary in the Indenture Documents notwithstanding, the WIFIA Bond shall not be subject to defeasance and no amounts in respect of the WIFIA Bond shall be considered or deemed to have been paid until the WIFIA Lender shall have received irrevocable payment in immediately available funds in accordance with the requirements for payment set forth in this Agreement.

Section 10. Prepayment.

(a) Extraordinary Prepayment From Net Loss Proceeds. The Borrower shall prepay the WIFIA Bond in whole or in part, without penalty or premium, from Net Loss Proceeds in accordance with Section 6.20 of the Indenture and the WIFIA Supplemental Indenture.

(b) Notice of Extraordinary Prepayment. The Borrower shall provide, or shall cause the Trustee to provide, written notice to the WIFIA Lender at least two (2) Business Days prior to the date on which it makes any prepayment pursuant to Section 10(a) (*Prepayment – Extraordinary Prepayment from Net Loss Proceeds*); provided that the Borrower's failure to deliver such notice shall not diminish, impair or otherwise affect the Borrower's obligation to make any such prepayment as and when the circumstances requiring such prepayment have occurred.

(c) Optional Prepayments. The Borrower may prepay the WIFIA Bond in whole or in part (and, if in part, the amounts thereof to be prepaid shall be determined by the Borrower; provided, however, that such prepayments shall be in principal amounts of \$1,000,000 or any integral multiple of \$1.00 in excess thereof), at any time or from time to time, without penalty or premium, by paying to the WIFIA Lender such principal amount of the WIFIA Bond to be prepaid, together with the unpaid interest accrued on the amount of principal so prepaid to

the date of such prepayment. Each prepayment of the WIFIA Bond shall be made on such date and in such principal amount as shall be specified by the Borrower in a written notice delivered to the WIFIA Lender and the Trustee. In the case of any optional prepayment, such written notice shall be delivered to the WIFIA Lender not less than ten (10) days nor more than thirty (30) days prior to the date set for prepayment, unless otherwise agreed by the WIFIA Lender. At any time between delivery of such written notice and the applicable optional prepayment, the Borrower may, without penalty or premium, rescind its announced optional prepayment of the WIFIA Bond by further written notice to the WIFIA Lender. Anything in this Section 10(c) (*Prepayment – Optional Prepayments*) to the contrary notwithstanding, the failure by the Borrower to make any optional prepayment on the WIFIA Bond shall not constitute a breach or default under this Agreement.

(d) Prepayments to be in Accordance With Indenture. Each prepayment of the WIFIA Bond pursuant to this Section 10 (*Prepayment*) shall be effected pursuant to Article IV of the Indenture (as applicable) and the WIFIA Supplemental Indenture, and shall be accompanied by a certificate signed by the Borrower's Authorized Representative identifying the provision of this Agreement pursuant to which such prepayment is being made and containing a calculation in reasonable detail of the amount of such prepayment. The terms and conditions of this Section 10 (*Prepayment*) shall be reflected in the WIFIA Bond and the WIFIA Supplemental Indenture.

(e) General Prepayment Instructions. Upon the WIFIA Lender's receipt of confirmation that payment in full of the entire Outstanding WIFIA Bond Balance and any unpaid interest and fees with respect thereto has occurred as a result of a mandatory or optional prepayment, the WIFIA Lender shall surrender the WIFIA Bond to the Borrower or the Trustee or its representative at the principal office of the WIFIA Lender or the Trustee, as applicable. If the Borrower prepays only part of the unpaid balance of principal of such WIFIA Bond, the WIFIA Lender may make a notation on **Exhibit F** (*WIFIA Debt Service*) indicating the amount of principal of and interest on such WIFIA Bond then being prepaid and shall provide notice of such notation to the Borrower and the Trustee. Absent manifest error, the WIFIA Lender's determination of such matters as set forth on **Exhibit F** (*WIFIA Debt Service*) shall be conclusive evidence thereof; provided that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner the Borrower's obligations hereunder or under any other WIFIA Loan Document. Unless otherwise agreed in writing by the WIFIA Lender, all such partial prepayments of principal shall be applied to reduce future principal payments due on the WIFIA Bond on a pro-rata basis. If said monies shall not have been so paid on the prepayment date, such principal amount of such WIFIA Bond shall continue to bear interest until payment thereof at the rate provided for in Section 6 (*Interest Rate*).

Section 11. [Intentionally Omitted].

Section 12. Conditions Precedent.

(a) Conditions Precedent to Effectiveness. Notwithstanding anything in this Agreement to the contrary, this Agreement shall not become effective until each of the following conditions precedent shall have been satisfied or waived in writing by the WIFIA Lender:

(i) The Borrower shall have duly executed and delivered to the WIFIA Lender this Agreement and the WIFIA Bond, each in form and substance satisfactory to the WIFIA Lender.

(ii) The Borrower shall have delivered to the WIFIA Lender certified, complete, and fully executed copies of each Indenture Document, together with any amendments, waivers or modifications thereto, in each case that has been entered into on or prior to the Effective Date, and each such agreement shall be in full force and effect and in form and substance satisfactory to the WIFIA Lender, and all conditions contained in such documents to the closing of the transactions contemplated thereby shall have been fulfilled or effectively waived (provided that for purposes of this Section 12(a)(ii), any such waiver shall be subject to the WIFIA Lender's consent in its sole discretion).

(iii) Counsel to the Borrower shall have rendered to the WIFIA Lender legal opinions satisfactory to the WIFIA Lender in its sole discretion (including those opinions set forth on **Exhibit G-1** (*Opinions Required from Counsel to Borrower*) and bond counsel to the Borrower shall have rendered to the WIFIA Lender legal opinions satisfactory to the WIFIA Lender in its sole discretion (including those opinions set forth on **Exhibit G-2** (*Opinions Required from Bond Counsel*)).

(iv) The Borrower shall have provided a certificate from an Authorized Representative as to the absence of debarment, suspension or voluntary exclusion from participation in Government contracts, procurement and non-procurement matters substantially in the form attached hereto as **Exhibit C** (*Certification Regarding Debarment, Suspension and other Responsibility Matters*) with respect to the Borrower and its principals (as defined in 2 C.F.R. § 180.995).

(v) The Borrower shall have provided evidence to the WIFIA Lender's satisfaction, no more than thirty (30) days prior to the Effective Date, of the assignment by at least two (2) Nationally Recognized Rating Agencies of a public Investment Grade Rating to the WIFIA Loan and the Bonds then Outstanding and no such rating has been reduced, withdrawn or suspended as of the Effective Date.

(vi) The Borrower shall have delivered to the WIFIA Lender a certificate from an Authorized Representative in the form attached hereto as **Exhibit I** (*Form of Borrower's Officer's Certificate*) (A) as to the satisfaction of certain conditions precedent set forth in this Section 12(a) (*Conditions Precedent – Conditions Precedent to Effectiveness*) as required by the WIFIA Lender, (B) designating the Authorized Representative, and (C) confirming such person's position and incumbency.

(vii) The Borrower shall have demonstrated to the WIFIA Lender's satisfaction that as of the Effective Date the aggregate of all funds committed to the development and construction of the Project as set forth in the Base Case Financial Model, the Project Budget and in the ten (10)-year financial plan delivered by the Borrower pursuant to Section 12(a)(xxv) (*Conditions Precedent – Conditions Precedent to Effectiveness*) are sufficient to carry out the Project, pay all Total Project Costs

anticipated for the Project and achieve Substantial Completion by the Projected Substantial Completion Date.

(viii) The Borrower shall have provided to the WIFIA Lender certified, complete, and fully executed copies of each Principal Project Contract, together with any amendments, waivers or modifications thereto, in each case that has been entered into on or prior to the Effective Date and each such agreement shall be in full force and effect and in form and substance satisfactory to the WIFIA Lender.

(ix) The Borrower shall have demonstrated to the WIFIA Lender's satisfaction (A) that it has obtained all Governmental Approvals needed (1) as of the Effective Date in connection with the Project and (2) to execute and deliver, and perform its obligations under the WIFIA Loan Agreement and (B) that all such Governmental Approvals are final, non-appealable, and in full force and effect (and are not subject to any notice of violation, breach or revocation).

(x) The Borrower shall have delivered to the WIFIA Lender a certified Base Case Financial Model on or prior to the Effective Date, which Base Case Financial Model shall (A) demonstrate that projected System Revenues are sufficient to meet the Bond Amortization Schedule, (B) demonstrate that issuance of the WIFIA Bond will satisfy all Indenture requirements for the issuance of Additional Bonds, (C) demonstrate compliance with the Rate Covenant for each Borrower Fiscal Year through the Final Maturity Date, (D) reflect principal amortization and interest payment schedules acceptable to the WIFIA Lender, (E) demonstrate that the Borrower has developed, and identified adequate revenues to implement, a plan for operating, maintaining and repairing the Project over the useful life of the Project and (F) otherwise be in form and substance acceptable to the WIFIA Lender.

(xi) The Borrower shall have (A) provided evidence satisfactory to the WIFIA Lender that the Borrower is authorized, pursuant to the State Constitution, the laws of the State, the Charter and the Indenture, to pledge, assign, and grant the Liens on the Net System Revenues purported to be pledged, assigned, and granted pursuant to the Indenture Documents, without the need for notice to any Person, physical delivery, recordation, filing or further act (excluding only the delivery of the certificates and the opinion of bond counsel to the Borrower as a condition precedent to each disbursement of WIFIA Loan proceeds in accordance with the WIFIA Supplemental Indenture and as specified in Section 12(b)(xiv) (*Conditions Precedent – Conditions Precedent to All Disbursements*)); (B) recorded or filed, or caused to be recorded or filed, for record in such manner and in such places as are required all documents and instruments, and taken or caused to be taken all other actions, as are necessary or desirable to establish and enforce the Lien on the Net System Revenues (for the benefit of the WIFIA Lender and the other Secured Parties) to the extent contemplated by the Indenture Documents; and (C) paid, or caused to be paid, all taxes and filing fees that are due and payable in connection with the execution, delivery or recordation of any Indenture Documents or any instruments, certificates or financing statements in connection with the foregoing.

(xii) The Borrower shall have paid in full all invoices delivered by the WIFIA Lender to the Borrower as of the Effective Date for the fees and expenses of the WIFIA Lender's counsel and financial advisors and any auditors or other consultants retained by the WIFIA Lender for the purposes hereof.

(xiii) The Borrower shall have (A) provided evidence satisfactory to the WIFIA Lender of compliance with NEPA and any applicable state or local environmental review and approval requirements with respect to the Project and (B) complied with all applicable requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 *et seq.*) and Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*) and shall have provided evidence satisfactory to the WIFIA Lender of such compliance upon request by the WIFIA Lender.

(xiv) The Borrower shall have delivered a report containing the information required pursuant to Section 23(c) (*Project Oversight and Monitoring – Additional Reporting*).

(xv) The Borrower shall have (A) obtained a Federal Employer Identification Number, (B) obtained a Data Universal Numbering System number, and (C) registered with, and obtained confirmation of active registration status from, the federal System for Award Management (www.SAM.gov).

(xvi) The Borrower shall have delivered to the WIFIA Lender a certificate, in form and substance satisfactory to the WIFIA Lender and signed by the Borrower's Authorized Representative, certifying that the insurance required pursuant to Section 15(f) (*Affirmative Covenants - Insurance*) is in full force and effect and that such insurance complies with the requirements of the Indenture and this Agreement.

(xvii) The Borrower shall have provided to the WIFIA Lender evidence that the Borrower is duly organized and validly existing under the laws of its jurisdiction of formation, with full power, authority and legal right to own its properties and carry on its business and governmental functions as now conducted, including the following documents, each certified by the applicable Authorized Representative: (A) a copy of the Borrower's Organizational Documents, as in effect on the Effective Date (and certified by the Secretary of State of the State, to the extent applicable), which Organizational Documents shall be in full force and effect and shall not have been amended since the date of the last amendment thereto shown on the certificate, (B) a copy of all ordinances and resolutions authorizing the Borrower to execute and deliver, and to perform its respective obligations under, the WIFIA Loan Documents to which it is a party, and such ordinances and resolutions have not been subsequently modified, rescinded or amended, are in full force and effect in the form adopted, and are the only ordinances and resolutions adopted by the Borrower relating to the matters described therein, and (C) a copy of such further instruments and documents as are necessary, appropriate or advisable to effectuate the foregoing ordinances and resolutions and to consummate and implement the transactions contemplated by such ordinances and resolutions and the WIFIA Loan Documents.

(xviii) The Borrower shall have duly adopted a resolution authorizing the issuance of the WIFIA Bond and execution of this Agreement and the WIFIA Supplemental Indenture, and pledging the security set forth in the WIFIA Loan Documents, in form and substance satisfactory to the WIFIA Lender, and such resolution shall remain in full force and effect.

(xix) The Borrower shall have provided the WIFIA Lender records of the Eligible Project Costs incurred prior to the Effective Date, in form and substance satisfactory to the WIFIA Lender to review such costs.

(xx) The Borrower shall have provided to the WIFIA Lender certified, complete and fully executed copies of each performance security instrument delivered to or by the Borrower pursuant to any Principal Project Contract as of the Effective Date, each of which performance security instruments shall be (A) in compliance with the requirements for such performance security pursuant to the applicable Principal Project Contract and (B) in full force and effect.

(xxi) The representations and warranties of the Borrower set forth in this Agreement (including Section 13 (*Representations and Warranties of Borrower*)) and in each other Related Document shall be true and correct, as of the Effective Date, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).

(xxii) The Borrower shall have provided the WIFIA Lender with evidence satisfactory to the WIFIA Lender that, as of the Effective Date (A) the maximum principal amount of the WIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof, i.e., interest which will accrue on the WIFIA Bond prior to the end of the Capitalized Interest Period), together with the amount of any other credit assistance provided under the Act to the Borrower, does not exceed forty-nine percent (49%) of reasonably anticipated Eligible Project Costs and (B) the total federal assistance provided to the Project, including the maximum principal amount of the WIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), does not exceed eighty percent (80%) of Total Project Costs.

(xxiii) The Borrower shall have delivered to the WIFIA Lender a duly executed certificate from the Trustee in the form attached hereto as **Exhibit H** (*Form of Certificate of Trustee*).

(xxiv) The Borrower shall have provided the WIFIA Lender with evidence satisfactory to the WIFIA Lender that the Borrower has developed an operations and maintenance plan with respect to the Project that identifies adequate revenues to operate, maintain, and repair the Project during its useful life.

(xxv) The Borrower shall have delivered to the WIFIA Lender a copy of the Borrower's most recent ten (10)-year financial plan for the System.

(xxvi) The Borrower shall have delivered such other agreements, documents, instruments, opinions and other items required by the WIFIA Lender, all in form and substance satisfactory to the WIFIA Lender, including evidence that all other Project funding requirements have been met.

(b) Conditions Precedent to All Disbursements. Notwithstanding anything in this Agreement to the contrary, the WIFIA Lender shall have no obligation to make any disbursement of loan proceeds to the Borrower (including the initial disbursement hereunder) until each of the following conditions precedent has been satisfied or waived in writing by the WIFIA Lender:

(i) The Borrower shall have provided to the WIFIA Lender evidence satisfactory to the WIFIA Lender that (A) the aggregate amount of all disbursements of the WIFIA Loan (including the requested disbursement but excluding any interest that is capitalized in accordance with the terms hereof) shall not exceed the amount of Eligible Project Costs paid or incurred by the Borrower and (B) the Borrower has sufficient available funds committed to the Project, which together with funds that remain available and not yet drawn under the WIFIA Loan, will be sufficient to pay the reasonably anticipated remaining Total Project Costs.

(ii) The Borrower shall have provided the WIFIA Lender with each Financial Plan required as of the date of the requested disbursement by Section 22(a) (*System Financial Planning and Reporting – Financial Plan*).

(iii) To the extent not previously delivered to the WIFIA Lender, the Borrower shall have delivered to the WIFIA Lender certified, complete and fully executed copies of any Indenture Documents entered into after the Effective Date.

(iv) To the extent not previously delivered to the WIFIA Lender and except as otherwise agreed to by the WIFIA Lender pursuant to Section 15(b) (*Affirmative Covenants – Copies of Documents*), the Borrower shall have provided certified copies of all Principal Project Contracts that are in effect, including, in each case, any amendment, modification or supplement thereto entered into after the Effective Date.

(v) The Borrower shall have demonstrated to the WIFIA Lender's satisfaction that all Governmental Approvals necessary as of the time of the applicable disbursement for the development, construction, operation and maintenance of the Project have been issued and are in full force and effect.

(vi) Each of the insurance policies obtained by the Borrower and by any applicable Principal Project Party in satisfaction of the conditions in Section 15(f) (*Affirmative Covenants – Insurance*) is in full force and effect, and no notice of termination thereof has been issued by the applicable insurance provider.

(vii) At the time of, and immediately after giving effect to, any disbursement of WIFIA Loan proceeds then currently requested, (A) no System Event of

Default or Project Event of Default hereunder or event of default under any other Related Document and (B) no event that, with the giving of notice or the passage of time or both, would constitute a System Event of Default or a Project Event of Default hereunder or event of default under any Related Document, in each case, shall have occurred and be continuing.

(viii) [Intentionally omitted].

(ix) The representations and warranties of the Borrower set forth in this Agreement (including Section 13 (*Representations and Warranties of Borrower*)) and in each other Related Document shall be true, correct and complete as of each date on which any disbursement of the WIFIA Loan is made, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).

(x) No Material Adverse Effect, or any event or condition that could reasonably be expected to result in a Material Adverse Effect, shall have occurred since December 22, 2017.

(xi) The Borrower shall have delivered to the WIFIA Lender a Requisition that complies with the provisions of Section 4 (*Disbursement Conditions*), along with records in form and substance satisfactory to the WIFIA Lender of the Eligible Project Costs for which disbursement is being requested, and the WIFIA Lender shall have approved (or deemed to have approved in accordance with Section 4(b) (*Disbursement Conditions*)) such Requisition.

(xii) The Borrower shall have paid in full (A) any outstanding Servicing Fee due and payable under Section 30 (*Fees and Expenses*) and (B) all invoices received from the WIFIA Lender as of the date of disbursement of the WIFIA Loan, for the fees and expenses of the WIFIA Lender's counsel and financial advisors and any auditors or other consultants retained by the WIFIA Lender for the purposes hereof.

(xiii) To the extent not previously delivered to the WIFIA Lender, the Borrower shall have provided to the WIFIA Lender certified, complete and fully executed copies of each performance security instrument delivered to or by the Borrower pursuant to any Principal Project Contract as of the date of disbursement of the WIFIA Loan, each of which performance security instruments shall be (A) in compliance with the requirements for such performance security pursuant to the applicable Principal Project Contract and (B) in full force and effect.

(xiv) The Borrower shall have provided to the WIFIA Lender (A) certificates delivered to the Trustee pursuant to the WIFIA Supplemental Indenture demonstrating, with respect to the requested disbursement, (1) compliance with Section 3.05(f) of the Indenture and, if the requested disbursement will be used to refund one or more Series of Bonds, compliance with Section 3.06(g) of the Indenture, or (2) if at the time of the requested disbursement the Sixth Supplemental Indenture has been adopted and is in full force and effect, compliance with Section 3.08 of the Indenture, and (B) an

opinion of bond counsel to the Borrower, in form and substance satisfactory to the WIFIA Lender, as to the matters specified in the WIFIA Supplemental Indenture, including that all conditions precedent under the Indenture Documents to the making of the requested disbursement, as contemplated hereunder and under the WIFIA Bond, have been satisfied.

(xv) The Borrower shall have delivered to the WIFIA Lender a copy of the memorandum of agreement, executed among the Borrower, the WIFIA Lender and the California State Historic Preservation Officer, in connection with the Project for purposes of compliance with Section 106 of the National Historic Preservation Act of 1966, as amended.

Section 13. Representations and Warranties of Borrower.

The Borrower hereby represents and warrants that, as of the Effective Date and, as to each of the representations and warranties below other than those contained in Section 13(b) (*Representations and Warranties of Borrower – Officer’s Authorization*) Section 13(k) (*Representations and Warranties of Borrower – Credit Ratings*) and the first sentence of Section 13(n) (*Representations and Warranties of Borrower – Principal Project Contracts*), as of each date on which any disbursement of the WIFIA Loan is requested or made:

(a) Organization; Power and Authority. The Borrower is a commission duly constituted under the Charter and the laws of the State, has full legal right, power and authority to do business in the State and to enter into the Related Documents then in existence, to execute and deliver this Agreement and the WIFIA Bond, and to carry out and consummate all transactions contemplated hereby and thereby and has duly authorized the execution, delivery and performance of this Agreement, the WIFIA Bond, and the Related Documents.

(b) Officers’ Authorization. As of the Effective Date, the officers of the Borrower executing (or that previously executed) the Related Documents, and any certifications or instruments related thereto, to which the Borrower is a party are (or were at the time of such execution) duly and properly in office and fully authorized to execute the same.

(c) Due Execution; Enforceability. Each of the Related Documents in effect as of any date on which this representation and warranty is made, and to which the Borrower is a party has been duly authorized, executed and delivered by the Borrower and constitutes the legal, valid and binding agreement of the Borrower enforceable in accordance with its terms, except as such enforceability (i) may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally and (ii) is subject to general principles of equity (regardless of whether enforceability is considered in equity or at law).

(d) Non-Contravention. The execution and delivery of the Related Documents to which the Borrower is a party, the consummation of the transactions contemplated by the Related Documents, and the fulfillment of or compliance with the terms and conditions of all of the Related Documents, will not (i) conflict with the Borrower’s Organizational Documents, (ii) conflict in any material respect with, or constitute a violation, breach or default (whether immediately or after notice or the passage of time or both) by the Borrower of or under,

any applicable law, administrative rule or regulation, any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which the Borrower is a party or by which it or its properties or assets are otherwise subject or bound, or (iii) result in the creation or imposition of any prohibited Lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower.

(e) Consents and Approvals. No consent or approval of any trustee, holder of any indebtedness of the Borrower or any other Person, and no consent, permission, authorization, order or license of, or filing or registration with, any Governmental Authority is necessary in connection with (i) the execution and delivery by the Borrower of the Related Documents, except as have been obtained or made and as are in full force and effect, or (ii) (A) the consummation of any transaction contemplated by any of the foregoing documents or (B) the fulfillment of or compliance by the Borrower with the terms and conditions of any of the Related Documents, except as have been obtained or made and as are in full force and effect or as are ministerial in nature and can reasonably be expected to be obtained or made in the ordinary course on commercially reasonable terms and conditions when needed.

(f) Litigation. As of the Effective Date, there is no action suit, proceeding or, to the knowledge of the Borrower, any inquiry or investigation, in any case before or by any court or other Governmental Authority pending or, to the knowledge of the Borrower, threatened against or affecting the System (including the Project) or the ability of the Borrower to execute, deliver and perform its obligations under the Related Documents. As of the Effective Date and as of each other date on which the representations and warranties herein are made or confirmed, there is no action, suit, proceeding or, to the knowledge of the Borrower, any inquiry or investigation before or by any court or other Governmental Authority pending, or to the knowledge of the Borrower, threatened against or affecting the System (including the Project), the Borrower or the assets, properties or operations of the Borrower, that in any case could reasonably be expected to result in a Material Adverse Effect. To the Borrower's knowledge, there are no actions of the type described above pending or, threatened against or affecting any of the Principal Project Parties, except for matters arising after the Effective Date that could not reasonably be expected to (i) result in a Material Adverse Effect or (ii) adversely affect the Borrower's ability to receive System Revenues in amounts sufficient to meet the financial projections contained in the Base Case Financial Model (or any Financial Plan provided to the WIFIA Lender pursuant to Section 22(a) (*System Financial Planning and Reporting – Financial Plan*)). The Borrower is not in default (and no event has occurred and is continuing that, with the giving of notice or the passage of time or both, could constitute a default) with respect to any Governmental Approval, which default could reasonably be expected to result in a Material Adverse Effect.

(g) Security Interests. The Indenture Documents and Section 5451 of the California Government Code establish, for the benefit of the WIFIA Lender, the valid and binding Liens on the Net System Revenues that they purport to create, irrespective of whether any Person has notice of the pledge and without the need for any physical delivery, recordation, filing, or further act. Such Liens are in full force and effect and are not subordinate or junior to any other Liens in respect of the Net System Revenues, and not *pari passu* with any obligations

other than the Parity Obligations. The Borrower has duly and lawfully taken all actions required under this Agreement, the Indenture Documents, and applicable laws for the pledge of Net System Revenues pursuant to and in accordance with the Indenture Documents, and the security interests created in the Net System Revenues have been duly perfected under applicable State law. The Borrower is not in breach of any covenants set forth in Section 15(a) (*Affirmative Covenants – Securing Liens*) of this Agreement or in the Indenture Documents with respect to the matters described in such Section. As of the Effective Date and as of each other date this representation and warranty is made, (i) all documents and instruments have been recorded or filed for record in such manner and in such places as are required and all other action as is necessary or desirable has been taken to establish a legal, valid, binding, and enforceable and perfected Lien on the Net System Revenues for the benefit of the WIFIA Lender and the other Secured Parties to the extent contemplated by the Indenture Documents, and (ii) all taxes and filing fees that are due and payable in connection with the execution, delivery or recordation of any Indenture Documents or any instruments, certificates or financing statements in connection with the foregoing, have been paid. Neither the attachment, perfection, validity, enforceability or priority of the security interest in the Net System Revenues granted pursuant to the Indenture Documents is governed by Article 9 of the UCC.

(h) No Debarment. The Borrower has fully complied with its verification obligations under 2 C.F.R. § 180.320 and confirms, based on such verification, that, to its knowledge, neither the Borrower nor any of its principals (as defined in 2 C.F.R. § 180.995) is debarred, suspended or voluntarily excluded from participation in Government contracts, procurement or non-procurement matters or delinquent on a Government debt as more fully set forth in the certificate delivered pursuant to Section 12(a)(iv) (*Conditions Precedent – Conditions Precedent to Effectiveness*).

(i) Accuracy of Representations and Warranties. The representations, warranties and certifications of the Borrower set forth in this Agreement and the other Related Documents are true, correct, and complete, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true, correct, and complete as of such earlier date).

(j) Compliance with Federal Requirements. The Borrower, and each of its contractors and subcontractors at all tiers, in each case with respect to the Project, has complied with all applicable federal laws, rules, regulations and requirements, including (i) 40 U.S.C. §§3141-3144, 3146, and 3147 and regulations relating thereto (Davis-Bacon Act Requirements), (ii) 33 U.S.C. §3914 (relating to American iron and steel products), and (iii) as applicable, those set forth in **Exhibit E** (*Compliance With Laws*). To ensure such compliance, the Borrower has included in all contracts with respect to the Project requirements that its contractor(s) shall comply with applicable federal laws, rules, regulations, and requirements set forth in this subsection and follow applicable federal guidance, and has required that the contractor(s) incorporate in all subcontracts (and cause all subcontractors to include in lower tier subcontracts) such terms and conditions as are required to be incorporated therein by applicable federal laws, rules, regulations and requirements set forth in this subsection. With respect to the Davis-Bacon Act requirements, the Borrower has inserted in full in all contracts relating to the Project the contract clauses set forth in the Code of Federal Regulations, Title 29 Part 5.5, and required and

ensured that its contractor(s) have inserted such clauses in all subcontracts and also a clause requiring all subcontractors to include these clauses in any lower tier subcontracts.

(k) Credit Ratings. The WIFIA Loan and the Bonds Outstanding as of the Effective Date have received a public Investment Grade Rating from at least two (2) Nationally Recognized Rating Agencies, written evidence of such ratings has been provided to the WIFIA Lender prior to the Effective Date, and no such rating has been reduced, withdrawn or suspended as of the Effective Date.

(l) No Defaults. The Borrower is not in default under the terms of any Related Document, and no event has occurred or condition exists that, with the giving of notice or the passage of time or both, would constitute a System Event of Default or a Project Event of Default.

(m) Governmental Approvals. All Governmental Approvals required (i) as of the Effective Date to enter into this Agreement, and (ii) required as of any subsequent date on which this representation is made (or deemed made) for the undertaking and completion by the Borrower of the Project, and for the operation and management thereof, have been obtained or effected and are in full force and effect and there is no basis for, nor proceeding that is pending or threatened that could reasonably be expected to result in, the revocation of any such Governmental Approval.

(n) Principal Project Contracts. Attached as **Schedule 13(n)** is a list of the Existing Principal Project Contracts and those Additional Principal Project Contracts that are expected to be entered into. Each Existing Principal Project Contract is in full force and effect and all conditions precedent to the obligations of the respective parties under each such Existing Principal Project Contract have been satisfied. The Borrower has delivered to the WIFIA Lender a fully executed, complete and correct copy of each such Principal Project Contract and, subject to Section 15(b) (*Affirmative Covenants – Copies of Documents*), each Additional Principal Project Contract (including in each case all exhibits, schedules and other attachments) that is in effect, including any amendments or modifications thereto and any related credit support instruments or side letters. No event has occurred that gives the Borrower or, to the Borrower's knowledge, any Principal Project Party, the right to terminate any such Principal Project Contract. The Borrower is not in breach of any material term in or in default under any of such Principal Project Contracts, and to the knowledge of the Borrower no party to any of such agreements or contracts is in breach of any material term therein or in default thereunder.

(o) Information. The information furnished by the Borrower to the WIFIA Lender, when taken as a whole, does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements contained therein not misleading as of the date made or furnished; provided, that no representation or warranty is made with regard to projections or other forward-looking statements provided by or on behalf of the Borrower (including the Base Case Financial Model or any Financial Plan, and the assumptions therein) except that each of the Base Case Financial Model and each Financial Plan (i) is based on assumptions that were reasonable in all material respects when made, (ii) was prepared in good faith and (iii) represents, in the opinion of the Borrower, reasonable projections at the time made of the future performance of the Borrower and the System (it being understood that projections

are not to be considered or regarded as facts and contain significant uncertainties and contingencies, many of which are beyond the control of the Borrower, that actual results may differ significantly from projections and that no representation is made with respect to the accuracy of such projections).

(p) OFAC; Anti-Corruption Laws. None of the Borrower, nor, to the knowledge of the Borrower, any Principal Project Party (i) is in violation of or, since the date that is five (5) years prior to the Effective Date, has violated: (A) any applicable anti-money laundering laws, including those contained in the Bank Secrecy Act and the Patriot Act; (B) any applicable economic sanction laws administered by OFAC or by the United States Department of State; or (C) any applicable anti-drug trafficking, anti-terrorism, or anti-corruption laws, civil or criminal; or (ii) is a Person (A) that is charged with, or has received notice from a Governmental Authority that it is under investigation for, any violation of any such laws; (B) that has been, since the date that is five (5) years prior to the Effective Date, convicted of any violation of, has been subject to criminal or civil penalties pursuant to, had any of its property seized or forfeited under, or has entered into any agreement with the Government or a state or local government related to violations of any such laws; (C) that is named on the list of “Special Designated Nationals or Blocked Persons” maintained by OFAC (or any successor Government office or list), or any similar list maintained by the United States Department of State (or any successor Government office or list); or (D) with whom any U.S. Person (as defined by the applicable OFAC regulations) is prohibited from transacting business of the type contemplated by this Agreement and the other Related Documents under any other applicable law.

(q) Compliance with Law. The Borrower is in compliance in all material respects with, and has conducted (or caused to be conducted) its management and operation of the System (including the Project) in compliance in all material respects with, all applicable laws (other than Environmental Laws, which are addressed in Section 13(r) (*Representations and Warranties of Borrower – Environmental Matters*)), including those set forth on **Exhibit E** (*Compliance with Laws*), to the extent applicable. To the Borrower’s knowledge, each Principal Project Party is, and has caused its respective contractors and subcontractors to be, in compliance in all material respects with all applicable laws, including those set forth on **Exhibit E** (*Compliance With Laws*), to the extent applicable. No notices of violation of any applicable law have been issued, entered or received by the Borrower or, to the Borrower’s knowledge and solely in respect of the Project or any Principal Project Contract, any Principal Project Party, other than, in each case, notices of violations that are immaterial.

(r) Environmental Matters. Each of the Borrower and, to the Borrower’s knowledge, each Principal Project Party is in compliance with all laws applicable to the System (including the Project) relating to (i) air emissions; (ii) discharges to surface water or ground water; (iii) noise emissions; (iv) solid or liquid waste disposal; (v) the use, generation, storage, transportation or disposal of toxic or hazardous substances or wastes; (vi) biological resources (such as threatened and endangered species); (vii) other environmental, health or safety matters, including all laws applicable to the Project; and (viii) water quality and drinking water standards (collectively, the “**Environmental Laws**”). All Governmental Approvals for the Project relating to Environmental Laws have been, or, when required, will be, obtained and are (or, as applicable, will be) in full force and effect. The Borrower has not received any written communication or

notice, whether from a Governmental Authority, employee, citizens group, or any other Person, that alleges that the Borrower is not in full compliance with all Environmental Laws and Governmental Approvals relating thereto in connection with the Project and, to the Borrower's knowledge, there are no circumstances that may prevent or interfere with full compliance in the future by the Borrower with any such Environmental Law or Governmental Approval. The Borrower has provided to the WIFIA Lender all material assessments, reports, results of investigations or audits, and other material information in the possession of or reasonably available to the Borrower regarding the Borrower's or the Project's compliance with (A) Environmental Laws and (B) Governmental Approvals relating to Environmental Laws that are required for the Project.

(s) Sufficient Rights and Utilities. The Borrower possesses either valid legal and beneficial title to, leasehold title in, or other valid legal rights with respect to the real property relating to the System (including the Project), in each case as is necessary and sufficient as of the date this representation is made for the construction, operation, maintenance and repair of the System (including the Project). As of any date on which this representation and warranty is made, the Principal Project Contracts then in effect and the Governmental Approvals that have been obtained and are then in full force and effect create rights in the Borrower sufficient to enable the Borrower to own, construct, operate, maintain and repair the Project and to perform its obligations under the Principal Project Contracts to which it is a party. All utility services, means of transportation, facilities and other materials necessary for the construction and operation of the Project (including, as necessary, gas, electrical, water and sewage services and facilities) are, or will be when needed, available to the Project and arrangements in respect thereof have been made on commercially reasonable terms.

(t) Insurance. The Borrower is in compliance with all insurance obligations required under each Principal Project Contract and the other Related Documents as of the date on which this representation and warranty is made. To the extent the Borrower self-insures, the Borrower's self-insurance program is actuarially sound and the Borrower has received, within the twelve (12) months preceding the date on which this representation and warranty is made, a letter from the head of the Borrower's risk management department confirming that the Borrower's self-insurance program is actuarially sound.

(u) Title. The Borrower has valid legal and beneficial title to, or a valid leasehold interest in, the personal property and other assets and revenues thereof (including the Net System Revenues) on which it purports to grant Liens pursuant to the Indenture Documents and this Agreement, in each case free and clear of any Lien of any kind, except for Permitted Liens.

(v) No Liens. Except for Permitted Liens, the Borrower has not created, and is not under any obligation to create, and has not entered into any transaction or agreement that would result in the imposition of, any Lien on the System Revenues, the Net System Revenues, the System, the Project, or the properties or assets in relation to the Project.

(w) Intellectual Property. The Borrower owns, or has adequate licenses or other valid rights to use, all patents, trademarks, service marks, trade names, copyrights, franchises, formulas, licenses and other rights with respect thereto and has obtained assignment

of all licenses and other rights of whatsoever nature, in each case necessary for the Project and the operation of the System. To the Borrower's knowledge, there exists no conflict with the rights or title of any third party with respect to the intellectual property described in the preceding sentence. Excluding the use of commercially available "off-the-shelf" software, to the Borrower's knowledge, no product, process, method, substance, part or other material produced or employed or presently contemplated to be produced by or employed by the Project infringes or will infringe any patent, trademark, service mark, trade name, copyright, franchise, formula, license or other intellectual property right of any third party.

(x) Financial Statements. Each income statement, balance sheet and statement of operations and cash flows (collectively, "**Financial Statements**") delivered to the WIFIA Lender pursuant to Section 22(b) (*System Financial Planning and Reporting – Financial Statements*) has been prepared in accordance with GAAP and presents fairly, in all material respects, the financial condition of the Borrower as of the respective dates of the balance sheets included therein and the results of operations of the Borrower for the respective periods covered by the statements of income included therein. Except as reflected in such Financial Statements, there are no liabilities or obligations of the Borrower of any nature whatsoever for the period to which such Financial Statements relate that are required to be disclosed in accordance with GAAP.

(y) [Intentionally Omitted].

(z) Taxes. The Borrower is not required to file tax returns with any Governmental Authority.

(aa) Sufficient Funds. The amount of the WIFIA Loan, when combined with all other funds committed for the development and construction of the Project as set forth under the various sources of funds in the Base Case Financial Model, the Project Budget and the Financial Plan will be sufficient to carry out the Project, pay all Total Project Costs anticipated for the development and construction of the Project and achieve Substantial Completion by the Projected Substantial Completion Date.

(bb) Sovereign Immunity. The Borrower either (i) has no immunity from the jurisdiction of any court of competent jurisdiction or from any legal process therein which could be asserted in any action to enforce the obligations of the Borrower under any of the Related Documents to which it is a party or the transactions contemplated hereby or thereby, including the obligations of the Borrower hereunder and thereunder; or, (ii) to the extent that the Borrower has such immunity, the Borrower has waived such immunity pursuant to Section 15(r) (*Affirmative Covenants – Immunity*).

(cc) Patriot Act. The Borrower is not required to establish an anti-money laundering compliance program pursuant to the Patriot Act.

(dd) Senior State Loans. No Senior State Loan is currently in effect, and the Borrower has no remaining obligations under or in respect of any Senior State Loan.

(ee) Federal Debt. The Borrower has no delinquent federal debt (including tax liabilities but excluding delinquencies that have been resolved with the appropriate federal agency in accordance with the standards of the Debt Collection Improvement Act of 1996).

(ff) Permitted Investments. The Borrower has neither made any investment nor entered into any agreements for the purpose of effecting any investment which (i) is not permitted pursuant to the Indenture Documents in effect as of any date on which this representation and warranty is made or (ii) does not qualify as a Permitted Investment.

(gg) Operations and Maintenance Plan. The Borrower has developed an operations and maintenance plan with respect to the Project that identifies adequate revenues to operate, maintain, and repair the Project during its useful life.

Section 14. Representations and Warranties of WIFIA Lender.

The WIFIA Lender represents and warrants that:

(a) Power and Authority. The WIFIA Lender has all requisite power and authority to make the WIFIA Loan and to perform all transactions contemplated by the Related Documents to which it is a party.

(b) Due Execution; Enforceability. The Related Documents to which it is a party have been duly authorized, executed and delivered by the WIFIA Lender, and are legally valid and binding agreements of the WIFIA Lender, enforceable in accordance with their terms.

(c) Officers' Authorization. The officers of the WIFIA Lender executing each of the Related Documents to which the WIFIA Lender is a party are duly and properly in office and fully authorized to execute the same on behalf of the WIFIA Lender.

Section 15. Affirmative Covenants.

The Borrower covenants and agrees as follows until the date the WIFIA Bond and the obligations of the Borrower under this Agreement (other than contingent indemnity obligations) are irrevocably paid in full in cash, unless the WIFIA Lender waives compliance in writing:

(a) Securing Liens. The Borrower shall at any and all times, to the extent permitted by law, pass, make, do, execute, acknowledge and deliver, all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable in connection with assuring, conveying, granting, assigning, securing and confirming the Liens on the Net System Revenues (whether now existing or hereafter arising) granted for the benefit of the WIFIA Lender pursuant to the Indenture Documents, or intended so to be granted pursuant to the Indenture Documents, or which the Borrower may become bound to grant, and the Borrower shall at all times maintain the Net System Revenues free and clear of any pledge, Lien, charge or encumbrance thereon or with respect thereto that has priority over, or equal rank with, the Liens created by the Indenture Documents, other than as permitted by this Agreement, and all organizational, regulatory or other necessary action on the part of the

Borrower to that end shall be duly and validly taken at all times. The Borrower shall at all times, to the extent permitted by law, defend, preserve and protect the Liens on the Net System Revenues granted pursuant to the Indenture Documents and all the rights of the WIFIA Lender under the Indenture Documents against all claims and demands of all Persons whomsoever, subject to Permitted Liens.

(b) Copies of Documents. The Borrower shall furnish to the WIFIA Lender a copy of the final offering documents (including any Indenture Documents), and any cash flow projections or certifications prepared in connection with the incurrence of any Additional Parity Obligations, as well as copies of any continuing disclosure documents, prepared by or on behalf of the Borrower in connection with the incurrence of such Additional Parity Obligations, in each case promptly following the publication, incurrence, issuance or filing thereof. The Borrower shall provide written notice to the WIFIA Lender of the Borrower's intent to enter into any Additional Principal Project Contract. Except as otherwise agreed by the WIFIA Lender in writing, the Borrower shall provide a copy of the final or near final draft of each Additional Principal Project Contract, together with any related contracts, side letters or other understandings, prior to the execution thereof and shall provide to the WIFIA Lender an executed version of such Additional Principal Project Contract, together with any related contracts, side letters or other understandings, promptly following the full execution thereof.

(c) Use of Proceeds. The Borrower shall use the proceeds of the WIFIA Loan for purposes permitted by applicable law and as otherwise permitted under this Agreement and the other Related Documents.

(d) Prosecution of Work; Verification Requirements.

(i) The Borrower shall diligently prosecute the work relating to the Project and complete the Project in accordance with the Project Schedule, and in accordance with the highest standards of the Borrower's industry.

(ii) The Borrower shall ensure that each Principal Project Party complies with all applicable laws and legal or contractual requirements with respect to any performance security instrument delivered by such Principal Project Party to the Borrower and shall ensure that any letter of credit provided pursuant to any Principal Project Contract meets the requirements therefor set forth in such Principal Project Contract.

(iii) The Borrower shall comply with the verification requirements set forth in 2 C.F.R. §§ 180.300 and 180.320 (Relating to debarment).

(e) Operations and Maintenance. The Borrower shall (i) operate and maintain the System (including the Project) (A) in a reasonable and prudent manner and (B) substantially in accordance with the Financial Plan most recently approved by the WIFIA Lender (except as necessary to prevent or mitigate immediate threats to human health and safety or to prevent or mitigate physical damage to material portions of the System (including the Project)) and (ii) maintain the System (including the Project) in good repair, working order and condition and in accordance with the requirements of all applicable laws and each applicable Related Document.

The Borrower shall at all times do or cause to be done all things necessary to obtain, preserve, renew, extend and keep in full force and effect the Governmental Approvals and any other rights, licenses, franchises, and authorizations material to the conduct of its business.

(f) Insurance.

(i) The Borrower shall at all times, through a combination of insurance policies and self-insurance programs, maintain or cause its contractors to maintain, all insurance necessary and sufficient to protect the Borrower, the System and the Project as is customarily maintained by the Borrower with respect to works and properties of like character, against accident to, loss of, damage to and liability from such works or properties (including, in the case of the Project, during the Construction Period), and, in each case, satisfying the requirements of the Related Documents.

(ii) The Borrower shall cause all liability insurance policies (if any) that it maintains (and, during the Construction Period, that are maintained by any Principal Project Party), other than workers' compensation insurance, to reflect the WIFIA Lender as an additional insured. All such policies shall be available at all reasonable times for inspection by the WIFIA Lender, its agents and representatives.

(iii) The Borrower shall comply with the insurance requirements of the Indenture Documents and shall deliver to the WIFIA Lender within thirty (30) days after receipt thereof any certifications or opinions provided to the Borrower pursuant to the Indenture Documents with respect to the Borrower's program of insurance or self-insurance.

(g) Notice.

(i) The Borrower shall, within ten (10) Business Days after the Borrower learns of the occurrence, give the WIFIA Lender notice of any of the following events or receipt of any of the following notices, as applicable, setting forth details of such event:

(A) Substantial Completion: the occurrence of Substantial Completion, such notice to be provided in the form set forth in **Exhibit J** (*Form of Certificate of Substantial Completion*);

(B) Events of Default: (1) any System Event of Default or any event that, with the giving of notice or the passage of time or both, would constitute a System Event of Default and (2) any Project Event of Default or any event that, with the giving of notice or the passage of time or both, would constitute a Project Event of Default;

(C) Litigation: (1) the filing of any litigation, suit or action, or the commencement of any proceeding, against the Borrower before any arbitrator, Governmental Authority, alternative dispute resolution body, or other neutral third-party, or the receipt by the Borrower in writing of any threat of litigation, suit, action, or

proceeding, or of any written claim against the Borrower that, in each case, could reasonably be expected to have a Material Adverse Effect, and any material changes in the status of such litigation, suit, action or claim; and (2) any judgments against the Borrower with award amounts in excess of \$50,000,000, either individually or in the aggregate;

(D) Certain Defaults: any material breach or default or event of default on the part of the Borrower or any other party under any Principal Project Contract or under any Indenture Document;

(E) Uncontrollable Force: the occurrence of any Uncontrollable Force that could reasonably be expected to materially and adversely affect the Project;

(F) Ratings Changes: any change in the rating assigned to the WIFIA Loan or any Parity Obligations by any Nationally Recognized Rating Agency that has provided a public rating on such indebtedness;

(G) Draws on Reserve Account: the occurrence of any draws on a Reserve Account to fund payments of interest on or principal of any Bond when due, including any draw on any Bond Reserve Fund Policy, or the payment of interest on or principal of any Bond by any Credit Provider (as defined in the Indenture); and

(H) Cessation of Work: the cessation of all major construction work on the Project where such cessation is expected to or does extend for a period of thirty (30) days or more.

(ii) The Borrower shall, within thirty (30) Business Days after the Borrower learns of the occurrence, give the WIFIA Lender notice of any of the following events or receipt of any of the following notices, as applicable, setting forth details of such event:

(A) Insurance Claim: any insurance claims made by the Borrower or any Principal Project Party in respect of the Project in excess of \$50,000,000 either individually or in the aggregate, to the extent related to the Project or to the extent the proceeds from such insurance claim would be deposited into a System Account;

(B) 2 C.F.R. § 180.350 Notices: any notification required pursuant to 2 C.F.R. § 180.350, whether attributable to a failure by the Borrower to disclose information previously required to have been disclosed or due to the Borrower or any of its principals meeting any of the criteria set forth in 2 C.F.R. § 180.335; and

(C) Other Adverse Events: the occurrence of any other event or condition, including any notice of breach from a contract counterparty, that could reasonably be expected to result in a Material Adverse Effect or have a material and adverse effect on the Project.

(iii) The Borrower shall, in accordance with Environmental Laws but not later than thirty (30) Business Days after the Borrower learns of the occurrence, give the WIFIA Lender notice of any of the following events or receipt of any of the following notices, as applicable, setting forth details of such event:

(A) Environmental Notices: any material Notice of Violation under and as defined in any Environmental Law related to the Project or any material changes to the NEPA Determination;

(B) Archeological or Historical Resources: the discovery of any potential archeological or historical resources during the course of construction of the Project; and

(C) Endangered or Threatened Species: the discovery of any unexpected endangered or threatened species during the course of construction of the Project.

(iv) The Borrower shall provide the WIFIA Lender with any further information reasonably requested by the WIFIA Lender from time to time concerning the matters described in this Section 15(g) (*Affirmative Covenants – Notice*).

(h) Remedial Action. Within sixty (60) calendar days after the Borrower learns of the occurrence of an event specified in Section 15(g) (*Affirmative Covenants – Notice*) (excluding Section 15(g)(i)(A) (*Affirmative Covenants – Notice – Substantial Completion*) and, in the case of a ratings upgrade, Section 15(g)(i)(F) (*Affirmative Covenants – Notice – Ratings Changes*)), the Borrower's Authorized Representative shall provide a statement to the WIFIA Lender setting forth the actions the Borrower proposes to take with respect thereto.

(i) [Intentionally Omitted].

(j) System Accounts; Permitted Investments.

(i) The Borrower shall maintain the Revenue Fund as an enterprise fund separate and apart from all other funds of the Borrower. The Revenue Fund shall be administered in accordance with the Indenture.

(ii) The Borrower shall cause all Reserve Accounts to be funded in such amounts and under such conditions as are required by the Indenture Documents.

(iii) Amounts on deposit in the System Accounts shall be held uninvested or invested in Permitted Investments pursuant to the terms of the Indenture. Permitted Investments must mature or be redeemable at the election of the holder at such times as may be necessary to ensure that funds will be available within the applicable account to be applied towards the purpose for which the applicable account has been established.

(k) Rate Covenant.

(i) The Borrower shall at all times establish, fix, prescribe and collect rates, fees and charges in connection with the System in compliance with the provisions of Section 6.13 of the Indenture, as in effect as of the Effective Date and as such provisions are set forth in **Schedule 15(k)** (subject to this Section 15(k)(i) (*Affirmative Covenants – Rate Covenant*), the “**Rate Covenant**”). If and at such time as the Sixth Supplemental Indenture is adopted and becomes in full force and effect, the Borrower’s obligations under the Rate Covenant shall be automatically amended in accordance with the amendments to Section 6.13 of the Indenture provided for under the Sixth Supplemental Indenture, as set forth in **Schedule 16(b)**.

(ii) If the forecast furnished by the Borrower in the most recent Financial Plan delivered by the Borrower pursuant to Section 22(a) (*System Financial Planning and Reporting – Financial Plan*) demonstrates that projected Net System Revenues may be inadequate to satisfy the Rate Covenant for any Borrower Fiscal Year covered by such Financial Plan, or if the Borrower fails to satisfy the Rate Covenant for the most recently ended Borrower Fiscal Year, the Borrower shall (A) within ninety (90) days after request by the WIFIA Lender, engage the Professional Utility Consultant to review and analyze the operations of the System and recommend actions regarding revising the rates or changing the methods of operations, or any other actions to increase the Net System Revenues so as to satisfy the Rate Covenant, (B) cause the Professional Utility Consultant to issue its report, including any such recommended actions, no later than ninety (90) days following such engagement, and (C) either (1) implement the Professional Utility Consultant’s recommendation or (2) undertake an alternative course of action after demonstrating to the WIFIA Lender’s satisfaction that an alternative plan will generate an equivalent or greater increase to the Net System Revenues so as to satisfy the Rate Covenant.

(l) Compliance with Law. The Borrower shall, and shall require its contractors and subcontractors at all tiers with respect to the Project to, comply in all material respects with all applicable federal, State and local laws, rules, regulations and requirements, including (i) 40 U.S.C. §§3141-3144, 3146, and 3147 (Davis-Bacon Act Requirements), (ii) 33 U.S.C. §3914 (relating to American iron and steel products), and (iii) all items set forth in **Exhibit E** (*Compliance With Laws*). To ensure such compliance, the Borrower shall include in all contracts with respect to the Project requirements that its contractor(s) shall comply with applicable federal laws, rules, regulations, and requirements set forth in this Section 15(l) (*Affirmative Covenants – Compliance with Law*) and follow applicable federal guidance, and shall require that the contractor(s) incorporate in all subcontracts (and cause all subcontractors to include in all lower tier subcontracts) such terms and conditions as are required to be incorporated therein by applicable federal laws, rules, regulations and requirements set forth in this Section 15(l) (*Affirmative Covenants – Compliance with Law*). With respect to the Davis-Bacon Act requirements, the Borrower shall insert in full in all contracts relating to the Project the contract clauses set forth in the Code of Federal Regulations, Title 29 Part 5.5, and require and ensure that its contractor(s) insert such clauses in all subcontracts with respect to the Project and also a clause requiring all subcontractors to include these clauses in any lower tier subcontracts.

(m) Material Obligations; Liens. The Borrower shall pay its material obligations promptly and in accordance with their terms and pay and discharge promptly all taxes, assessments and governmental charges or levies imposed upon it or upon the System Revenues or other assets of the System, before the same shall become delinquent or in default, as well as all lawful and material claims for labor, materials and supplies or other claims which, if unpaid, might give rise to a Lien upon such properties or any part thereof or on the System Revenues or the Net System Revenues; provided, however, that such payment and discharge shall not be required with respect to any such tax, assessment, charge, levy, claim or Lien so long as the validity or amount thereof shall be contested by the Borrower in good faith by appropriate proceedings and so long as the Borrower shall have set aside adequate reserves with respect thereto in accordance with and to the extent required by GAAP, applied on a consistent basis.

(n) [Intentionally Omitted].

(o) SAM Registration. The Borrower shall (i) obtain and maintain an active registration status with the federal System for Award Management (www.SAM.gov) (or any successor system or registry) prior to the Effective Date and provide such registration information to the WIFIA Lender and (ii) within sixty (60) days prior to each anniversary of the Effective Date, provide to the WIFIA Lender evidence of such active registration status with no active exclusions reflected in such registration, in each case until the Final Maturity Date or to such earlier date as all amounts due or to become due to the WIFIA Lender under this Agreement have been irrevocably paid in full in cash.

(p) DUNS Number. The Borrower shall (i) obtain from Dun & Bradstreet (or a successor entity) a Data Universal Numbering System Number (a “**DUNS Number**”) prior to the Effective Date and provide such number to the WIFIA Lender and (ii) within sixty (60) days prior to each anniversary of the Effective Date, provide to the WIFIA Lender evidence of the continuing effectiveness of such DUNS Number, in each case until the Final Maturity Date or to such earlier date as all amounts due or to become due to the WIFIA Lender under this Agreement have been irrevocably paid in full in cash.

(q) Events of Loss; Loss Proceeds. If an Event of Loss shall occur with respect to the System (including the Project) or any part thereof, the Borrower shall (i) diligently pursue all of its rights to compensation against all relevant insurers, reinsurers and Governmental Authorities, as applicable, in respect of such event and (ii) pay or apply all Loss Proceeds stemming from such event in accordance with the Indenture and, to the extent applicable, Section 10 (*Prepayment*); provided that, to the extent Loss Proceeds are attributable to the Project, such Loss Proceeds shall be applied to repair, reconstruct, reinstate, restore and/or replace those portions of the Project in respect of which the applicable Loss Proceeds were received, if and to the extent permitted by the Indenture.

(r) Immunity. To the fullest extent permitted by applicable law, the Borrower agrees that it will not assert any immunity (and hereby waives any such immunity) it may have as a governmental entity from lawsuits, other actions and claims, and any judgments with respect to the enforcement of any of the obligations of the Borrower under this Agreement or any other WIFIA Loan Document.

(s) Patriot Act. If the anti-money laundering compliance program provisions of the Patriot Act become applicable to the Borrower, then the Borrower shall provide written notice to the WIFIA Lender of the same and shall promptly establish an anti-money laundering compliance program that complies with all requirements of the Patriot Act.

Section 16. Negative Covenants.

The Borrower covenants and agrees as follows until the date the WIFIA Bond and the obligations of the Borrower under this Agreement (other than contingent indemnity obligations) are irrevocably paid in full in cash, unless the WIFIA Lender waives compliance in writing:

(a) Indebtedness.

(i) The Borrower covenants that it shall not issue any Additional Parity Obligations other than as expressly permitted under the applicable provisions of the Indenture, as in effect as of the Effective Date and as such provisions are set forth in **Schedule 16(a)**. If and at such time as the Sixth Supplemental Indenture is adopted and becomes in full force and effect, the Borrower's covenant under this Section 16(a)(i) (*Negative Covenants – Indebtedness*) shall be automatically amended in accordance with the applicable amendments to the Indenture provided for under the Sixth Supplemental Indenture, as set forth in **Schedule 16(b)**.

(ii) The Borrower shall provide to the WIFIA Lender notice of the issuance of Additional Parity Obligations in a manner consistent with its continuing disclosure requirements, which notice shall confirm that the issuance of such Additional Parity Obligations is permissible pursuant to clause (i) of this Section 16(a) (*Negative Covenants – Indebtedness*).

(iii) Without limiting anything in this Section 16(a) (*Negative Covenants – Indebtedness*), the Borrower shall not incur any Obligation that does not constitute Permitted Debt hereunder, including, in the case of any Obligation subordinate to the Parity Obligations, satisfaction of the requirements under the definition of "Subordinated Obligations."

(iv) Notwithstanding any of the foregoing clauses of this Section 16(a) (*Negative Covenants – Indebtedness*) or anything contained in the Indenture, the Borrower covenants that it will not have Outstanding at any time Parity Obligations that constitute Variable Rate Indebtedness in excess of twenty-five percent (25%) of the Borrower's total Parity Obligations.

(v) Notwithstanding any of the foregoing clauses of this Section 16(a) (*Negative Covenants – Indebtedness*) or anything contained in the Indenture, the Borrower shall not issue or enter into any Senior State Loans or pay any amount with respect to any loan agreement with the State (or any board, department or agency thereof) prior to the payment of the Parity Obligations.

(b) No Lien Extinguishment or Adverse Amendments. The Borrower shall not, and shall not permit any Person to, without the prior written consent of the WIFIA Lender, either (i) extinguish or impair the Liens on the Net System Revenues granted pursuant to the Indenture, (ii) amend, modify, replace or supplement any Related Document in a manner that could adversely affect the WIFIA Lender (in the WIFIA Lender's determination) in connection with the WIFIA Loan, (iii) waive or permit a waiver of any provision of any Related Document in a manner which could adversely affect the WIFIA Lender (in the WIFIA Lender's determination) in connection with the WIFIA Loan, or which could reasonably be expected to have a Material Adverse Effect (in the WIFIA Lender's determination), (iv) assign, terminate or replace any Related Document (subject to Section 20(a)(ii) (*Project Events of Default and Remedies – Default under Principal Project Contracts*)) or (v) provide in any Indenture Document, or in any other financing document with respect to any Parity Obligation, that the holders of such Parity Obligations may accelerate such Parity Obligations, or require the mandatory prepayment in full thereof, in the case of any breach or event of default thereunder, unless the WIFIA Lender is concurrently provided, pursuant to an amendment to this Agreement and (if necessary) the Indenture, with such acceleration or mandatory prepayment right with respect to the WIFIA Bond. Except as otherwise agreed by the WIFIA Lender in writing, the Borrower will provide to the WIFIA Lender (x) copies of any proposed amendments, modifications, replacements of, or supplements to any Related Document at least thirty (30) days prior to the effective date thereof and (y) complete, correct and fully executed copies of any amendment, modification or supplement to any Related Document within thirty (30) days after execution thereof. Notwithstanding anything to the contrary in this Section 16(b) (*Negative Covenants – No Lien Extinguishment or Adverse Amendments*), the WIFIA Lender hereby consents to the amendments to the Indenture provided for under the Sixth Supplemental Indenture, as specifically set forth in **Schedule 16(b)**.

(c) No Prohibited Liens. Except for Permitted Liens, the Borrower shall not create, incur, assume or permit to exist any Lien on the Project, the System Revenues, the Net System Revenues, or the Borrower's respective rights therein. The Borrower shall not collaterally assign any of its rights under or pursuant to any Principal Project Contract and shall not permit a Lien to encumber the Borrower's rights or privileges under any Principal Project Contract, unless pursuant to the Indenture Documents in favor of the Trustee on behalf of the Secured Parties.

(d) Restricted Payments and Transfers. The Borrower shall not permit System Revenues or other assets of the System, or any funds in any accounts held under the Indenture or in any other fund or account held by or on behalf of the Borrower, to be paid or transferred or otherwise applied except as permitted by the Indenture.

(e) [Intentionally Omitted].

(f) No Prohibited Sale, Lease or Assignment. The Borrower shall not sell, lease or assign its rights in and to the System or the Project except as permitted by Section 6.03 of the Indenture.

(g) Borrower Fiscal Year. The Borrower shall not at any time adopt any fiscal year other than the Borrower Fiscal Year, except with thirty (30) days' prior written notice to the WIFIA Lender.

(h) Change in Legal Structure; Mergers and Acquisitions. The Borrower shall not, and shall not agree to, (i) acquire by purchase or otherwise the business, property or fixed assets of, or equity interests or other evidence of beneficial ownership interests in, any Person, other than purchases or other acquisitions of inventory or materials or spare parts or Capital Expenditures, each in the ordinary course of business in compliance with the annual budget set forth in the Financial Plan most recently approved by the WIFIA Lender or (ii) reorganize, consolidate with or merge into another Person unless (A) such reorganization, merger or consolidation is with or into another entity established by State law and such reorganization, merger or consolidation is mandated by State law, and in each case, does not adversely affect or impair to any extent or in any manner (1) the System Revenues or the Net System Revenues or (2) the availability of the System Revenues for the payment and security of the obligations of the Borrower under this Agreement; and (B) the Borrower provides to the WIFIA Lender, no later than sixty (60) days prior to the date of reorganization, consolidation or merger, prior written notice of such reorganization, consolidation or merger and the agreements and documents authorizing the reorganization, consolidation or merger, satisfactory in form and substance to the WIFIA Lender. The documents authorizing any reorganization, consolidation or merger shall contain a provision, satisfactory in form and substance to the WIFIA Lender, that, following such reorganization, consolidation or merger, the successor will assume, by operation of law or otherwise, the due and punctual performance and observance of all of the representations, warranties, covenants, agreements and conditions of this Agreement and the other Related Documents to which the Borrower is a party, and manage and operate the System and establish rates and charges consistent with the representations, warranties and covenants set forth herein. In addition, the Borrower shall provide all information concerning such reorganization, consolidation or merger as shall have been reasonably requested by the WIFIA Lender.

(i) No Defeasance of WIFIA Bond. The Borrower shall not defease the WIFIA Bond pursuant to the Indenture.

(j) OFAC Compliance. The Borrower shall not, (i) violate (A) any applicable anti-money laundering laws, including those contained in the Bank Secrecy Act and the Patriot Act, (B) any applicable economic sanction laws administered by OFAC or by the United States Department of State, or (C) any applicable anti-drug trafficking, anti-terrorism, or anti-corruption laws, civil or criminal; or (ii) be a Person (A) that is charged with, or that has received notice from a Governmental Authority that it is under investigation for, any violation of any such laws, (B) that is convicted of any violation of, is subject to civil or criminal penalties pursuant to, has any of its property seized or forfeited under, or enters into any agreement with the Government or a state or local government related to violations of, any such laws, (C) that is named on the list of "Special Designated Nationals or Blocked Persons" maintained by OFAC (or any successor Government office or list), or any similar list maintained by the United States Department of State (or any successor Government office or list), (D) with whom any U.S. Person (as defined in the applicable OFAC regulations) is prohibited from transacting business of the type contemplated by this Agreement and the other Related Documents under any other applicable

law, (E) that is owned, Controlled by, or affiliated with any Person identified in clause (A), (B), (C) or (D) of this clause (ii), or (F) is in violation of any obligation to maintain appropriate internal controls as required by the governing laws of the jurisdiction of such Person as are necessary to ensure compliance with the economic sanctions, anti-money laundering and anti-corruption laws of the United States of America and the jurisdiction where the Person resides, is domiciled or has its principal place of business.

Section 17. Indemnification.

The Borrower shall, to the extent permitted by law, indemnify the WIFIA Lender and any official, employee, agent or representative of the WIFIA Lender (each such Person being herein referred to as an “**Indemnitee**”) against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities, fines, penalties, costs and expenses (including the fees, charges and disbursements of any counsel for any Indemnitee and the costs of environmental remediation), whether known, unknown, contingent or otherwise, incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (a) the execution, delivery and performance of this Agreement or any of the other Related Documents, (b) the WIFIA Loan or the use of the proceeds thereof, or (c) the violation of any law, rule, regulation, order, decree, judgment or administrative decision relating to the environment, the preservation or reclamation of natural resources, the management, release or threatened release of any hazardous material or to health and safety matters; in each case arising out of or in direct relation to the Project; provided, that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities, fines, penalties, costs or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee. In case any action or proceeding is brought against an Indemnitee by reason of any claim with respect to which such Indemnitee is entitled to indemnification hereunder, the Borrower shall be entitled, at its expense, to participate in the defense thereof; provided that such Indemnitee has the right to retain its own counsel, at the Borrower’s expense, and such participation by the Borrower in the defense thereof shall not release the Borrower of any liability that it may have to such Indemnitee. Any Indemnitee against whom any indemnity claim contemplated in this Section 17 (*Indemnification*) is made shall be entitled, after consultation with the Borrower and upon consultation with legal counsel wherein such Indemnitee is advised that such indemnity claim is meritorious, to compromise or settle any such indemnity claim. Any such compromise or settlement shall be binding upon the Borrower for purposes of this Section 17 (*Indemnification*). Nothing herein shall be construed as a waiver of any legal immunity that may be available to any Indemnitee. To the extent permitted by applicable law, neither the Borrower nor the WIFIA Lender shall assert, and each of the Borrower and the WIFIA Lender hereby waives, any claim against any Indemnitee or the Borrower, respectively, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any of the other Related Documents, the other transactions contemplated hereby and thereby, the WIFIA Loan or the use of the proceeds thereof, provided, that nothing in this sentence shall limit the Borrower’s indemnity obligations to the extent such damages are included in any third party claim in connection with which an Indemnitee is entitled to indemnification hereunder. All amounts due to any Indemnitee under this Section 17 (*Indemnification*) shall be payable promptly upon

demand therefor. The obligations of the Borrower under this Section 17 (*Indemnification*) shall survive the payment or prepayment in full or transfer of the WIFIA Bond, the enforcement of any provision of this Agreement or the other Related Documents, any amendments, waivers (other than amendments or waivers in writing with respect to this Section 17 (*Indemnification*)) or consents in respect hereof or thereof, any System Event of Default or Project Event of Default, and any workout, restructuring or similar arrangement of the obligations of the Borrower hereunder or thereunder. The obligations of the Borrower to make any payment under this Section 17 (*Indemnification*) shall be subordinate to the payment of all Parity Obligations.

Section 18. Sale of WIFIA Loan.

The WIFIA Lender shall not sell the WIFIA Loan at any time prior to (a) the Substantial Completion Date or (b) if the WIFIA Loan has not been disbursed in full prior to the Substantial Completion Date, the earlier of (i) the date on which the WIFIA Loan has been disbursed in full or (ii) the date falling one year after the Substantial Completion Date. After such date, the WIFIA Lender may sell the WIFIA Loan to another entity or reoffer the WIFIA Loan into the capital markets only in accordance with the provisions of this Section 18 (*Sale of WIFIA Loan*). Such sale or reoffering shall be on such terms as the WIFIA Lender shall deem advisable, and the Borrower shall act reasonably and cooperate with the WIFIA Lender in connection therewith, including by presenting to the Trustee in a timely manner the written certificate required by the WIFIA Supplemental Indenture for the transfer of the WIFIA Bond; provided that no such sale shall obligate the Borrower to provide any disclosure materials or make any representations or agreements in connection with such sale or reoffering. In making such sale or reoffering the WIFIA Lender shall not change the terms and conditions of the WIFIA Loan without the prior written consent of the Borrower in accordance with Section 31 (*Amendments and Waivers*). The WIFIA Lender shall provide, at least sixty (60) days prior to any sale or reoffering of the WIFIA Loan, written notice to the Borrower of the WIFIA Lender's intention to consummate such a sale or reoffering; provided that no such notice shall be required during the continuation of any System Event of Default or Project Event of Default. The provision of any notice pursuant to this Section shall not (x) obligate the WIFIA Lender to sell nor (y) provide the Borrower with any rights or remedies in the event the WIFIA Lender, for any reason, does not sell the WIFIA Loan.

Section 19. System Events of Default and Remedies.

(a) A “**System Event of Default**” shall exist under this Agreement if any of the following occurs:

(i) Payment Default. The Borrower shall fail to pay any of the principal amount of or interest on the WIFIA Bond (including WIFIA Debt Service required to have been paid pursuant to the provisions of Section 9 (*Payment of Principal and Interest*)), when and as the payment thereof shall be required under this Agreement or the WIFIA Bond or on the Final Maturity Date (each such failure, a “**Payment Default**”).

(ii) Covenant Default. The Borrower shall fail to observe or perform any covenant, agreement or obligation of the Borrower under this Agreement, the WIFIA Bond or any other WIFIA Loan Document (other than in the case of any Payment Default

or any Project Event of Default), and such failure shall not be cured within thirty (30) days after the earlier to occur of (A) receipt by the Borrower from the WIFIA Lender of written notice thereof or (B) the Borrower's knowledge of such failure; provided that if such failure is capable of cure but cannot reasonably be cured within such thirty (30) day cure period, then no System Event of Default shall be deemed to have occurred or be continuing under this Section 19(a)(ii) (*System Events of Default and Remedies – Covenant Default*), and such thirty (30) day cure period shall be extended by up to one hundred fifty (150) additional days, if and so long as (x) within such thirty (30) day cure period the Borrower shall commence actions reasonably designed to cure such failure and shall diligently pursue such actions until such failure is cured and (y) such failure is cured within one hundred eighty (180) days of the date specified in either (A) or (B) above, as applicable.

(iii) Misrepresentation Default. Any of the representations, warranties or certifications of the Borrower made in or delivered pursuant to the WIFIA Loan Documents (or in any certificates delivered by the Borrower in connection with the WIFIA Loan Documents) shall prove to have been false or misleading in any material respect when made or deemed made (or any representation and warranty that is subject to a materiality qualifier shall prove to have been false or misleading in any respect); provided, that no System Event of Default shall be deemed to have occurred under this Section 19(a)(iii) (*System Events of Default and Remedies – Misrepresentation Default*) if and so long as (A) such misrepresentation is not intentional, (B) such misrepresentation is not a misrepresentation in respect of Section 13(h) (*Representations and Warranties of Borrower – No Debarment*), Section 13(j) (*Representations and Warranties of Borrower – Compliance with Federal Requirements*) or Section 13(p) (*Representations and Warranties of Borrower – OFAC; Anti-Corruption Laws*), or Section 13(cc) (*Representations and Warranties of Borrower – Patriot Act*), (C) in the reasonable determination of the WIFIA Lender, such misrepresentation has not had, and would not reasonably be expected to result in, a Material Adverse Effect, (D) in the reasonable determination of the WIFIA Lender, the underlying issue giving rise to the misrepresentation is capable of being cured, (E) the underlying issue giving rise to the misrepresentation is cured by the Borrower within thirty (30) days from the date on which the Borrower first became aware (or reasonably should have become aware) of such misrepresentation, and (F) the Borrower diligently pursues such cure during such thirty (30) day period.

(iv) Acceleration of Parity Obligations. Any acceleration shall occur of the maturity of any Parity Obligation, or any Parity Obligation shall not be paid in full upon the final maturity thereof.

(v) Cross Default With Financing Documents. Any of the representations, warranties or certifications of the Borrower made in or delivered pursuant to the Indenture Documents, or made in or delivered pursuant to the documents (the “**Other Loan Documents**”) under which any Parity Obligation is created or incurred, shall prove to be false or misleading in any material respect (each an “**Other Indebtedness Misrepresentation Default**”), or any default shall occur in respect of the

performance of any covenant, agreement or obligation of the Borrower under the Indenture Documents or the Other Loan Documents, and such default shall be continuing after the giving of any applicable notice and the expiration of any applicable grace period specified in the Indenture Documents or the Other Loan Documents (as the case may be) with respect to such default (each an “**Other Indebtedness Covenant Default**”), if the effect of such Other Indebtedness Misrepresentation Default or Other Indebtedness Covenant Default shall be to permit the immediate acceleration of the maturity of any or all of the Parity Obligations, and, in the case of any such Other Indebtedness Misrepresentation Default or Other Indebtedness Covenant Default, the Borrower shall have failed to cure such Other Indebtedness Misrepresentation Default or Other Indebtedness Covenant Default or to obtain an effective written waiver thereof in accordance with the terms of such Parity Obligations.

(vi) [Intentionally Omitted].

(vii) Judgments. One or more judgments (A) for the payment of money in an aggregate amount in excess of \$50,000,000 (inflated annually by CPI) that are payable from System Revenues and are not otherwise fully covered by insurance (for which the insurer has acknowledged and not disputed coverage) or (B) that would reasonably be expected to result in a Material Adverse Effect shall, in either case, be rendered against the Borrower, and the same shall remain undischarged for a period of thirty (30) consecutive days during which time period execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of the Borrower to enforce any such judgment.

(viii) Failure to Maintain Existence. The Borrower shall fail to continue its existence as a commission duly constituted under the Charter and the laws of the State, unless at or prior to the time the Borrower ceases to exist in such form a successor public agency or governing body has been created by the State or the City pursuant to a valid and unchallenged State law or Charter amendment and has succeeded to the assets of the Borrower and has assumed all of the obligations of the Borrower under the WIFIA Loan Documents.

(ix) Occurrence of a Bankruptcy Related Event. A Bankruptcy Related Event shall occur with respect to the Borrower.

(x) Invalidity of WIFIA Loan Documents. (A) Any WIFIA Loan Document ceases to be in full force and effect (other than as a result of the termination thereof in accordance with its terms) or becomes void, voidable, illegal or unenforceable, or the Borrower contests in any manner the validity or enforceability of any WIFIA Loan Document to which it is a party or denies it has any further liability under any WIFIA Loan Document to which it is a party, or purports to revoke, terminate or rescind any WIFIA Loan Document to which it is a party; or (B) any Indenture Document ceases (other than as expressly permitted thereunder) to be effective or to grant a valid and binding security interest on any material portion of the Net System Revenues other than as a result of actions or a failure to act by, and within the control of, any Secured Party, and with the priority purported to be created thereby.

(xi) Failure to Satisfy Rate Covenant. In the case that the Borrower shall have failed to satisfy the Rate Covenant for any Borrower Fiscal Year, the Borrower shall have failed to regain compliance with the Rate Covenant for the immediately following Borrower Fiscal Year.

(b) Upon the occurrence of any Bankruptcy Related Event with respect to the Borrower, all obligations of the WIFIA Lender hereunder with respect to the disbursement of any undisbursed amounts of the WIFIA Loan shall automatically be deemed terminated.

(c) Upon the occurrence of any other System Event of Default, the WIFIA Lender, by written notice to the Borrower, may (i) suspend or terminate all of its obligations hereunder with respect to the disbursement of any undisbursed amounts of the WIFIA Loan and (ii) cease permitting interest on the WIFIA Loan to be capitalized.

(d) Subject to clause (h) below, whenever any System Event of Default hereunder shall have occurred and be continuing, the WIFIA Lender shall be entitled and empowered to institute any actions or proceedings at law or in equity for the collection of any sums due and unpaid hereunder or under the WIFIA Bond or the other WIFIA Loan Documents, and may prosecute any such judgment or final decree against the Borrower and collect in the manner provided by law out of the property of the Borrower the moneys adjudged or decreed to be payable, and the WIFIA Lender shall have all of the rights and remedies of a creditor, including all rights and remedies of a secured creditor under the Uniform Commercial Code, and may take such other actions at law or in equity as may appear necessary or desirable to collect all amounts payable by Borrower under this Agreement, the WIFIA Bond or the other WIFIA Loan Documents then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Agreement, the WIFIA Bond or the other WIFIA Loan Documents.

(e) Whenever any System Event of Default hereunder shall have occurred and be continuing, the WIFIA Lender may suspend or debar the Borrower from further participation in any Government program administered by the WIFIA Lender and to notify other departments and agencies of such default.

(f) Whenever a Payment Default shall occur and be continuing, the Default Rate provisions of Section 6 (*Interest Rate*) shall apply.

(g) No action taken pursuant to this Section 19 (*System Events of Default and Remedies*) shall relieve Borrower from its obligations pursuant to this Agreement, the WIFIA Bond or the other WIFIA Loan Documents, all of which shall survive any such action.

(h) Notwithstanding anything to the contrary in this Section 19 (*System Events of Default and Remedies*), the WIFIA Lender may not take any action, in law or equity, attempting to control, enforce or direct the application of System Revenues in the Revenue Fund or any other fund maintained under the Indenture, or to enforce the pledge of Net System Revenues pursuant to the Indenture or this Agreement or to accelerate the payment obligations under the WIFIA Bond, or to take any other remedial action under circumstances where the System Event of Default is also an “Event of Default” under the Indenture and where, in the

determination of the Trustee, such action would adversely affect the rights of the Trustee or other Secured Parties, except pursuant to the WIFIA Lender's rights as a Bondholder under the Indenture, and in the exercise of any such rights under the Indenture, the WIFIA Lender, as a Bondholder, will have such rights accorded to it measured as a Bond Obligation (as defined in the Indenture), on a parity with all other Bonds and any other Parity Obligations as provided in the Indenture. For the avoidance of doubt, nothing herein shall prevent the WIFIA Lender from taking any action contemplated by clauses (b), (c), (e) or (f) above if a System Event of Default shall occur and be continuing.

Section 20. Project Events of Default and Remedies

(a) A "**Project Event of Default**" shall exist under this Agreement if any of the following occurs:

(i) Development Default. A Development Default shall occur.

(ii) Default Under Principal Project Contracts. The Borrower shall default in the timely performance of any covenant, agreement or obligation under any Principal Project Contract or any Principal Project Contract shall be terminated prior to its scheduled expiration (unless in any case such default or termination could not reasonably be expected to have a Material Adverse Effect), and the Borrower shall have failed to cure such default or to obtain an effective written waiver or revocation thereof prior to the expiration of the applicable grace period specified in any such Principal Project Contract, or to obtain an effective revocation of such termination (as the case may be); provided that no Project Event of Default shall be deemed to have occurred or be continuing under this clause if, in the case of any termination of a Principal Project Contract, the Borrower replaces such Principal Project Contract with a replacement agreement (A) entered into with another counterparty that (1) is of similar or greater creditworthiness and experience as the counterparty being replaced was at the time the applicable Principal Project Contract was originally executed (or otherwise reasonably acceptable to the WIFIA Lender) and (2) is not, at the time of such replacement, suspended or debarred or subject to a proceeding to suspend or debar from bidding, proposing or contracting with any federal or state department or agency; (B) on substantially the same terms and conditions as the Principal Project Contract being replaced (or otherwise reasonably acceptable to the WIFIA Lender); and (C) effective as of the date of termination of the Principal Project Contract being replaced.

(iii) Bankruptcy Related Event. A Bankruptcy Related Event shall occur with respect to any Principal Project Party; provided that no Project Event of Default shall be deemed to have occurred or be continuing under this Section 20(a)(v)(iii) (*Project Events of Default and Remedies – Bankruptcy Related Event*) if the Borrower replaces the applicable Principal Project Contract with a replacement agreement (A) entered into with another Principal Project Party that (1) is of similar or greater creditworthiness and experience as the Principal Project Party being replaced was at the time the applicable Principal Project Contract was originally executed (or otherwise reasonably acceptable to the WIFIA Lender) and (2) is not, at the time of such replacement, suspended or debarred or subject to a proceeding to suspend or debar from

bidding, proposing or contracting with any federal or state department or agency; (B) on substantially the same terms and conditions as the Principal Project Contract being replaced (or otherwise reasonably acceptable to the WIFIA Lender); and (C) effective as of the date of termination of the Principal Project Contract being replaced.

(iv) Project Abandonment. The Borrower shall abandon the Project.

(v) Cessation of Project Operations. Operation of the Project shall cease for a continuous period of not less than one hundred eighty (180) days unless such cessation of operations shall occur by reason of an Uncontrollable Force that is not due to the fault of the Borrower (and which the Borrower could not reasonably have avoided or mitigated).

(b) Upon the occurrence of any Project Event of Default, the WIFIA Lender may suspend or terminate all of its obligations hereunder with respect to the disbursement of any undisbursed amounts of the WIFIA Loan. In addition, upon any Project Event of Default, (i) interest shall immediately cease to be capitalized and (ii) the Default Rate provisions of Section 6 (*Interest Rate*) shall apply.

Section 21. Accounting and Audit Procedures; Inspections; Reports and Records.

(a) System Related Accounting and Audit Procedures; Reports and Records.

(i) The Borrower shall establish fiscal controls and accounting procedures sufficient to assure proper accounting for all System Revenues, operating expenses, capital expenses, depreciation, reserves, debt issued and outstanding and debt payments. The Borrower shall use accounting, audit and fiscal procedures conforming to GAAP.

(ii) The Borrower shall provide to the WIFIA Lender, promptly after the receipt thereof, copies of (A) final ratings and any notices, reports or other written materials (other than those that are ministerial in nature) received from, any Nationally Recognized Rating Agency that has provided, or is being requested to provide, a rating with respect to any Parity Obligations and (B) all notices and other written communications, other than those that are non-substantive or ministerial in nature, received by it from the Trustee or any Bondholder.

(iii) The Borrower shall provide to the WIFIA Lender, concurrently with delivery to the Trustee, copies of all reports, notices and other written materials, other than those that are non-substantive or ministerial in nature, required to be sent to the Trustee or any Bondholder under the Indenture Documents, relating to any of the operation of the System, System Revenues, or rates and charges established by the Borrower for the System; provided that the Borrower need not provide those items that are non-substantive or ministerial in nature.

(b) Project Related Accounting and Audit Procedures; Inspections; Reports and Records.

(i) The Borrower shall establish fiscal controls and accounting procedures sufficient to assure proper accounting for all Project-related costs, WIFIA Loan requisitions submitted, WIFIA Loan proceeds received, payments made by the Borrower with regard to the Project, other sources of funding for the Project (including amounts paid from such sources for Project costs so that audits may be performed to ensure compliance with and enforcement of this Agreement). The Borrower shall use accounting, audit and fiscal procedures conforming to GAAP, including, with respect to the WIFIA Loan, accounting of principal and interest payments, disbursements, prepayments and calculation of interest and principal amounts outstanding.

(ii) So long as the WIFIA Loan or any portion thereof shall remain outstanding and until five (5) years after the WIFIA Loan shall have been paid in full, the WIFIA Lender shall have the right, upon reasonable prior notice, to visit and inspect any portion of the Project, to examine books of account and records of the Borrower relating to the Project, to make copies and extracts therefrom at the Borrower's expense, and to discuss the Borrower's affairs, finances and accounts relating to the Project with, and to be advised as to the same by, its officers and employees and its independent public accountants (and by this provision the Borrower irrevocably authorizes its independent public accountants to discuss with the WIFIA Lender the affairs, finances and accounts of the Borrower, whether or not any representative of the Borrower is present, it being understood that nothing contained in this Section 21(b) (*Accounting and Audit Procedures; Inspections; Reports and Records – Project Related Accounting and Audit Procedures; Inspections; Reports and Records*) is intended to confer any right to exclude any such representative from such discussions), all at such reasonable times and intervals as the WIFIA Lender may request. The Borrower agrees to pay all out-of-pocket expenses incurred by the WIFIA Lender in connection with the WIFIA Lender's exercise of its rights under this Section 21(b) (*Accounting and Audit Procedures; Inspections; Reports and Records – Project –Related Accounting and Audit Procedures; Inspections; Reports and Records*) at any time when a System Event of Default or Project Event of Default shall have occurred and be continuing;

(iii) The Borrower shall maintain and retain all files relating to the Project and the WIFIA Loan until five (5) years after the later of the date on which (A) all rights and duties under this Agreement and under the WIFIA Bond (including payments) have been fulfilled and any required audits have been performed and (B) any litigation relating to the Project, the WIFIA Loan or this Agreement is finally resolved or, if the WIFIA Lender has reasonable cause to extend such date, a date to be mutually agreed upon by the WIFIA Lender and the Borrower. The Borrower shall provide to the WIFIA Lender in a timely manner all records and documentation relating to the Project that the WIFIA Lender may reasonably request from time to time.

(iv) The Borrower shall have a single or program-specific audit conducted in accordance with 2 C.F.R. Part 200 Subpart F and 31 U.S.C. § 7502 in 2018 and annually thereafter, except to the extent biennial audits are permitted for the

Borrower pursuant to 2 C.F.R. § 200.504 and 31 U.S.C. § 7502(b). Upon reasonable notice, the Borrower shall cooperate fully in the conduct of any periodic or compliance audits conducted by the WIFIA Lender, or designees thereof, pursuant to 49 C.F.R. § 80.19, 31 U.S.C. § 7503(b), or 31 U.S.C. § 6503(h) and shall provide full access to any books, documents, papers or other records that are pertinent to the Project or the WIFIA Loan, to the Administrator, or the designee thereof, for any such project or programmatic audit.

Section 22. System Financial Planning and Reporting.

(a) Financial Plan. On an annual basis throughout the term of the WIFIA Loan, the Borrower shall provide to the WIFIA Lender its then-current ten (10)-year financial plan not later than ninety (90) days after its adoption by the Borrower and, in any event, prior to June 30 of each Borrower Fiscal Year, commencing with Borrower Fiscal Year 2019. Each financial plan provided to the WIFIA Lender pursuant to this Section 22(a) (*System Financial Planning and Reporting – Financial Plan*) shall be substantially in the form, or provide substantially the same information, as the ten (10)-year financial plan for the System delivered to the WIFIA Lender pursuant to Section 12(a)(xxv) (*Conditions Precedent – Conditions Precedent to Effectiveness*). In addition, the Borrower shall comply with the following:

(i) Each Financial Plan shall (A) set forth the Borrower’s capital improvement plan, projected rates and charges, projected debt outstanding, annual debt service and projected operations and maintenance expenses; (B) evidence projected compliance with the Rate Covenant for each Borrower Fiscal Year covered by the Financial Plan; (C) demonstrate to the satisfaction of the WIFIA Lender that the Borrower has developed and identified adequate revenues to implement a plan for operating, maintaining and repairing the System over the useful life of the System assets.

(ii) Each Financial Plan delivered prior to the Substantial Completion Date shall show that the Borrower has sufficient financial resources to complete the Project by the Projected Substantial Completion Date.

(iii) With each Financial Plan the Borrower shall provide: (A) a certificate signed by the Borrower’s Authorized Representative to the effect that the Financial Plan, including the assumptions and supporting documentation, as of its date, is accurate and reasonable to the best of the Borrower’s knowledge and belief; (B) a written narrative identifying any material changes to the underlying assumptions from the previous Financial Plan; (C) a certificate signed by the Borrower’s Authorized Representative demonstrating that annual projected Net System Revenues will be sufficient to meet the Bond Amortization Schedule and to satisfy the Rate Covenant for each Borrower Fiscal Year covered by the Financial Plan; and (D) a certificate signed by the Borrower’s Authorized Representative that (1) the Borrower is in compliance with its obligations in respect of the Rate Covenant pursuant to Section 15(k) (*Affirmative Covenants – Rate Covenant*) and (2) in the case that the Borrower failed to satisfy the Rate Covenant for the Borrower Fiscal Year preceding the most recent Borrower Fiscal Year, the Borrower satisfied the Rate Covenant for the most recent Borrower Fiscal Year.

(b) Financial Statements.

(i) The Borrower shall furnish to the WIFIA Lender as soon as available, but no later than one hundred eighty (180) days after the end of each Borrower Fiscal Year, a copy of the audited income statement and balance sheet of the Borrower as of the end of such Borrower Fiscal Year and the related audited statements of operations and of cash flow of the Borrower for such Borrower Fiscal Year, setting forth in each case in comparative form the figures for the previous Borrower Fiscal Year, certified without qualification or exception, or qualification as to the scope of the audit, by an independent public accounting firm selected by the Borrower and which is reasonably acceptable to the WIFIA Lender.

(i) All such financial statements shall be complete and correct in all material respects and shall be prepared in reasonable detail and in accordance with GAAP applied consistently throughout the periods reflected therein (except, with respect to the annual financial statements, for changes approved or required by the independent public accountants certifying such statements and disclosed therein).

(c) Officer's Certificate. The Borrower shall furnish to the WIFIA Lender, together with each delivery of annual audited financial statements of the Borrower pursuant to Section 22(b) (*System Financial Planning and Reporting – Financial Statements*), a certificate signed by the Borrower's Authorized Representative, stating whether or not, to the Borrower's knowledge, during the annual period covered by such financial statements, there occurred any System Event of Default or Project Event of Default or event that, with the giving of notice or the passage of time or both, would become a System Event of Default or a Project Event of Default and, if any such System Event of Default, Project Event of Default or other event shall have occurred during such period, the nature of such System Event of Default, Project Event of Default or other event and the actions that the Borrower has taken or intends to take in respect thereof.

Section 23. Project Oversight and Monitoring.

(a) Project Development, Design and Construction. The WIFIA Lender shall have the right in its sole discretion to monitor (or direct its agents to monitor) the development, including environmental compliance, design, and construction of the Project. The Borrower shall be responsible for administering construction oversight of the Project in accordance with applicable federal, state and local governmental requirements. The Borrower agrees to cooperate in good faith with the WIFIA Lender in the conduct of such monitoring by promptly providing the WIFIA Lender with such reports, documentation or other information as shall be requested by the WIFIA Lender or its agents, including any independent engineer reports, documentation or information. The Borrower shall deliver to the WIFIA Lender, no later than thirty (30) days prior to any notice to proceed, the final designs, plans and specifications relating to the development and construction of the Project.

(b) Reporting. During the period through Substantial Completion of the Project, the Borrower shall furnish to the WIFIA Lender, on a quarterly basis, a report on the status of the Project. The report shall be executed by the Borrower's Authorized Representative

and, for any quarter, shall be delivered to the WIFIA Lender not later than one hundred eighty (180) days after the end of such quarter. Each report shall include the following information:

(i) the amount of Total Project Costs expended since the Effective Date as well as during the preceding calendar quarter and the amount of Total Project Costs estimated to be required to complete the Project;

(ii) documentation demonstrating that the Borrower has sufficient funds (including funds on hand and funds obtainable without undue delay or conditions that cannot reasonably be satisfied by the Borrower as and when such funds are needed) to complete the Project;

(iii) an assessment of the overall progress of the Project, including the receipt of relevant Government Approvals, since the Effective Date and since the date of the last report, together with any necessary updates to the Project Schedule;

(iv) the then-current projection for the Substantial Completion Date as compared to the Projected Substantial Completion Date specified in the Base Case Financial Model and, if applicable, any adjusted Projected Substantial Completion Date pursuant to Section 23(f) (*Project Oversight and Monitoring – Modifications to Project Schedule*);

(v) a detailed description of all material problems (including actual and anticipated cost and/or schedule overruns, if any) encountered or anticipated in connection with the construction of the Project during the preceding quarter, together with an assessment of how such problems may impact the Project Schedule and the meeting of critical dates thereunder and a detailed description of the proposed solutions to any such problems;

(vi) any proposed or pending change orders of a material nature; and

(vii) a discussion or analysis of such other matters related to the Project as the WIFIA Lender may reasonably request.

The Borrower shall respond, and use commercially reasonable efforts to cause the Principal Project Parties to respond, to the WIFIA Lender's inquiries regarding such report, the construction of the Project and any Principal Project Party's performance of its obligations under the Principal Project Contract to which such Principal Project Party is a party.

(c) Additional Reporting. On or before the Effective Date, within ninety (90) days following the Substantial Completion Date and within ninety (90) days following the fifth (5th) anniversary of the Substantial Completion Date, the Borrower shall deliver to the WIFIA Lender a report including the following information:

(i) the estimated interest savings the Borrower is realizing through the use of the WIFIA Loan compared to comparable market rate financing;

(ii) the following jobs information:

(A) with respect to the report delivered on or before the Effective Date, the number of jobs projected to be created by the Project during the period between the Effective Date and the Substantial Completion Date;

(B) with respect to the report delivered within ninety (90) days following the Substantial Completion Date, the number of jobs created by the Project on an annual basis during the period between the Effective Date and the Substantial Completion Date; and

(C) with respect to the report delivered within ninety (90) days following the fifth (5th) anniversary of the Substantial Completion Date, the number of jobs created by the Project on an annual basis during the period between the Substantial Completion Date and the fifth (5th) anniversary of the Substantial Completion Date;

(iii) whether the Project will assist the Borrower in complying with applicable regulatory requirements, and if so, a narrative description describing such enhancements; and

(iv) the amount by which the Project will increase Class A and Class B biosolids (measured in tons annually).

(d) Requested Information. The Borrower shall, at any time while the WIFIA Loan remains outstanding, promptly deliver to the WIFIA Lender such additional information regarding the business, financial, legal or organizational affairs of the Borrower or regarding the Project (including construction progress reports delivered by a Principal Project Party to the Borrower) or the System Revenues (including any rate studies prepared by or for the Borrower) as the WIFIA Lender may from time to time reasonably request.

(e) Modifications to Total Project Costs. For the period through the Substantial Completion Date, the Borrower shall provide notice to the WIFIA Lender at least thirty (30) days prior to implementing any increase in Total Project Costs that would cause Total Project Costs to equal an amount greater than ten percent (10%) of the amount of Total Project Costs set forth in the Project Budget. The Borrower's notice shall demonstrate that the increase is consistent with the provisions of this Agreement, is necessary or beneficial to the Project, does not materially impair the WIFIA Lender's security or the Borrower's ability to comply with its obligations under the Related Documents (including any financial ratios or covenants included therein), and could not reasonably be expected to result in a Material Adverse Effect.

(f) Modifications to Project Schedule. For the period through the Substantial Completion Date, the Borrower shall provide the WIFIA Lender with written notification at least thirty (30) days prior to instituting any adjustment to the Projected Substantial Completion Date in an amount greater than ten percent (10%) of the project construction duration set forth in the Project Schedule, which notification shall set forth the nature of the proposed increase, including the proposed adjustment to the Projected Substantial Completion Date, and an estimate of the impact of such increase on the capital costs and operating costs of the System, and the Financial

Plan, if any. The Borrower's notice shall demonstrate to the reasonable satisfaction of the WIFIA Lender that the proposed increase is consistent with the provisions of this Agreement, is necessary or beneficial to the Project, does not materially impair the WIFIA Lender's security or the Borrower's ability to comply with its obligations under the Related Documents (including any financial ratios or covenants included therein), and could not reasonably be expected to result in a Material Adverse Effect. The Projected Substantial Completion Date shall automatically be adjusted to the date specified by the Borrower in its notice unless the WIFIA Lender objects to the adjustment in writing to the Borrower within thirty (30) days following receipt of the Borrower's written notice on the basis that the Borrower's notice does not demonstrate the matters specified in this Section 23(f) (*Project Oversight and Monitoring – Modifications to Project Schedule*).

(g) Project Operations. The WIFIA Lender shall have the right, acting reasonably, to monitor (or direct its agents to monitor) the Project's operations and, as the WIFIA Lender may request from time to time, to receive reporting on the operation and management of the Project, and copies of any contracts relating to the operation and maintenance of the Project. The Borrower agrees to cooperate in good faith with the WIFIA Lender in the conduct of such monitoring by promptly providing the WIFIA Lender with such reports, documentation, or other information requested by the WIFIA Lender. The WIFIA Lender has the right, in its sole discretion, to retain such consultants or advisors, to carry out the provisions of this Section 23 (*Project Oversight and Monitoring*).

Section 24. Disclaimer of Warranty.

The WIFIA Lender makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for a particular purpose or fitness for use of the Project or any portion thereof or any other warranty with respect thereto. Without limiting anything under Section 17 (*Indemnification*), in no event shall the WIFIA Lender be liable for any damages (whether direct or indirect), incidental to or arising out of the Project or the financing, existence, furnishing, functioning or use of the Project.

Section 25. No Personal Recourse.

No official, employee or agent of the WIFIA Lender or the Borrower (including any commission member of the Borrower) or any Person executing this Agreement or any of the other WIFIA Loan Documents shall be personally liable on this Agreement or such other WIFIA Loan Documents by reason of the issuance, delivery or execution hereof or thereof.

Section 26. No Third Party Rights.

The parties hereby agree that this Agreement creates no third party rights against the Borrower, the Government, or the WIFIA Lender, solely by virtue of the WIFIA Loan, and the Borrower agrees to indemnify and hold the WIFIA Lender, the Servicer (if any), the Administrator, and the Government harmless, to the extent permitted by law and in accordance with Section 17 (*Indemnification*), from any lawsuit or claim arising in law or equity solely by reason of the WIFIA Loan, and that no third party creditor or creditors of the Borrower shall

have any right against the WIFIA Lender with respect to the WIFIA Loan made pursuant to this Agreement.

Section 27. Borrower's Authorized Representative.

The Borrower shall at all times have appointed a Borrower's Authorized Representative by designating such Person or Persons from time to time to act on the Borrower's behalf pursuant to a written certificate furnished to the WIFIA Lender and the Servicer, if any, containing the specimen signature or signatures of such Person or Persons and signed by the Borrower.

Section 28. WIFIA Lender's Authorized Representative.

The WIFIA Lender shall at all times have appointed the WIFIA Lender's Authorized Representative by designating such Person or Persons from time to time to act on the WIFIA Lender's behalf pursuant to a written certificate furnished to the Borrower and the Servicer, if any, containing the specimen signature or signatures of such Person or Persons and signed by the WIFIA Lender.

Section 29. Servicer.

The WIFIA Lender may from time to time designate another entity or entities to perform, or assist the WIFIA Lender in performing, the duties of the Servicer or specified duties of the WIFIA Lender under this Agreement and the WIFIA Bond. The WIFIA Lender shall give the Borrower written notice of the appointment of any successor or additional Servicer and shall enumerate the duties or any change in duties to be performed by any Servicer. Any references in this Agreement to the WIFIA Lender shall be deemed to be a reference to the Servicer with respect to any duties which the WIFIA Lender shall have delegated to such Servicer. The WIFIA Lender may at any time assume the duties of any Servicer under this Agreement and the WIFIA Bond. The Borrower shall cooperate and respond to any reasonable request of the Servicer for information, documentation or other items reasonably necessary for the performance by the Servicer of its duties hereunder.

Section 30. Fees and Expenses.

(a) Servicing Set-Up Fee. Within thirty (30) days after receipt of any invoice from the WIFIA Lender or on or before the First Disbursement Date, if earlier, the Borrower shall pay to the WIFIA Lender a servicing set-up fee equal to \$25,000 (the "**Servicing Set-Up Fee**").

(b) Construction Period Servicing Fee.

(i) For the period from the Effective Date until the Substantial Completion Date, the Borrower shall pay to the WIFIA Lender an annual servicing fee equal to \$25,000 (the "**Construction Period Servicing Fee**").

(ii) The initial Construction Period Servicing Fee shall be due and payable within thirty (30) days after receipt of any invoice from the WIFIA Lender or, if earlier, on or before the First Disbursement Date, in a pro-rated amount equal to \$4,167.

(iii) Each Construction Period Servicing Fee following the initial Construction Period Servicing Fee shall accrue on the first Business Day of the then-current Federal Fiscal Year and shall be due and payable on or prior to November 15 of each calendar year during the Construction Period; provided that the Construction Period Servicing Fee shall be payable for the Federal Fiscal Year during which (and regardless of the date on which) the Substantial Completion Date occurs.

(iv) The amount of each Construction Period Servicing Fee (other than the initial Construction Period Servicing Fee) shall be adjusted in proportion to the percentage change in CPI for the calendar year immediately preceding the calendar year during which such fee is due. The WIFIA Lender shall notify the Borrower of the amount of each such Construction Period Servicing Fee at least thirty (30) days before payment is due, which determination shall be conclusive absent manifest error.

(c) Operating Period Servicing Fee.

(i) Following the Substantial Completion Date, the Borrower shall pay to the WIFIA Lender an annual servicing fee equal to \$7,500 (the “**Operating Period Servicing Fee**”).

(ii) Each Operating Period Servicing Fee shall accrue on the first Business Day of the then-current Federal Fiscal Year and shall be due and payable on or prior to November 15 of each calendar year, beginning with the first November 15 that occurs after the end of the Federal Fiscal Year during which the Substantial Completion Date occurs.

(iii) The amount of the initial Operating Period Servicing Fee shall be adjusted in proportion to the aggregate percentage change in CPI from the calendar year during which the Effective Date occurs through the calendar year immediately preceding the calendar year during which such initial Operating Period Servicing Fee is due. The amount of each Operating Period Servicing Fee (other than the initial Operating Period Servicing Fee) shall be adjusted in proportion to the percentage change in CPI for the calendar year immediately preceding the calendar year for which such fee is due.

(iv) The Operating Period Servicing Fee due and payable with respect to the Federal Fiscal Year during which the Final Maturity Date occurs shall be equal to the pro-rated monthly portion of the then applicable Operating Period Servicing Fee multiplied by the number of partial or whole months remaining between October 1 and the Final Maturity Date.

(v) The WIFIA Lender shall notify the Borrower of the amount of each Operating Period Servicing Fee at least thirty (30) days before payment is due, which determination shall be conclusive absent manifest error.

(d) Reimbursement of Expenses. The Borrower agrees, whether or not the transactions hereby contemplated shall be consummated, to reimburse the WIFIA Lender on demand from time to time, within thirty (30) days after receipt of any invoice from the WIFIA Lender, for any and all fees, costs, charges, and expenses incurred by it (including the fees, costs, and expenses of its legal counsel, financial advisors, auditors and other consultants and advisors) in connection with the negotiation, preparation, execution, delivery, and performance of this Agreement and the other WIFIA Loan Documents and the transactions hereby and thereby contemplated, including attorneys', and engineers' fees and professional costs, including all such fees, costs, and expenses incurred as a result of or in connection with:

(i) the enforcement of or attempt to enforce any provision of this Agreement or any of the other WIFIA Loan Documents;

(ii) any amendment, modification, or requested amendment or modification of, waiver, consent, or requested waiver or consent under or with respect to, or the protection or preservation of any right or claim under, this Agreement, any other Related Document, or to the Net System Revenues, or advice in connection with the administration, preservation in full force and effect, and enforcement of this Agreement or any other Related Document or the rights of the WIFIA Lender thereunder; and

(iii) any work-out, restructuring, or similar arrangement of the obligations of the Borrower under this Agreement or the other WIFIA Loan Documents, including during the pendency of one or more System Events of Default or Project Events of Default.

The obligations of the Borrower under this Section 30 (*Fees and Expenses*) shall survive the payment or prepayment in full or transfer of the WIFIA Bond, the enforcement of any provision of this Agreement or the other WIFIA Loan Documents, any such amendments, waivers or consents, any System Event of Default or Project Event of Default, and any such workout, restructuring, or similar arrangement.

Section 31. Amendments and Waivers.

No amendment, modification, termination, or waiver of any provision of this Agreement shall in any event be effective without the written consent of each of the parties hereto.

Section 32. Governing Law.

This Agreement shall be governed by the federal laws of the United States of America if and to the extent such federal laws are applicable and the internal laws of the State, if and to the extent such federal laws are not applicable.

Section 33. Severability.

In case any provision in or obligation under this Agreement shall be invalid, illegal, or unenforceable in any jurisdiction, the validity, legality and enforceability of the

remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

Section 34. Successors and Assigns.

This Agreement shall be binding upon the parties hereto and their respective permitted successors and assigns and shall inure to the benefit of the parties hereto and their permitted successors and assigns. Neither the Borrower's rights or obligations hereunder nor any interest therein may be assigned or delegated by the Borrower without the prior written consent of the WIFIA Lender.

Section 35. Remedies Not Exclusive.

No remedy conferred herein or reserved to the WIFIA Lender is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

Section 36. Delay or Omission Not Waiver.

No delay or omission of the WIFIA Lender to exercise any right or remedy provided hereunder upon a default of the Borrower (except a delay or omission pursuant to a written waiver) shall impair any such right or remedy or constitute a waiver of any such default or acquiescence therein. Every right and remedy given by this Agreement or by law to the WIFIA Lender may be exercised from time to time, and as often as may be deemed expedient by the WIFIA Lender.

Section 37. Counterparts.

This Agreement and any amendments, waivers, consents or supplements hereto or in connection herewith may be executed in any number of counterparts and by the different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document. Electronic delivery of an executed counterpart of a signature page of this Agreement or of any document or instrument delivered in connection herewith in accordance with Section 38 (*Notices; Payment Instructions*) shall be effective as delivery of an original executed counterpart of this Agreement or such other document or instrument, as applicable.

Section 38. Notices; Payment Instructions.

Notices hereunder shall be (a) in writing, (b) effective as provided below and (c) given by (i) nationally recognized courier service, (ii) hand delivery, or (iii) email, in each case to:

If to WIFIA Lender:

Environmental Protection Agency
WIFIA Director
WJC-W 6201A
1200 Pennsylvania Avenue NW
Washington, DC 20460

Attention: Jorianne Jernberg
Email: WIFIA@epa.gov

If to Borrower:

Public Utilities Commission of the City and
County of San Francisco
525 Golden Gate Avenue
San Francisco, California 94102
Attention: Eric Sandler
Email: ESandler@sfgwater.org

If to the Trustee

U.S. Bank National Association
Global Corporate Trust and Escrow Services
One California Street, Suite 1000
San Francisco, CA 94111
Attention: Andrew Fung
Email: andrew.fung@usbank.com

Unless otherwise instructed by the WIFIA Lender's Authorized Representative, all notices to the WIFIA Lender should be made by email to the email address noted above for the WIFIA Lender. Notices required to be provided herein shall be provided to such different addresses or to such further parties as may be designated from time to time by a Borrower's Authorized Representative, with respect to notices to the Borrower, or by the WIFIA Lender's Authorized Representative, with respect to notices to the WIFIA Lender or the Servicer. The Borrower shall make any payments hereunder or under the WIFIA Bond in accordance with Section 9(e) (*Payment of Principal and Interest – Manner of Payment*) and the payment instructions hereafter provided by the WIFIA Lender's Authorized Representative, as modified from time to time by the WIFIA Lender. Each such notice, request or communication shall be effective (x) if delivered by hand or by nationally recognized courier service, when delivered at the address specified in this Section 38 (*Notices; Payment Instructions*) (or in accordance with the latest unrevoked written direction from the receiving party) and (y) if given by email, when such email is delivered to the address specified in this Section 38 (*Notices; Payment Instructions*) (or in accordance with the latest unrevoked written direction from the receiving party); provided, that notices received on a day that is not a Business Day or after 5:00 p.m. Eastern Time on a Business Day will be deemed to be effective on the next Business Day.

Section 39. Effectiveness.

This Agreement shall be effective on the Effective Date.

Section 40. Termination.

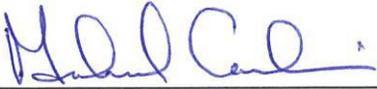
This Agreement shall terminate upon the irrevocable payment in full in cash by the Borrower of the Outstanding WIFIA Bond Balance, together with all accrued interest thereon and all fees and expenses hereunder; provided, however, that the indemnification requirements of Section 17 (*Indemnification*), the reporting and record keeping requirements of Section 21 (*Accounting and Audit Procedures; Inspections; Reports and Records*) and the payment requirements of Section 30 (*Fees and Expenses*) shall survive the termination of this Agreement as provided in such Sections.

Section 41. Integration.

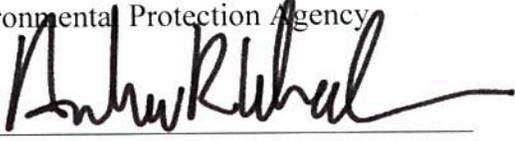
This Agreement constitutes the entire contract between the parties relating to the subject matter hereof and supersedes any and all previous agreements and understandings, oral or written, relating to the subject matter hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first written above.

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

By: 
Name: Michael Carlin
Title: Deputy General Manager
and Chief Operating
Officer

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY**, acting by and
through the Administrator of the
Environmental Protection Agency

By: 

Name: Andrew R. Wheeler

Title: Acting Administrator

SCHEDULE I
PROJECT BUDGET

SOURCES OF FUNDS	TOTAL (USD)	PERCENT
WIFIA Loan (Federal)	\$699,242,023.46	49%
WIFIA Ban Premium (Non-Federal)	\$10,695,179.99	1%
PUC Revenue Bonds (Non-Federal)	\$650,017,921.86	45%
PUC Cash (Non-Federal)	\$67,069,412.36	5%
Total Sources of Funds	\$1,427,024,537.67	100%
USES OF FUNDS	TOTAL (USD)	PERCENT
Project Management	\$50,670,370.00	4%
Planning	\$ 41,560,564.00	3%
Environmental	\$8,974,398.00	1%
Design and Construction	\$1,013,241,658.00	71%
Construction Management	\$88,000,000.00	6%
Contingency	\$74,000,000.00	5%
PUC Bond Interest During Construction	\$73,019,504.96	5%
BAN Interest During Construction	\$77,558,042.71	5%
Total Uses of Funds	\$1,427,024,537.67	100%
Total Eligible Project Costs	\$1,427,024,537.67	-
Total Project Costs	\$1,427,024,537.67	-

SCHEDULE II

PROJECT SCHEDULE

The Project Schedule, as of the Effective Date, is set forth below. The Borrower anticipates that the Project will achieve Substantial Completion (i.e., the stage at which the Project is considered to perform the functions for which the Project is designed) on the date indicated in the Project Schedule for “Construction Final Completion – Biosolids Digester Facilities” and not on the date indicated in the Project Schedule for “Construction Substantial Completion – Biosolids Digester Facilities.”

Activity ID	Activity	Approved Start	Forecast Start	Approved Finish	Forecast Finish	2018	2019	2020	2021	2022	2023	2024	2025	
SEP Biosolids Digester														
	<i>Project Management</i>	01-Jul-11	01-Jul-11 A	01-May-25	01-May-25									
	<i>Planning</i>	02-Jan-13	02-Jan-13 A	29-Jan-16	29-Jan-16 A									
	<i>Environmental</i>	24-Jun-15	24-Jun-15 A	31-Dec-18	31-Dec-18									
	<i>Right-of-Way</i>	04-Jan-16	04-Jan-16 A	31-Dec-18	31-Dec-18									
	<i>Design</i>	19-Jan-16	19-Jan-16 A	31-Dec-18	31-Dec-18									
	<i>Construction Management</i>	01-Aug-18	01-Aug-18	01-May-24	01-May-24									
	<i>Construction</i>	01-Aug-18	01-Aug-18	01-May-24	01-May-24									
CN1000	Construction - NTP - Biosolids Digester Facility	01-Aug-18	01-Aug-18*											
CN1000-D	Construction Duration - Biosolids Digester Facility	01-Aug-18	01-Aug-18	01-Aug-23	01-Aug-23									
CN1000-SC	Construction Substantial Completion - Biosolids Digester Facility			01-Aug-23	01-Aug-23									
CN1000-X	Construction Final Completion - Biosolids Digester Facility			01-May-24	01-May-24									
	<i>Close Out</i>	02-May-24	02-May-24	01-May-25	01-May-25									

Biosolids Digester Facilities Project

Run Date: 05-Jun-18
Data Date: 04-May-18

SCHEDULE III
EXISTING INDEBTEDNESS

A. Existing Parity Obligations

Title	Original Debt Amount	Final Maturity Date
2010 Revenue Bonds, Series A	\$47,050,000	10/01/2021
2010 Revenue Bonds, Series B	\$192,515,000	10/01/2040
2013 Revenue Bonds, Series A	\$193,400,000	10/01/2025
2013 Revenue Bonds, Series B	\$331,585,000	10/01/2042
2016 Revenue Bonds, Series A	\$240,580,000	10/01/2046
2016 Revenue Bonds, Series B	\$67,820,000	10/01/2046
State Water Board CWSRF 8064-110	\$7,435,000	07/31/2050
State Water Board CWSRF 8088-110	\$40,006,740	07/18/2049
State Water Board CWSRF 8129-110	\$20,199,435	02/28/2048
State Water Board CWSRF 8132-110	\$34,445,778	03/30/2048

B. Existing Subordinated Obligations

Title	Original Debt Amount	Final Maturity Date
Commercial Paper Subseries A-1, A-2, A-4, A-5, A-6 & A-7	\$675,000,000	06/02/2022
Revolving Credit Agreement, Series R-1	\$75,000,000	07/25/2020
2009 Certificates of Participation, Series C	\$38,120,000	11/01/2022
2009 Certificates of Participation, Series D	\$129,550,000	11/01/2041

SCHEDULE 13(n)

PRINCIPAL PROJECT CONTRACTS

A. The Existing Principal Project Contracts (effective as of the Effective Date) are as follows:

Contract	Date	Parties	Description
CM/GC Agreement, Contract No. WW-647R	June 8, 2017	Borrower and MWH Constructors & Webcor Builders, A Construction Joint Venture	Construction Manager/General Contractor (GM/GC) Agreement for pre-construction and construction services related to the Project.

B. Expected Additional Principal Project Contracts (expected to be executed and effective after the Effective Date) are as follows:

Contract	Date	Parties	Description
Construction Management Agreement, Contract No. PRO.0068		Borrower and Arcadis U.S., Inc.	Agreement for construction management staff and services to augment Borrower-led construction management team overseeing construction of the Project.

SCHEDULE 15(k)

RATE COVENANT

Section 6.13 of the Indenture, as in effect as of the Effective Date, is set forth below. As specified in Section 15(k)(i) (*Affirmative Covenants – Rate Covenant*), if and at such time as the Sixth Supplemental Indenture is adopted and becomes in full force and effect, the Borrower's obligations under the Rate Covenant shall be automatically amended in accordance with the amendments to Section 6.13 of the Indenture provided for under the Sixth Supplemental Indenture, as set forth in **Schedule 16(b)**.

All capitalized terms used below in this **Schedule 15(k)** have the meanings assigned to such terms in the Indenture. All section references made below in this **Schedule 15(k)** refer to sections in the Indenture.

SECTION 6.13. Amounts of Rates and Charges. (a) The Commission will, at all times while any of the Bonds remain outstanding, establish, fix, prescribe and collect rates, fees and charges in connection with the sanitary waste and storm water collection, treatment and disposal services and facilities furnished by the Enterprise so as to yield Revenues at least sufficient, after making reasonable allowances for contingencies and error in the estimates, calculated on a cash basis, to pay the following amounts:

(i) The interest on and principal of the Bonds as they become due and payable (but not including any interest moneys for the payment of which have been deposited in the Interest Fund from the proceeds of any Series of Bonds or from any other source).

(ii) All other payments required for compliance with the terms of this Indenture and of any Supplemental Indenture providing for the issuance of additional Series of Bonds pursuant to Article III.

(iii) All other payments to meet any other obligations of the Commission which are charges, liens or encumbrances upon, or payable from, the Revenues.

(iv) All current Operation and Maintenance Costs of the Enterprise (but not including such Operation and Maintenance Costs as are scheduled to be paid by the Commission from moneys other than Revenues, such moneys to be clearly available for such purpose).

(b) In addition to the requirements of the foregoing subsection (a), at all times while any of the Bonds remain Outstanding, rates, fees and charges in connection with the sanitary waste and storm water collection, treatment and disposal services and facilities furnished by the Enterprise shall be established, fixed, prescribed and collected so as to yield Net Revenues during the then immediately ensuing period of twelve months which (together with any fund balances of the Commission or the Enterprise which are available for payment of Debt Service

and are not budgeted to be expended during such twelve months but excluding the Bond Reserve Fund), calculated on a cash basis, are equal to at least 1.25 times Annual Debt Service (but excluding any interest moneys for the payment of which have been deposited in the Interest Fund from the proceeds of any Series of Bonds or from any other source) for said twelve-month period.

(c) The Commission 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 such rates, fees and charges below those then in effect unless the Revenues resulting after such reduced rates are put into effect will at all times be sufficient to meet the requirements of this Section.

SCHEDULE 16(a)

ADDITIONAL BONDS TEST

The applicable provisions of the Indenture for the issuance of Additional Parity Obligations, as in effect as of the Effective Date, are set forth below. As specified in Section 16(a)(i) (*Negative Covenants – Indebtedness*), if and at such time as the Sixth Supplemental Indenture is adopted and becomes in full force and effect, the Borrower's covenant under Section 16(a)(i) (*Negative Covenants – Indebtedness*) shall be automatically amended in accordance with the applicable amendments to the Indenture provided for under the Sixth Supplemental Indenture, as set forth in **Schedule 16(b)**.

All capitalized terms used below in this **Schedule 16(a)** have the meanings assigned to such terms in the Indenture. All section references made below in this **Schedule 16(a)** refer to sections in the Indenture.

SECTION 3.05. Issuance of Additional Bonds. In addition to the 2003 Refunding Series A Bonds, the Commission may, subject to the requirements of the Law, by Supplemental Indenture establish one or more other Series of Bonds payable from Net Revenues on a parity with the 2003 Refunding Series A Bonds and secured by a lien upon and pledge of Net Revenues equal to the lien and pledge securing the 2003 Refunding Series A 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 3.07, and subject to the following specific conditions, which are hereby made conditions precedent to the issuance of any such additional Series of Bonds:

(a) No Event of Default shall have occurred and be continuing under this Indenture or any Supplemental Indenture and no event shall have 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.

(b) The Supplemental Indenture providing for the issuance of such additional Series of Bonds shall require that the amount on deposit in the Bond Reserve Fund to be established pursuant to Section 5.02 be increased, if and to the extent necessary, immediately upon the receipt of the proceeds of the sale of such additional Series of Bonds, to an amount equal to the Required Reserve. This deposit may be made from such proceeds or any other source, as provided in the Supplemental Indenture.

(c) The Supplemental Indenture providing for the issuance of such additional Series of Bonds shall provide for the payment of interest and principal as follows:

(i) Principal on such Additional Bonds shall be payable either semiannually on April 1 and October 1 of each year in which principal falls due or annually on October

1 of each year in which principal falls due, and Term Bonds of any Series shall have a principal maturity date of October 1. Interest on such Additional Bonds that are Current Interest Bonds shall be payable semiannually on April 1 and October 1 of each year excepting the first year, provided that the first installment of interest shall be payable on either April 1 or October 1 and shall be for a period of not longer than twelve months and that the interest shall be payable thereafter semiannually on April 1 and October 1.

(ii) Notwithstanding subsection (i), the Supplemental Indenture authorizing the issuance of such Additional Bonds may provide for the payment of principal and interest on dates other than those specified in subsection (i) if the Supplemental Indenture provides for the monthly payment of a portion of interest and principal becoming due and payable on the succeeding Interest Payment Date and Principal Payment Date, as applicable, as set forth in detail in the Supplemental Indenture.

(iii) 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.

(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) After the sale of the Series of Additional Bonds proposed to be issued (but prior to the issuance and delivery thereof and receipt of payment therefor), the Commission shall file the following documents with the Trustee; these documents shall, with respect to such Series of Additional Bonds, be based upon the actual interest rate or rates determined at the time of sale thereof (except that, with respect to Variable Rate Indebtedness, the interest rate for the Series of Additional Bonds shall be calculated in accordance with the provisions of subsection (d) of the definitions of Average Annual Debt Service and Maximum Annual Debt Service).

(i) If any portion of the proceeds of such Series of Bonds is to be used to finance construction of a Project, a certificate of the Consulting Engineers setting forth (A) 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 (B) an estimate of the cost of construction of such portion of the Project and of any other uncompleted portion of the Project.

(ii) A Certificate of the Commission setting forth for each of the next three Fiscal Years (and 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

(A) Revenues, (B) Operation and Maintenance Costs of the Enterprise and (3) Net Revenues.

(iii) A Certificate of the Commission setting forth (A) the estimates of Net Revenues, as set forth in the Certificate of the Commission pursuant to paragraph (ii) above, for each of such three Fiscal Years (and, 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), (B) the Annual Debt Service for each of such 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 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 (C) demonstrating that the estimated Net Revenues (together with any fund balances of the Commission which are available for the payment of Debt Service but excluding the Bond Reserve Fund) in each of the Fiscal Years set forth in (ii) above is at least equal to 1.25 times the Annual Debt Service for such respective Fiscal Years.

(iv) A Certificate of the Commission that all of the requirements of this Section 3.05 have been met.

SECTION 3.06. Issuance of Additional Bonds for Refunding. In addition to the 2003 Refunding Series A Bonds, the Commission may, subject to the requirements of the Law, by Supplemental Indenture establish one or more other Series of Bonds payable from Net Revenues on a parity with the 2003 Refunding Series A Bonds and secured by a lien upon and pledge of Net Revenues equal to the lien and pledge securing the 2003 Refunding Series A 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 3.07, and subject to the following specific conditions, which are hereby made conditions precedent to the issuance of any such additional Series of Bonds:

(a) No Event of Default shall have occurred and be continuing under this Indenture or any Supplemental Indenture and no event shall have 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.

(b) The Supplemental Indenture providing for the issuance of such additional Series of Bonds shall require that the amounts on deposit in the Bond Reserve Fund to be established pursuant to Section 5.02 be increased, if necessary, upon the receipt of the proceeds of the sale of such additional Series of Bonds to an amount equal to the Required Reserve. This deposit may be made from such proceeds or any other source, as provided in the Supplemental Indenture.

(c) The Supplemental Indenture providing for the issuance of such additional Series of Bonds shall provide for the payment of interest and principal as follows:

(i) Principal on such Additional Bonds shall be payable either semiannually on April 1 and October 1 of each year in which principal falls due or annually on October 1 of each year in which principal falls due, and Term Bonds of any Series shall have a principal maturity date of October 1. Interest on such Additional Bonds that are Current Interest Bonds shall be payable semiannually on April 1 and October 1 of each year excepting the first year, provided that the first installment of interest shall be payable on either April 1 or October 1 and shall be for a period of not longer than twelve months and that the interest shall be payable thereafter semiannually on April 1 and October 1.

(ii) Notwithstanding subsection (i), the Supplemental Indenture authorizing the issuance of such Additional Bonds may provide for the payment of principal and interest on dates other than those specified in subsection (i) if the Supplemental Indenture provides for the monthly payment of a portion of interest and principal becoming due and payable on the succeeding Interest Payment Date and Principal Payment Date, as applicable, as set forth in detail in the Supplemental Indenture.

(iii) 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.

(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 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).

(g) After the sale of the additional Series of Bonds proposed to be issued (but prior to the issuance and delivery thereof and receipt of payment therefor), the Commission shall file the following documents with the Trustee; these documents 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.

(i) A Certificate of the Commission that all of the requirements of this Section 3.06 have been met.

(ii) A certificate of one or more Qualified Financial Advisors that the requirements of subsection (e) of this Section have been met.

SECTION 3.07. Proceedings for the Issuance of Additional Series of Bonds.

(a) Whenever the Commission determines to issue an additional Series of Bonds pursuant to Section 3.05 or 3.06, as the case may be, the Commission shall execute or adopt a Supplemental Indenture providing for the issuance of such additional Series of Bonds.

(b) Such Supplemental Indenture shall specify the maximum principal amount of Bonds of such Series, provide for the distinctive designation of Bonds of such Series, and prescribe the other terms and conditions of such additional Series of Bonds in accordance with this Indenture and subject to the provisions of Section 3.05 or 3.06, as the case may be. The Commission may by such Supplemental Indenture prescribe any 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.

(c) Before such additional Series of Bonds may be issued and delivered, the Commission shall file the following documents with the Trustee:

(i) 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; (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 Net Revenues as provided herein; and (4) that the issuance of the additional Series of Bonds will not adversely affect the exclusion from federal income taxation of interest on any Bonds then Outstanding.

(ii) The certificates and reports required by Section 3.05 (if the Additional Bonds constitute an additional lien on the Net Revenues) or 3.06 (if the Additional Bonds are issued to refund any Outstanding Bonds), as appropriate.

(iii) The Supplemental Indenture, duly executed or certified and approved by the Trustee.

(d) 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.

SECTION 3.08. 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 Net Revenues on a parity with the

Bonds only pursuant to Sections 3.05, 3.06 and 3.07, 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 3.05, 3.06 and 3.07 shall be applicable:

(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 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 Net Revenues on a subordinate basis to the payment of Debt Service on the Bonds.

In addition, the Commission may enter into additional Senior State Loans and into Parity State Loans if 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) and, in connection with the execution and delivery of such Senior State Loans or Parity State Loans, as applicable, the Commission delivers a Certificate to the Trustee setting forth, for each of the next three Fiscal Years after the delivery of the Senior State Loans or Parity State Loans, as applicable, (i) the Revenues, Operation and Maintenance Costs of the Enterprise and Net Revenues (assuming the delivery of the Senior State Loans, as applicable) and (ii) the Annual Debt Service (assuming the delivery of the Parity State Loans, as applicable), and demonstrating that the estimated Net Revenues (together with any fund balances of the Commission which are available for Debt Service, but excluding the Bond Reserve Fund), in each of such Fiscal Years is at least equal to 1.25 times the Annual Debt Service.

SCHEDULE 16(b)

FORM OF SIXTH SUPPLEMENTAL INDENTURE

SIXTH SUPPLEMENTAL INDENTURE

by and between

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

and

U.S. BANK NATIONAL ASSOCIATION, as Trustee

Dated _____

**PUBLIC UTILITIES COMMISSION OF THE
CITY AND COUNTY OF SAN FRANCISCO
CLEAN WATER REVENUE BONDS**

**(Amends and Supplements the Indenture dated as of January 1, 2003, as amended and
supplemented to the date hereof)**

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SIXTH SUPPLEMENTAL INDENTURE

(Amends and Supplements the Indenture dated as of January 1, 2003, as amended and supplemented to the date hereof)

This Sixth Supplemental Indenture, dated _____ (this “Sixth Supplemental Indenture”), is by and between PUBLIC UTILITIES COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO (the “Commission”), a commission duly constituted under the Charter (the “Charter”) of the City and County of San Francisco (the “City”), and U.S. BANK NATIONAL ASSOCIATION, a national banking association duly organized and existing under and by virtue of the laws of the United States of America, as trustee (the “Trustee”);

WITNESSETH:

WHEREAS, this Sixth Supplemental Indenture amends and supplements the Indenture, dated as of January 1, 2003, between the Commission and the Trustee, as amended by a First Amendment to Indenture dated as of May 1, 2010, and as supplemented by a First Supplemental Indenture, dated as of May 1, 2010, a Second Supplemental Indenture, dated as of January 1, 2013, a Third Supplemental Indenture, dated as of February 1, 2013, a Fourth Supplemental Indenture, dated as of May 1, 2016, as supplemented and amended by a Fifth Supplemental Indenture, dated as of September 14, 2017 (collectively, the “Original Indenture” and together with this Sixth Supplemental Indenture, the “Indenture”);

WHEREAS, under Section 9.01(a) of the Original Indenture the Commission may, pursuant to a Supplemental Indenture, amend certain provisions of the Original Indenture and the obligations of the Commission, the Owners and the Trustee thereunder when the written consents of the Owners of a majority in aggregate amount of the Bond Obligation then Outstanding shall have been filed with the Trustee;

WHEREAS, the Commission desires to amend the Original Indenture as set forth in this Sixth Supplemental Indenture which amendments will become effective as provided herein;

WHEREAS, all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and the entering into of this Sixth Supplemental Indenture do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Sixth Supplemental Indenture;

NOW, THEREFORE, the parties hereto agree, as follows:

ARTICLE I DEFINITIONS

SECTION 1.01. Definitions. All capitalized terms not otherwise defined herein shall have the meaning set forth in the Original Indenture.

ARTICLE II

AMENDMENTS TO BECOME EFFECTIVE PURSUANT TO SECTION 9.01(a) OF THE INDENTURE

SECTION 2.01. Effectiveness of Amendments in this Article II. The amendments to the Original Indenture set forth in this Article II shall become effective upon the receipt of the Trustee of all of the consents required under Section 9.01(a) of the Original Indenture. All Owners of any Bonds issued after the date hereof shall be deemed to have agreed to, accepted and consented to the amendments to the Original Indenture set forth in this Article II for all purposes of Sections 9.01 and 9.02 of the Original Indenture.

SECTION 2.02. Amendments to Section 1.01 of the Indenture. Upon the effectiveness of the amendments in this Article II: (i) there shall be added to the Original Indenture the definition of “Excluded Principal” and “SIFMA” having the definitions set forth below; (ii) all references to the term “Parity State Loans” in the Original Indenture shall be deemed to refer to “Parity Loans” and shall have the definition set forth below; and (iii) the definitions of “Annual Debt Service,” “Average Annual Debt Service,” “Bondowner,” “Owner” and “Maximum Annual Debt Service” in the Original Indenture shall be replaced by the definitions of such terms set forth below.

“Annual Debt Service” means the sum of principal and interest on all Outstanding Bonds and Parity Loans as computed for the twelve-month period ending June 30 to which reference is made, and calculated by the Commission using the following assumptions:

(a) In determining the principal amount due for such twelve-month period ending June 30, 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 the 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, but excluding Excluded Principal.

(b) If any Outstanding Bonds constitute Variable Rate Indebtedness, the interest rate shall, as of the date of calculation, be: (i) the greater of (a) the average SIFMA rate over the past 3 years times 150% or (b) 4 percent or (ii) if, designated in writing by the Commission in the Supplemental Indenture authorizing such Bonds (which the Commission must certify, in the case of obligations interest on which is not excluded from gross income for federal income tax purposes under the Code), a fixed rate of interest reasonably determined by the Commission for obligations with similar duration, which interest rate has been certified by a Qualified Financial Advisor as reasonable concurrent with the execution and delivery of such Supplemental Indenture.

(c) If Defeasance Obligations 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, or any amounts have been deposited in the Interest Fund from the proceeds of any Series of Bonds or from any other source to pay interest on such Bonds, then the principal and/or interest to be paid from such

Defeasance Obligations or from the earnings thereon, or from such amounts in the Interest Fund, shall be disregarded and not included in calculating Annual Debt Service.

(d) In determining the amount of interest coming due during any twelve-month period ending June 30 on any Series of Bonds that are issued as Build America Bonds or obligations issued under any future program similar to Build America Bonds, amounts equal to the Refundable Credits the Commission is scheduled to receive during each twelve-month period ending June 30 shall be deducted from such interest.

“Average Annual Debt Service” means, as of the date of calculation, total remaining 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, calculated by the Commission using the following assumptions:

(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, but excluding Excluded Principal.

(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 Average Annual Debt Service, such Bonds the principal of which the Commission has not specified as Excluded Principal will be amortized for a period specified by the Commission (but no longer than forty (40) years from the date of the issuance of the Bonds to which such Balloon Indebtedness relates) on a substantially level debt service basis or other amortization basis designated by the Commission, calculated based on a fixed rate equal to the rate at which the Commission could borrow for such period, as certified by a Qualified Financial Advisor.

(c) If any Outstanding Bonds constitute Variable Rate Indebtedness, the interest rate shall, as of the date of calculation, be: (i) the greater of (a) the average SIFMA rate over the past 3 years times 150% or (b) 4 percent or (ii) if, designated in writing by the Commission in the Supplemental Indenture authorizing such Bonds (which the Commission must certify, in the case of obligations interest on which is not excluded from gross income for federal income tax purposes under the Code), a fixed rate of interest reasonably determined by the Commission for obligations with similar duration, which interest rate has been certified by a Qualified Financial Advisor as reasonable concurrent with the execution and delivery of such Supplemental Indenture.

(d) If Defeasance Obligations 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, or any amounts have been deposited in the Interest Fund from the proceeds of any Series of Bonds or from any other source to pay interest on such Bonds, then the principal and/or interest to be paid from such Defeasance Obligations or from the earnings thereon, or from such amounts in the Interest Fund, shall be disregarded and not included in calculating Average Annual Debt Service.

(e) In determining the amount of interest coming due during any twelve-month period ending June 30 on any Series of Bonds that are issued as Build America Bonds or obligations issued under any future program similar to Build America Bonds, amounts equal to the Refundable Credits the Commission is scheduled to receive during each twelve-month period ending June 30 shall be deducted from such interest.

“Bondowner” or “Owner” means any person who is the registered owner of any Outstanding Bond, or the bearer of any Outstanding Bond that has a maturity of one year or less and is issued in bearer form, or with respect to any Parity Loan, the State of California (or any board, department or agency thereof) or the federal government (or any board, department or agency thereof), as applicable.

“Excluded Principal” means each payment of principal of Bonds with a remaining term, on the date of calculation, of not greater than 60 months and which the Commission specifies in a Certificate of the Commission and filed with the Trustee that the Commission intends to pay from the proceeds of Bonds or Parity Loans, other bonds, notes or other obligations of the Commission or moneys other than Net Revenues. No such determination shall affect the security for the Bonds, Senior State Loans or Parity Loans or the obligation of the Commission to pay the Bonds, Senior State Loans and Parity Loans from Net Revenues.

“Maximum Annual Debt Service” means, as of the date of calculation, the largest amount of Debt Service in the then current or any future Fiscal Year, calculated by the Commission using the following assumptions:

(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, but excluding Excluded Principal.

(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 Bonds the principal of which the Commission has not specified as Excluded Principal will be amortized for a period specified by the Commission (but no longer than forty (40) years from the date of the issuance of the Bonds to which such Balloon Indebtedness relates) on a substantially level debt service basis or other amortization basis designated by the Commission, calculated based on a fixed rate equal to the rate at which the Commission could borrow for such period, as certified by a Qualified Financial Advisor.

(c) If any Outstanding Bonds constitute Variable Rate Indebtedness, the interest rate shall, as of the date of calculation, be: (i) the greater of (a) the average SIFMA rate over the past 3 years times 150% or (b) 4 percent or (ii) if, designated in writing by the Commission in the Supplemental Indenture authorizing such Bonds (which the Commission must certify, in the case of obligations interest on which is not excluded from gross income for federal income tax purposes

under the Code), a fixed rate of interest reasonably determined by the Commission for obligations with similar duration, which interest rate has been certified by a Qualified Financial Advisor as reasonable concurrent with the execution and delivery of such Supplemental Indenture.

(d) If Defeasance Obligations 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, or any amounts have been deposited in the Interest Fund from the proceeds of any Series of Bonds or from any other source to pay interest on such Bonds, then the principal and/or interest to be paid from such Defeasance Obligations or from the earnings thereon, or from such amounts in the Interest Fund, shall be disregarded and not included in calculating Maximum Annual Debt Service.

(e) In determining the amount of interest coming due during any twelve-month period ending June 30 on any Series of Bonds that are issued as Build America Bonds or obligations issued under any future program similar to Build America Bonds, amounts equal to the Refundable Credits the Commission is scheduled to receive during each twelve-month period ending June 30 shall be deducted from such interest.

“Parity Loans” means those loan agreements entered into between the Commission and the State of California (or any board, department or agency thereof) or the federal government (or any board, department or agency thereof) to finance additions, betterments, extensions, repairs, renewals or replacements to the Enterprise, which are entered into after the issuance of the 2003 Refunding Series A Bonds and which, by their terms, are secured by a pledge and lien on Net Revenues on a parity basis with debt service on the Bonds. Parity Loans may be evidenced by or secured by Bonds.

“SIFMA” means, as of any date, the most recent rate determined on the basis of the seven-day high grade market index of tax-exempt variable rate demand obligations, as calculated and published by Bloomberg and made available by the Securities Industry and Financial Markets Association on its SIFMA Municipal Swap Index, or if the SIFMA Municipal Swap Index is no longer published or reported, the rate per annum published or reported on the S&P Municipal Bond 7 Day High Grade Rate Index, or if neither the SIFMA Municipal Swap Index nor the S&P Municipal Bond 7 Day High Grade Rate Index is published, a per annum rate equal to 60% of the yield of the three-month U.S. Treasury bill as reported as of the end of each trading day.

SECTION 2.03. Amendment to Section 3.05(d) of the Original Indenture. Section 3.05(d) of the Original Indenture is hereby amended and restated in its entirety to read as follows:

“(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; provided, however, that such requirement shall not apply to Balloon Indebtedness or principal amounts of such Series of Bonds which the Commission has specified as Excluded Principal.”

SECTION 2.04. Amendment to Section 3.05(f) of the Original Indenture. Section 3.05(f) of the Original Indenture is hereby amended and restated in its entirety to read as follows:

“(f) After the sale of the Series of Additional Bonds proposed to be issued (but prior to the issuance and delivery thereof and receipt of payment therefor), the Commission shall file the following documents with the Trustee; these documents shall, with respect to such Series of

Additional Bonds, be based upon the actual interest rate or rates determined at the time of sale thereof (except that, with respect to Variable Rate Indebtedness, the interest rate for the Series of Additional Bonds shall be calculated in accordance with the provisions of subsection (b) of the definition of Annual Debt Service).

(i) A Certificate of the Commission setting forth for each of the next three Fiscal Years estimates of (A) Revenues, (B) Operation and Maintenance Costs of the Enterprise and (3) Net Revenues.

(ii) A Certificate of the Commission demonstrating that (1) the ratio of (A) Net Revenues for the most recent Fiscal Year for which audited financial statements are available, or any consecutive twelve calendar month period during the eighteen calendar month period prior to the issuance of such additional Series of Bonds, to (B) Annual Debt Service for the current Fiscal Year, calculated as of the date of sale of, and including such additional Series of Bonds, will not be less than 1.25:1; or (2) the ratio of (A) Net Revenues projected by the Commission for each of the next three Fiscal Years as determined in Section 3.05(f)(i) above, and including in such projections amounts projected to be received from any adopted rate increases and fund balances of the Commission which are projected to be available for the payment of Debt Service (but excluding the Bond Reserve Fund), to (B) Annual Debt Service in each of such three Fiscal Years, calculated as of the date of sale of and including such additional Series of Bonds, will not be less than 1.25:1 in each of such Fiscal Years.”

SECTION 2.05. Amendment to Section 3.06(f) of the Original Indenture. Section 3.06(f) of the Original Indenture is hereby amended and restated in its entirety to read as follows:

“(f) After giving effect to the application of the proceeds of the additional Series of Bonds, either (i) Annual Debt Service will not be increased in any Fiscal Year (excluding Debt Service on the Outstanding Bonds to be refunded) in an amount in excess of 5% or (ii) 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).”

SECTION 2.06. Amendment to Section 3.08(b) of the Original Indenture. The second paragraph of Section 3.08(b) of the Original Indenture is hereby amended and restated in its entirety to read as follows:

“In addition, the Commission may enter into Parity Loans if 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 this Indenture or any Supplemental Indenture) and, on the date of the execution and delivery of such Parity Loans and with respect to Parity Loans executed and delivered prior to the effective date of the amendments set forth in Article II of the Sixth Supplemental Indenture, on the effective date of the amendments set forth in Article II of the Sixth Supplemental Indenture, the Commission delivers a Certificate to the Trustee setting forth, for each of the next three Fiscal Years after the delivery of the Parity Loans, and in the case of Parity Loans executed and delivered prior to the effective date of the amendments set forth in Article II of the Sixth Supplemental Indenture, the next three Fiscal Years, determined on such date, (i) the Revenues, Operation and Maintenance Costs of the Enterprise and

Net Revenues and (ii) the Annual Debt Service (assuming the delivery of the Parity Loans), and demonstrating that the estimated Net Revenues (together with any fund balances of the Commission, which are available for Debt Service, but excluding the Bond Reserve Fund), in each of such Fiscal Years is at least equal to 1.25 times the Annual Debt Service in each of such Fiscal Years.”

SECTION 2.07. Amendment to Section 6.13(a) of the Original Indenture. The first paragraph of Section 6.13(a) of the Original Indenture is hereby amended and restated in its entirety to read as follows:

“(a) To the fullest extent permitted by law, the Commission shall establish, fix and prescribe, prior to the commencement of each Fiscal Year, rates, fees and charges in connection with the sanitary waste and storm water collection, treatment and disposal services and facilities furnished by the Enterprise so as to yield Revenues at least sufficient, after making reasonable allowances for contingencies and error in the estimates to pay the following amounts:”

SECTION 2.08. Amendment to Section 6.13(b) of the Original Indenture. Section 6.13(b) of the Original Indenture is hereby amended and restated in its entirety to read as follows:

“(b) In addition to the requirements in subsection (a), to the fullest extent permitted by law, the Commission shall establish, fix and prescribe, prior to the commencement of each Fiscal Year, rates, fees and charges in connection with the sanitary waste and storm water collection, treatment and disposal services and facilities furnished by the Enterprise, which are reasonably expected to be at least sufficient to yield during such Fiscal Year Net Revenues (together with any fund balances of the Commission, which are available for Debt Service, but excluding the Bond Reserve Fund) equal to 1.25 times Annual Debt Service payable in such Fiscal Year.

Amendment to Section 6.13 of the Original Indenture. The following clause (d) is hereby added to Section 6.13 of the Original Indenture:

“(d) So long as the Commission has complied with its obligations set forth in clause (a) and clause (b) of this Section 6.13, the failure to yield the amount of Revenues as set forth in clause (a) of this Section 6.13, or the failure of Net Revenues to equal 1.25 times Annual Debt Service as set forth in clause (b) of this Section 6.13 at the end of a Fiscal Year, shall not constitute a default or an Event of Default hereunder so long as the Commission has complied with clause (a) and clause (b) of this Section 6.13 at the commencement of the succeeding Fiscal Year.”

ARTICLE III

MISCELLANEOUS

SECTION 3.01. Terms of 2018 Bonds Subject to the Indenture. Except as expressly amended by this Sixth Supplemental Indenture, the Original Indenture is hereby ratified and confirmed and shall continue in full force and effect in accordance with the terms and provisions thereof. The amendments set forth in this Sixth Supplemental Indenture shall be incorporated as part of the Original Indenture upon their effectiveness as set forth in Articles II and III above.

SECTION 3.02. Execution in Counterparts. This Sixth Supplemental Indenture may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

ARTICLE IV

ADDITIONAL CITY REQUIREMENTS

As used in this Article, “Agreement” means the Indenture.

To the extent of any inconsistency between this Article and provisions in Article XII, the provisions of this Article shall control.

SECTION 4.01. Local Business Enterprise Utilization; Liquidated Damages.

a. The LBE Ordinance

The Trustee shall comply with all the requirements of the Disadvantaged Business Enterprise Ordinance set forth in Chapter 14B of the San Francisco Administrative Code as it now exists or as it may be amended in the future (collectively the “LBE Ordinance”), provided such amendments do not materially increase the Trustee’s obligations or liabilities, or materially diminish the Trustee’s rights, under this Sixth Supplemental Indenture. Such provisions of the LBE Ordinance are incorporated by reference and made a part of this Sixth Supplemental Indenture as though fully set forth in this Section. The Trustee’s willful failure to comply with any applicable provision of the LBE Ordinance is a material breach of the Trustee’s obligations under this Sixth Supplemental Indenture and shall entitle City, subject to any applicable notice and cure provisions set forth in this Sixth Supplemental Indenture, to exercise any of the remedies provided for under this Sixth Supplemental Indenture, under the LBE Ordinance or otherwise available at law or in equity, which remedies shall be cumulative unless this Sixth Supplemental Indenture expressly provides that any remedy is exclusive. In addition, The Trustee shall comply fully with all other applicable local, state and federal laws prohibiting discrimination and requiring equal opportunity in contracting, including subcontracting.

b. Compliance and Enforcement

1. Enforcement

If the Trustee willfully fails to comply with any of the provisions of the LBE Ordinance, the rules and regulations implementing the LBE Ordinance, or the provisions of this Sixth Supplemental Indenture pertaining to LBE participation, the Trustee shall be liable for liquidated damages in an amount equal to the Trustee’s net profit on this Sixth Supplemental Indenture, or 10% of the total amount of this Sixth Supplemental Indenture, or \$1,000, whichever is greatest. The Director of the City’s Human Rights Commission or any other public official authorized to enforce the LBE Ordinance (separately and collectively, the “Director of HRC”) may also impose other sanctions against the Trustee authorized in the LBE Ordinance, including declaring the Trustee to be irresponsible and ineligible to contract with the City for a period of up to five years or revocation of the Trustee’s DBE certification. The Director of HRC will determine the sanctions to be imposed, including the amount of liquidated damages, after investigation pursuant to Administrative Code §14B.17.

By entering into this Sixth Supplemental Indenture, the Trustee acknowledges and agrees that any liquidated damages assessed by the Director of the HRC shall be payable to City upon demand. The Trustee further acknowledges and agrees that any liquidated damages assessed may be withheld from any monies due to the Trustee on any contract with City,

The Trustee agrees to maintain records necessary for monitoring its compliance with the LBE Ordinance for a period of three years following termination or expiration of this Sixth Supplemental Indenture, and shall make such records available for audit and inspection by the Director of HRC or the Controller upon request.

SECTION 4.02. Nondiscrimination; Penalties.

a. Trustee Shall Not Discriminate

In the performance of this Sixth Supplemental Indenture; the Trustee agrees not to discriminate against any employee, City and County employee working with such contractor or subcontractor, applicant for employment with such contractor or subcontractor, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HN status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

b. Subcontracts

The Trustee shall incorporate by reference in all subcontracts the provisions of §§12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code (copies of which are available from Purchasing) and shall require all subcontractors to comply with such provisions. The Trustee's failure to comply with the obligations in this subsection shall constitute a material breach of this Sixth Supplemental Indenture.

c. Nondiscrimination in Benefits

The Trustee does not as of the date of this Sixth Supplemental Indenture and will not during the term of this Sixth Supplemental Indenture, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in §12B.2(b) of the San Francisco Administrative Code.

d. Condition to Contract

As a condition to this Sixth Supplemental Indenture, the Trustee shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission.

e. Incorporation of Administrative Code Provisions by Reference

The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Sixth Supplemental Indenture as though fully set forth herein. The Trustee shall comply fully with and be bound by all of the provisions that apply to this Sixth Supplemental Indenture under such Chapters, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, the Trustee understands that pursuant to §12B.2(h) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Sixth Supplemental Indenture may be assessed against the Trustee and/or deducted from any payments due the Trustee.

SECTION 4.03. MacBride Principles-Northern Ireland. Pursuant to San Francisco Administrative Code §12F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles. By signing below, the person executing this Sixth Supplemental Indenture on behalf of the Trustee acknowledges and agrees that he or she has read and understood this Section.

SECTION 4.04. Tropical Hardwood and Virgin Redwood Ban. Pursuant to §804(b) of the San Francisco Environment Code, the City and County of San Francisco urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

SECTION 4.05. Drug-Free Workplace Policy. The Trustee acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. The Trustee agrees that any violation of this prohibition by the Trustee, its employees, agents or assigns will be deemed a material breach of this Sixth Supplemental Indenture.

SECTION 4.06. Compliance with Americans with Disabilities Act. The Trustee acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. The Trustee shall provide the services specified in this Sixth Supplemental Indenture in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. The Trustee agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Sixth Supplemental Indenture and further agrees that any violation of this prohibition on the part of the Trustee, its employees, agents or assigns will constitute a material breach of this Sixth Supplemental Indenture.

SECTION 4.07. Sunshine Ordinance. In accordance with San Francisco Administrative Code §67.24(e), contracts, contractors' bids, responses to solicitations and all other records of communications between City and persons or firms seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

SECTION 4.08. Limitations on Contributions. Through its execution of this Sixth Supplemental Indenture, the Trustee acknowledges that it is familiar with Section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves; or a board on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. The Trustee acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. The Trustee further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of the Trustee's board of directors; the Trustee's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in the Trustee; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by the Trustee. Additionally, the Trustee acknowledges that the Trustee must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126.

SECTION 4.09. Requiring Minimum Compensation for Covered Employees.

(a) The Trustee agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 12P are incorporated herein-by reference and made a part of this Sixth Supplemental Indenture as though fully set forth. The text of the MCO is available on the web at <http://www.sfgov.org/olse/mco>. A partial listing of some of the Trustee's obligations under the MCO is set forth in this Section. The Trustee is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this Section.

(b) The MCO requires the Trustee to pay the Trustee's employees a minimum hourly gross compensation wage rate and to provide minimum compensated and uncompensated time off. The minimum wage rate may change from year to year and the Trustee is obligated to keep informed of the then-current requirements. Any subcontract entered into by the Trustee shall require the subcontractor to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this Section. It is the Trustee's obligation to ensure that any subcontractors of any tier under this Sixth Supplemental Indenture comply with the requirements of the MCO. If any subcontractor under this Sixth Supplemental Indenture fails to comply, City may pursue any of the remedies set forth in this Section against the Trustee.

(c) The Trustee shall not take adverse action or otherwise discriminate against an employee or other person for the exercise or attempted exercise of rights under the MCO. Such actions, if taken within 90 days of the exercise or attempted exercise of such rights, will be rebuttably presumed to be retaliation prohibited by the MCO.

(d) The Trustee shall maintain employee and payroll records as required by the MCO. If the Trustee fails to do so, it shall be presumed that the Trustee paid no more than the minimum wage required under State law.

(e) The City is authorized to inspect the Trustee's job sites and conduct interviews with employees and conduct audits of the Trustee.

(f) The Trustee's commitment to provide the Minimum Compensation is a material element of the City's consideration for this Sixth Supplemental Indenture. The City in its sole discretion shall determine whether such a breach has occurred. The City and the public will suffer actual damage that will be impractical or extremely difficult to determine if the Trustee fails to comply with these requirements. The Trustee agrees that the sums set forth in Section 12P.6.1 of the MCO as liquidated damages are not a penalty, but are reasonable estimates of the loss that the City and the public will incur for the Trustee's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.

(g) The Trustee understands and agrees that if it fails to comply with the requirements of the MCO, the City shall have the right to pursue any rights or remedies available under Chapter 12P (including liquidated damages), under the terms of the contract, and under applicable law. If, within 30 days after receiving written notice of a breach of this Sixth Supplemental Indenture for violating the MCO, the Trustee fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, the Trustee fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion; the City shall have the right to pursue any rights or remedies available under applicable law, including those set forth in Section 12P.6(c) of Chapter 12P. Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

(h) The Trustee represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the MCO.

(i) The City may conduct random audits of the Trustee. Random audits shall be (i) noticed in advance in writing; (ii) limited to ascertaining whether Covered Employees are paid at least the minimum compensation required by the MCO; (iii) accomplished through an examination of pertinent records at a mutually agreed upon time and location within ten days of the written notice; and (iv) limited to one audit of the Trustee every two years for the duration of this Sixth Supplemental Indenture. Nothing in this Sixth Supplemental Indenture is intended to preclude the City from investigating any report of an alleged violation of the MCO.

SECTION 4.10. Requiring Health Benefits for Covered Employees. Unless exempt, the Trustee agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of Chapter 12Q are incorporated herein by reference and made a part of this Sixth Supplemental Indenture as though fully set forth. The text of the HCAO is available on the web at <http://www.sfgov.org/oca/lwlh.htm>. Capitalized terms used in this Section and not defined in this Sixth Supplemental Indenture shall have the meanings assigned to such terms in Chapter 12Q.

(a) For each Covered Employee, the Trustee shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If the Trustee chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission.

(b) Notwithstanding the above, if the Trustee is a small business as defined in Section 12Q.3(d) of the HCAO, it shall have no obligation to comply with part (a) above.

(c) The Trustee's failure to comply with the HCAO shall constitute a material breach of this Sixth Supplemental Indenture. City shall notify the Trustee if such a breach has occurred. If, within 30 days after receiving City's written notice of a breach of this Sixth Supplemental Indenture for violating the HCAO, the Trustee fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, the Trustee fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in 12Q.5(f)(1-5). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.

(d) Any Subcontract entered into by the Trustee shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. The Trustee shall notify City's Office of Contract Administration when it enters into such a Subcontract and shall certify to the Office of Contract Administration that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. The Trustee shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this Section against the Trustee based on the Subcontractor's failure to comply, provided that City has first provided the Trustee with notice and an opportunity to obtain a cure of the violation.

(e) The Trustee shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to the Trustee's noncompliance or anticipated noncompliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

(f) The Trustee represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

(g) The Trustee shall maintain employee and payroll records in compliance with the California Labor Code and Industrial Welfare Commission orders, including the number of hours each employee has worked on the City Contract.

(h) The Trustee shall keep itself informed of the current requirements of the HCAO.

(i) The Trustee shall provide reports to the City in accordance with any reporting standards promulgated by the City' under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

(j) The Trustee shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least ten business days to respond.

(k) The Trustee shall allow City to inspect the Trustee's job sites and have access to the Trustee's employees in order to monitor and determine compliance with HCAO.

(l) The City may conduct random audits of the Trustee to ascertain its compliance with HCAO. The Trustee agrees to cooperate with City when it conducts such audits.

(m) If the Trustee is exempt from the HCAO when this Sixth Supplemental Indenture is executed because its amount is less than \$25,000 (\$50,000 for nonprofits), but the Trustee later enters into an agreement or agreements that cause the Trustee's aggregate amount of all agreements with City to reach \$75,000, all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between the Trustee and the City to be equal to or greater than \$75,000 in the fiscal year.

SECTION 4.11. Prohibition on Political Activity with City Funds. In accordance with San Francisco Administrative Code Chapter 12.G, the Trustee may not participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure (collectively, "Political Activity") in the performance of the services provided under this Sixth Supplemental Indenture. The Trustee agrees to comply with San Francisco Administrative Code Chapter 12.G and any implementing rules and regulations promulgated by the City's Controller. The terms and provisions of Chapter 12.G are incorporated herein by this reference. In the event the Trustee violates the provisions of this Section, the City may, in addition to any other rights or remedies available hereunder, (i) terminate this Sixth Supplemental Indenture, and (ii) prohibit the Trustee from bidding on or receiving any new City contract for a period of two (2) years. The Controller will not consider the Trustee's use of profit as a violation of this Section.

SECTION 4.12. Conflict of Interest. Through its execution of this Sixth Supplemental Indenture, the Trustee acknowledges that it is familiar with the provisions of Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 *et seq.* and Section 1090 *et seq.* of the Government Code of the State of California, and certifies that it does not know of any facts which constitute a violation of said provision and agrees that it will immediately notify the City if it becomes aware of any such fact during the term of this Sixth Supplemental Indenture.

SECTION 4.13. Earned Income Credit (EIC) Forms. Administrative Code section 120 requires that employers provide their employees with IRS Form W5 (The Earned Income Credit Advance Payment Certificate) and the IRS EIC Schedule, as set forth below. Employers can locate these forms at the IRS Office, on the Internet, or anywhere that Federal Tax Forms can be found.

(a) The Trustee shall provide EIC Forms to each Eligible Employee at each of the following times: (i) within thirty days following the date on which this Sixth Supplemental Indenture becomes effective (unless the Trustee has already provided such EIC Forms at least once during the calendar year in which such effective date falls); (ii) promptly after any Eligible Employee is hired by the Trustee; and (iii) annually between January 1 and January 31 of each calendar year during the term of this Sixth Supplemental Indenture.

(b) Failure to comply with any requirement contained in subparagraph (a) of this Section shall constitute a material breach by the Trustee of the terms of this Sixth Supplemental Indenture. If, within thirty days after the Trustee receives written notice of such a breach; the Trustee fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty days, the Trustee fails to commence efforts to cure within such period or thereafter fails to diligently pursue such cure to completion, the City may pursue any rights or remedies available under this Sixth Supplemental Indenture or under applicable law.

(c) Any Subcontract entered into by the Trustee shall require the subcontractor to comply, as to the subcontractor's Eligible Employees, with each of the terms of this Section.

(d) Capitalized terms used in this Section and not defined in this Sixth Supplemental Indenture shall have the meanings assigned to such terms in Section 120 of the San Francisco Administrative Code.

SECTION 4.14. Preservative-treated Wood Containing Arsenic. The Trustee may not purchase preservative treated wood products containing arsenic in the performance of this Sixth Supplemental Indenture unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic; elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. The Trustee may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude the Trustee from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

SECTION 4.15. Nondisclosure of Private Information. The Trustee has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12M.2, "Nondisclosure of Private Information," and 12M.3, "Enforcement" of Administrative Code Chapter 12M, "Protection of Private Information," which are incorporated herein as if fully set forth. The Trustee agrees that any failure of the Trustee to comply with the requirements of Section 12M.2 of this Chapter shall be a material breach of this Sixth Supplemental Indenture. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate this Sixth Supplemental Indenture, bring a false claim action against the Trustee pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar the Trustee.

SECTION 4.16. Proprietary or Confidential Information of City. The Trustee understands and agrees that, in the performance of the work or services under this Sixth Supplemental Indenture or in contemplation thereof, the Trustee may have access to private or confidential information which may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. The Trustee agrees that all information disclosed by City to the Trustee shall be held in confidence and used only in performance of the Sixth Supplemental Indenture. The Trustee shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data.

SECTION 4.17. Compliance with Laws. The Trustee shall keep itself fully informed of the City’s Charter, codes, ordinances and regulations of the City and of all state, and federal laws in any manner affecting the performance of this Sixth Supplemental Indenture, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time.

SECTION 4.18. Works for Hire. If, in connection with services performed under this Sixth Supplemental Indenture, the Trustee or its subcontractors create artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, blueprints, source codes or any other original works of authorship, such works of authorship shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such works are the property of the City. If it is ever determined that any works created by the Trustee or its subcontractors under this Sixth Supplemental Indenture are not works for hire under U.S. law, the Trustee hereby assigns all copyrights to such works to the City, and agrees to provide any material and execute any documents necessary to effectuate such assignment. With the approval of the City, the Trustee may retain and use copies of such works for reference and as documentation of its experience and capabilities.

SECTION 4.19. Resource Conservation. Chapter 5 of the San Francisco Environment Code (“Resource Conservation”) is incorporated herein by reference. Failure by the Trustee to comply with any of the applicable requirements of Chapter 5 will be deemed a material breach of contract.

SECTION 4.20. Public Access to Meetings and Records. If the Trustee receives a cumulative total per year of at least \$250,000 in City funds or City-administered funds and is a non-profit organization as defined in Chapter 12L of the San Francisco Administrative Code; the Trustee shall comply with and be bound by all the applicable provisions of that Chapter. By executing this Sixth Supplemental Indenture, the Trustee agrees to open its meetings and records to the public in the manner set forth in §§12L.4 and 12L.5 of the Administrative Code. The Trustee further agrees to make good faith efforts to promote community membership on its Board of Directors in the manner set forth in §12L.6 of the Administrative Code. The Trustee acknowledges that its material failure to comply with any of the provisions of this paragraph shall constitute a material breach of this Sixth Supplemental Indenture. The Trustee further acknowledges that such material breach of this Sixth Supplemental Indenture shall be grounds for the City to terminate and/or not renew the agreement, partially or in its entirety.

SECTION 4.21. Guaranteed Maximum Costs.

(a) The City’s obligation hereunder shall not at any time exceed the amount certified by the Controller for the purpose and period stated in such certification.

(b) Except as may be provided by laws governing emergency procedures, officers and employees of the City are not authorized to request, and the City is not required to reimburse the Trustee for, commodities or services beyond the agreed upon contract scope unless the changed scope is authorized by amendment and approved as required by law.

(c) Officers and employees of the City are not authorized to offer or promise, nor is the City required to honor, any offered or promised additional funding in excess of the maximum

amount of funding for which the contract is certified without certification of the additional amount by the Controller.

(d) The Controller is not authorized to make payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.

SECTION 4.22. Submitting False Claims; Monetary Penalties. Pursuant to San Francisco Administrative Code §21.16, any contractor, subcontractor or consultant who submits a false claim shall be liable to the City for three times the amount of damages which the City sustains because of the false claim. A contractor, subcontractor or consultant who submits a false claim shall also be liable to the City for the costs, including attorneys' fees, of a civil action brought to recover any of those penalties or damages, and may be liable to the City for a civil penalty of up to \$10,000 for each false claim. A contractor, subcontractor or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor or consultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City; subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

SECTION 4.23. Agreement Made in California; Venue. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

SECTION 4.24. Ownership of Results. Any interest of the Trustee or its Subcontractors, in drawings, plans, specifications, blueprints, studies, reports, memoranda, computation sheets, computer files and media or other documents prepared by the Trustee or its subcontractors in connection with services to be performed under this Sixth Supplemental Indenture, shall become the property of and will be transmitted to City. However, the Trustee may retain and use copies for reference and as documentation of its experience and capabilities.

SECTION 4.25. Audit and Inspection of Records. The Trustee agrees to maintain and make available to the City, during regular business hours, accurate books and accounting records relating to its work under this Sixth Supplemental Indenture. The Trustee will permit City to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Sixth Supplemental Indenture, whether funded in whole or in part under this Sixth Supplemental Indenture. The Trustee shall maintain such data and records in an accessible location and condition for a period of not less than three years after final payment under this Sixth Supplemental Indenture or until after final audit has been resolved, whichever is later. The State of California or any federal agency having an interest in the subject matter of this Sixth Supplemental Indenture shall have the same rights conferred upon City by this Section.

SECTION 4.26. Subcontracting. The Trustee is prohibited from subcontracting this Sixth Supplemental Indenture or any part of it unless such subcontracting is first approved by City in writing. Neither party shall, on the basis of this Sixth Supplemental Indenture, contract on behalf of or in the name of the other party. An agreement made in violation of this provision shall confer no rights on any party and shall be null and void.

SECTION 4.27. Assignment. The services to be performed by Trustee are personal in character and neither this Sixth Supplemental Indenture nor any duties or obligations hereunder may be assigned or delegated by the Trustee unless first approved by the Commission and the City by written instrument executed and approved in the same manner as this Sixth Supplemental Indenture.

SECTION 4.28. Non-Waiver of Rights. The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

SECTION 4.29. City a Third Party Beneficiary. The City is hereby designated as a third party beneficiary for the purpose of enforcing all of the obligations of the Trustee contained in this Sixth Supplemental Indenture and to the extent that any other rights are given to the City hereunder.

SECTION 4.30. Food Service Waste Reduction Requirements. Effective June 1, 2007, the Trustee agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Sixth Supplemental Indenture as though fully set forth. This provision is a material term of this Sixth Supplemental Indenture. By entering into this Sixth Supplemental Indenture, the Trustee agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, the Trustee agrees that the sum of one hundred dollars (\$100) liquidated damages for the first breach, two hundred dollars (\$200) liquidated damages for the second breach in the same year, and five hundred dollars (\$500) liquidated damages for subsequent breaches in the same year is a reasonable estimate of the damage that the City will incur based on the violation, established in light of the circumstances existing at the time this Sixth Supplemental Indenture was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by the City because of the Trustee's failure to comply with this provision.

SECTION 4.31. Graffiti Removal. Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with the City's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and County and its residents, and to prevent the further spread of graffiti. The Trustee shall remove all graffiti from any

real property owned or leased by the Trustee in the City and County of San Francisco within forty eight (48) hours of the earlier of the Trustee's (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This Section is not intended to require the Trustee to breach any lease or other agreement that it may have concerning its use of the real property. The term "graffiti" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including by way of example only and without limitation, signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way. "Graffiti" shall not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San Francisco Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code sections 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.). Any failure of the Trustee to comply with this Section of this Sixth Supplemental Indenture shall constitute a material breach of this Sixth Supplemental Indenture.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed this Sixth Supplemental Indenture by their officers thereunto duly authorized as of the date and year first written above.

PUBLIC UTILITIES COMMISSION OF
THE CITY AND COUNTY OF SAN
FRANCISCO

By: _____
Deputy General Manager and Chief
Operating Officer of the Commission

ATTEST:

Secretary of the Public Utilities
Commission of the City and County
of San Francisco

Approved as to form:

Dennis J. Herrera, City Attorney

By: _____
Deputy City Attorney

U.S. BANK NATIONAL ASSOCIATION,
as trustee

By: _____
Vice President

EXHIBIT A

**FORM OF WIFIA SUPPLEMENTAL INDENTURE (INCLUDING WIFIA BOND
FORM)**

NINTH SUPPLEMENTAL INDENTURE

by and between

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

and

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

AUTHORIZING THE ISSUANCE OF NOT TO EXCEED

\$699,242,023

**Public Utilities Commission of the City and County of San Francisco
Wastewater Revenue Bonds
(2018 WIFIA Loan)**

Dated as of July 27, 2018

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NINTH SUPPLEMENTAL INDENTURE

THIS NINTH SUPPLEMENTAL INDENTURE, dated as of July 27, 2018 (this “Ninth Supplemental Indenture”), by and between the **PUBLIC UTILITIES COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO** (the “Commission”), a commission duly constituted under the Charter (the “Charter”) of the City and County of San Francisco (the “City”), and **U.S. BANK NATIONAL ASSOCIATION**, a national banking association duly organized and existing under and by virtue of the laws of the United States of America, as trustee (the “Trustee”);

WITNESSETH:

WHEREAS, this Ninth Supplemental Indenture is supplemental to the Indenture, dated as of January 1, 2003 (the “Original Indenture”), between the Commission and the Trustee, as amended by a First Amendment to Indenture dated as of May 1, 2010 (the “First Amendment”), and as supplemented by a First Supplemental Indenture, dated as of May 1, 2010, the Second Supplemental Indenture, dated as of January 1, 2013, the Third Supplemental Indenture, dated as of February 1, 2013, the Fourth Supplemental Indenture, dated as of May 1, 2016, the Fifth Supplemental Indenture, dated as of September 14, 2017, and the Sixth Supplemental Indenture, Seventh Supplemental Indenture and Eight Supplemental Indenture, each to be entered into on or about August 1, 2018, when and if the provisions of such Supplemental Indentures become effective (the Original Indenture and such aforementioned supplements, together with such other supplements or amendments as may be executed from time to time in accordance with the Original Indenture, the “Indenture”);

WHEREAS, pursuant to Section 8B.124 of the City Charter (“Proposition E”), the Commission has the authority to issue additional revenue bonds for the purpose of reconstructing, replacing, expanding, repairing or improving water facilities or clean water facilities, or combinations of water and clean water facilities under the jurisdiction of the Commission, subject to certain conditions, including, among others, the adoption of an ordinance by a two-thirds vote of the Board of Supervisors of the City, under such terms and conditions as the Commission may authorize;

WHEREAS, pursuant to Proposition E the Board of Supervisors on June 12, 2012, adopted Ordinance No. 115-12, which was signed by the Mayor on June 18, 2012, authorizing issuance of not to exceed \$522,810,000 of Bonds or other forms of indebtedness;

WHEREAS, pursuant to Proposition E the Board of Supervisors on June 24, 2014, adopted Ordinance No. 107-14, which was signed by the Mayor on July 2, 2014, authorizing issuance of not to exceed \$819,035,941 of Bonds or other forms of indebtedness;

WHEREAS, pursuant to Proposition E the Board of Supervisors on June 14, 2016, adopted Ordinance No. 111-16, which was signed by the Mayor on June 24, 2016, authorizing issuance of not to exceed \$1,112,601,280 of Bonds or other forms of indebtedness;

WHEREAS, pursuant to Proposition E the Board of Supervisors on June 12, 2018, adopted Ordinance No. 144-18, which was signed by the Mayor on June 20, 2018 (together with Ordinance No. 115-12, Ordinance No. 107-14 and Ordinance No. 111-16, the “Ordinances”),

authorizing issuance of not to exceed \$987,414,494 of Bonds, loans or other forms of indebtedness;

WHEREAS, the Indenture provides that the Commission may, subject to the requirements of the Law (as defined in the Indenture) and the Indenture, issue one or more other series of Bonds from time to time pursuant to a supplemental indenture;

WHEREAS, pursuant to the Ordinances and resolutions of the Commission, the Commission has determined to issue an additional Series of Bonds under this Ninth Supplemental Indenture designated “Public Utilities Commission of the City and County of San Francisco Wastewater Revenue Bonds (2018 WIFIA Loan)” in an aggregate principal amount not to exceed \$699,242,023 (excluding the Accreted Interest, as provided herein) (the “WIFIA Bond”), to, among other things, finance or refinance Eligible Project Costs (as defined herein) related to the design and construction of new solids treatment, odor control, energy recovery and associated facilities, known as the Biosolids Digester Facilities Project (the “Project”, as more fully described in the WIFIA Loan Agreement, defined below), at the Commission’s Southeast Water Pollution Control Plant located in the City;

WHEREAS, the Commission has determined to enter into a WIFIA Agreement, dated as of July 27, 2018 (the “WIFIA Loan Agreement”), by and between the Commission and the United States Environmental Protection Agency (the “EPA”), acting through the Administrator of the EPA, pursuant to which the EPA, subject to the terms and conditions of this Ninth Supplemental Indenture and the WIFIA Loan Agreement, will agree to purchase the WIFIA Bond, in one or more installments, from disbursements made from time to time under the WIFIA Loan Agreement;

WHEREAS, the WIFIA Bond will be issued by the Commission under the Indenture as a separate Series of Bonds payable on a parity with all other Outstanding Bonds issued thereunder;

WHEREAS, all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and the entering into of this Ninth Supplemental Indenture do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Ninth Supplemental Indenture;

NOW, THEREFORE, the parties hereto agree, as follows:

ARTICLE XLIII

DEFINITIONS

Section 43.01. Definitions. The terms defined in this section shall, for all purposes of this Ninth Supplemental Indenture, have the meanings herein specified, to be equally applicable to both the singular and the plural forms of any of the terms herein defined. Terms defined in the Indenture and not otherwise defined herein shall have the meanings specified therein.

Accreted Interest

“Accreted Interest” means the interest that is accrued on the WIFIA Bond and added to the Outstanding WIFIA Bond Balance on each Semi-Annual Payment Date occurring during the Capitalized Interest Period in accordance with the WIFIA Loan Agreement and Section 44.01(g).

Business Day

“Business Day”, for the purpose of this Ninth Supplemental Indenture, means any day other than a Saturday, a Sunday or a day on which offices of the United States Government or the State are authorized to be closed or on which commercial banks are authorized or required by law, regulation or executive order to be closed in New York, New York or San Francisco, California

Capitalized Interest Period

“Capitalized Interest Period” means the period from the first Disbursement Date to and including October 1, 2025, unless earlier terminated by written notice from the WIFIA Lender in accordance with the WIFIA Loan Agreement and Section 44.01(g).

Debt Service Payment Commencement Date

“Debt Service Payment Commencement Date” means April 1, 2026; provided that, if the Capitalized Interest Period ends prior to October 1, 2025 in accordance with the WIFIA Loan Agreement and Section 44.01(g), the Debt Service Payment Commencement Date shall be the first Semi-Annual Payment Date immediately following the end of the Capitalized Interest Period.

Disbursement Date

“Disbursement Date” means any date on which the WIFIA Lender purchases all or a portion of the WIFIA Bond with the proceeds of a disbursement provided under the WIFIA Loan Agreement in compliance with Section 44.03.

Eligible Project Costs

“Eligible Project Costs” shall have the meaning set forth in the WIFIA Loan Agreement.

Interest Fund

“Interest Fund” means the fund of that name established pursuant to Section 5.02 of the Indenture for the purposes specified in Section 5.03 of the Indenture.

Interest Only Period

“Interest Only Period” means the period commencing on the first Disbursement Date and ending on April 1, 2043, (or on such earlier date as all amounts due or to become due to the WIFIA Lender under the WIFIA Bond have been irrevocably paid in full in cash).

Minimum Sinking Fund Account Payment Schedule

“Minimum Sinking Fund Account Payment Schedule” means the schedule of required Minimum Sinking Fund Account Payments required to be made on each Semi-Annual Payment Date as set forth as Exhibit A-2 to the WIFIA Bond. The schedule will be initially calculated on each Disbursement Date in accordance with Section 44.01 and shall be subject to adjustment from time to time as provided in Section 44.05(c).

Net Loss Proceeds

“Net Loss Proceeds” shall the meaning set forth in the WIFIA Loan Agreement.

Outstanding WIFIA Bond Balance

“Outstanding WIFIA Bond Balance” means, as of the date of calculation, the sum of (a) the aggregate principal amount of the WIFIA Bond purchased and sold on each Disbursement Date to the WIFIA Lender (*i.e.*, the sum of the funds received by the Trustee from the WIFIA Lender on each such Disbursement Date), plus (b) the Accreted Interest added to the principal balance of the WIFIA Bond on each Semi-Annual Payment Date occurring during the Capitalized Interest Period, which shall be the sum of (i) the interest accrued since the last Semi-Annual Payment Date on the Outstanding WIFIA Bond Balance as of such Semi-Annual Payment Date, and (ii) if any Disbursement Date has occurred since the last Semi-Annual Payment Date, the interest accrued on the amount of the proceeds of each disbursement since the applicable Disbursement Date, minus (c) the aggregate principal amount of the WIFIA Bond paid or redeemed by the Commission on each Semi-Annual Payment Date or any redemption date, if earlier.

Principal Fund

“Principal Fund” means the fund of that name established pursuant to Section 5.02 of the Indenture for the purposes specified in Section 5.04 of the Indenture.

Principal Payment Date

“Principal Payment Date” shall have the meaning set forth in Section 44.01(h).

Project

“Project” shall have the meaning set forth in the preambles of this Ninth Supplemental Indenture.

Semi-Annual Payment Date

“Semi-Annual Payment Date” means each April 1 and October 1, commencing on the first such date following the first Disbursement Date.

Sixth Supplemental Indenture

“Sixth Supplemental Indenture” means the Sixth Supplemental Indenture to the Indenture to be entered into on or about August 1, 2018 between the Borrower and the Trustee, subject to the provisions of Article IX of the Indenture, in the form set forth as Schedule 16(b) to the WIFIA Loan Agreement.

WIFIA Bond

“WIFIA Bond” means, collectively, the Public Utilities Commission of the City and County of San Francisco Wastewater Revenue Bonds (2018 WIFIA Loan) issued pursuant to the terms of this Ninth Supplemental Indenture.

WIFIA Bond Default Rate

“WIFIA Bond Default Rate” means an interest rate equal to the sum of the (a) WIFIA Interest Rate plus (b) 200 basis points.

WIFIA Bond Final Maturity Date

“WIFIA Bond Final Maturity Date” means April 1, 2059, or if earlier, thirty-five years following the Substantial Completion Date (as defined in the WIFIA Loan Agreement). If the WIFIA Bond Final Maturity Date is earlier than April 1, 2059, the Final Maturity Date shall be shown on the revised Minimum Sinking Fund Account Payment Schedule delivered to the Trustee pursuant to Section 44.05(c).

WIFIA Interest Rate

“WIFIA Interest Rate” means rate of [●] percent ([●]%) per annum.

WIFIA Lender

“WIFIA Lender” means the registered owner of the WIFIA Bond, being initially, the United States Environmental Protection Agency (the “EPA”), an agency of the United States of America, acting by and through the Administrator of the EPA, and, if the conditions to transfer of the WIFIA Bond set forth in Section 44.02(c) hereof are satisfied, any registered assign.

WIFIA Lender’s Authorized Representative

“WIFIA Lender’s Authorized Representative” shall have the meaning set forth in the WIFIA Loan Agreement.

WIFIA Loan Agreement

“WIFIA Loan Agreement” shall have the meaning set forth in the Preambles hereto.

WIFIA Payment Default

“WIFIA Payment Default” shall mean a Payment Default as defined in the WIFIA Loan Agreement.

WIFIA Project Account

“WIFIA Project Account” means the account by that name established within the Capital Project Fund pursuant to Section 44.04.

WIFIA Project Event of Default

“WIFIA Project Event of Default” shall mean a Project Event of Default as defined in the WIFIA Loan Agreement.

WIFIA Sinking Fund Account

“WIFIA Sinking Fund Account” means the account by that name established within the Principal Fund pursuant to Section 44.01(j).

WIFIA System Event of Default

“WIFIA System Event of Default” shall mean a System Event of Default as defined in the WIFIA Loan Agreement.

ARTICLE XLIV

WIFIA BOND PROVISIONS

Section 44.01. Authorization and Terms of the WIFIA Bond.

(a) A Series of Bonds is hereby created and such Bonds are designated as the “Public Utilities Commission of the City and County of San Francisco Wastewater Revenue Bonds (2018 WIFIA Loan),” which shall be a Series of Clean Water Revenue Bonds issued under the Indenture. The aggregate initial principal amount of the WIFIA Bond that may be issued to the WIFIA Lender under this Ninth Supplemental Indenture shall not exceed \$699,242,023.00 (excluding the Accreted Interest, as provided herein, the “Maximum Initial Principal Amount”).

(b) The WIFIA Bond shall be initially issued as a single, fully registered Bond without coupons, registered in the name of the WIFIA Lender, in an aggregate principal amount not to exceed the Maximum Initial Principal Amount. The WIFIA Bond may be issued in any denomination representing a multiple of \$1.

(c) The WIFIA Bond shall constitute a Capital Appreciation Bond during the Capitalized Interest Period, and thereafter shall automatically convert to a Current Interest Bond and Term Bond.

(d) The WIFIA Bond will accrue interest on the Outstanding WIFIA Bond Balance, from (and including) the first Disbursement Date, at the WIFIA Interest Rate (unless the WIFIA Bond Default Rate is in effect, as hereinafter provided). Interest will accrue and be computed on the Outstanding WIFIA Bond Balance from time to time on the basis of a 360-day year of twelve (12) thirty (30) day months, and will be compounded semi-annually on each Semi-Annual Payment Date occurring during the Capitalized Interest Period; provided that, in the event of any WIFIA Payment Default or any WIFIA Project Event of Default, the WIFIA Bond shall bear interest on the Outstanding WIFIA Bond Balance at the WIFIA Bond Default Rate, (a) in the case of any WIFIA Payment Default, from (and including) its due date to (but excluding) the date of any payment so due, and (b) in the case of any WIFIA Project Event of Default, from (and including) the date of such occurrence until (and excluding) the date such WIFIA Project Event of Default has been cured in accordance with the terms of the WIFIA Loan Agreement. The WIFIA Lender shall give notice to the Trustee and the Commission of any Payment Default or Project Event of Default, which notice shall specify the effective date of the WIFIA Bond Default Rate and shall be deemed conclusive by the Trustee absent manifest error. No failure or delay on the part of the WIFIA Lender in providing such notice, nor any defect in such notice shall affect in any manner the Commission's obligations hereunder or under the WIFIA Bond.

(e) Within thirty (30) days following each Disbursement Date, each Semi-Annual Payment Date, and each redemption date, the WIFIA Lender shall make a notation on the WIFIA Bond of the Outstanding WIFIA Bond Balance as of such Disbursement Date, Semi-Annual Payment Date or redemption date (as the case may be) and shall give written notice to the Commission and the Trustee stating the Outstanding WIFIA Bond Balance as of such date, which statement and notation thereof shall be deemed conclusive absent manifest error; provided, however, that no failure to make such notation or any delay in giving such notice or in making such notation shall affect any of the obligations of the Commission hereunder or under the WIFIA Bond. To avoid any ambiguity, the notation made by the WIFIA Lender of the Outstanding WIFIA Bond Balance during the Capitalized Interest Period shall reflect the Accreted Value of the WIFIA Bond as of the relevant Semi-Annual Payment Date.

(f) The WIFIA Bond shall mature on the WIFIA Bond Final Maturity Date, subject to earlier redemption as provided herein.

(g) No payment of the principal of or interest on the WIFIA Bond will be required to be made by the Commission during the Capitalized Interest Period, and during the Capitalized Interest Period interest will accrue on the Outstanding WIFIA Bond Balance and will compound and be added to the Outstanding WIFIA Bond Balance on each Semi-Annual Payment Date. Notwithstanding the foregoing, the Capitalized Interest Period shall end immediately upon written notification to the Commission and the Trustee by the WIFIA Lender in accordance with the WIFIA Loan Agreement that a WIFIA System Event of Default or a WIFIA Project Event of Default has occurred, in which case the Capitalized Interest Period shall cease and interest on the WIFIA Bond (accrued since the last Semi-Annual Payment Date) shall be payable on the next Semi-Annual Payment Date following such termination and notification by the WIFIA Lender.

(h) Commencing on the Debt Service Commencement Date and on each successive Semi-Annual Payment Date through the end of the Interest Only Period, the Commission will pay interest accrued on the Outstanding WIFIA Bond Balance through (but not including) such Semi-Annual Payment Date. Commencing on the first Semi-Annual Payment Date following the end of the Interest Only Period, the Commission will pay interest on the Outstanding WIFIA Bond Balance together with the Minimum Sinking Fund Account Payment due on each such Semi-Annual Payment Date (each of such Semi-Annual Payments Dates being referred to as a “Principal Payment Date”) in accordance with the Minimum Sinking Fund Account Payment Schedule established pursuant to Section 44.05(c).

(i) The principal of, redemption price, and interest on the WIFIA Bond shall be payable by wire transfer in immediately available funds in US Dollars in accordance with the payment instructions in Section 44.08 and no presentation of the WIFIA Bond shall be required for any such payment, except that the final payment of the WIFIA Bond shall be made upon or following presentation of the WIFIA Bond for cancellation at the corporate trust office of the Trustee.

(j) In accordance with Section 5.03 and Section 5.04 of the Indenture, the Commission shall deposit with the Trustee, on or before five Business Days prior to each Semi-Annual Payment Date the amount of interest and principal (or Minimum Sinking Fund Account Payment) required to be paid on the WIFIA Bond. Upon receipt, the Trustee shall deposit such amounts into the Interest Fund and into the WIFIA Sinking Fund Account of the Principal Fund (which WIFIA Sinking Fund Account the Commission hereby instructs the Trustee to create and maintain). On each Semi-Annual Payment Date, the Trustee shall remit such payment of interest and principal to the WIFIA Lender in accordance with Section 5.03 and Section 5.04 of the Indenture and Section 44.08; provided that, if if any such date is not a Business Day, payment shall be made on the next Business Day following such date.

(k) Notwithstanding anything herein to the contrary, the Outstanding WIFIA Bond Balance and any accrued interest thereon shall be due and payable in full on the WIFIA Bond Final Maturity Date, unless required to be paid earlier due to acceleration or otherwise.

Section 44.02. Form of Bond; Execution and Authentication; Transferability.

(a) The WIFIA Bond and the Trustee’s certificates of authentication and registration and the form of assignment to appear thereon shall be in substantially the form set forth as Exhibit A to this Ninth Supplemental Indenture, with necessary or appropriate variations, omissions and insertions as permitted or required by this Ninth Supplemental Indenture.

(b) At any time on or after the date of execution of this Ninth Supplemental Indenture and the WIFIA Loan Agreement, the Commission may execute and, upon a Written Request of the Commission, the Trustee shall authenticate and deliver WIFIA Bond to the WIFIA Lender.

(c) The WIFIA Bond is transferable by the registered owner hereof in person or by his attorney duly authorized in writing, at the principal corporate trust office of the Trustee

in San Francisco, California, but only in the manner and upon payment of the charges provided in the Indenture, upon surrender and cancellation of the WIFIA Bond and upon presentation to the Trustee of a Written Certificate from the Commission confirming that the transfer complies with the terms of the WIFIA Loan Agreement, upon which the Trustee shall authenticate and deliver a new WIFIA Bond or Bonds of the same series in authorized denominations, and in an aggregate principal amount equal to the Outstanding WIFIA Bond Balance of the WIFIA Bond so transferred. If less than the entire Outstanding WIFIA Bond Balance of the WIFIA Bond is so transferred, the Trustee shall authenticate and deliver a separate WIFIA Bond or Bonds of the same series to each of the transferor and transferee, reflecting the Outstanding WIFIA Bond Balance on each such Bond and the revised Minimum Sinking Fund Account Payments applicable to such Bond. The provisions set forth in this section shall apply to all subsequent transfers following the initial transfer.

Section 44.03. Conditions to Each Disbursement and Issuance (or Increase) of the WIFIA Bond; Application of Proceeds. On each Disbursement Date, the outstanding principal amount of the WIFIA Bond shall be increased, and the WIFIA Bond shall be deemed purchased and delivered to the WIFIA Lender in an amount equal to the purchase price received by the Trustee from the WIFIA Lender, provided that the Commission has filed with the Trustee, with copies to the WIFIA Lender, the following:

(a) The certificates required by (1) Section 3.05(f) of the Indenture and, if the WIFIA Bond is being issued to refund one or more Series of Bonds, Section 3.06(g) of the Indenture, or (2) if the provisions of the Sixth Supplemental Indenture shall become effective, Section 3.08 of the Indenture;

(b) A Certificate of an Authorized Officer (i) stating the principal amount of the WIFIA Bond to be deemed purchased, issued and delivered on such date; and (ii) certifying (A) that no Event of Default shall have occurred and be continuing under the Indenture and no event shall have occurred which, but for the passage of time or the giving of notice would constitute an Event of Default under the Indenture and (B) all other conditions precedent to the issuance of the WIFIA Bond in such principal amount have been satisfied;

(c) An amended Exhibit A-2 to the WIFIA Bond, approved by the WIFIA Lender, showing the Minimum Sinking Fund Account Payments required to be paid on the WIFIA Bond (as increased on such Disbursement Date) on each Principal Payment Date, as required and calculated pursuant to Section 44.05(c); and

(d) An Opinion of Counsel substantially to the following effect:

1. This Ninth Supplemental Indenture is in compliance with the requirements of the Indenture;

2. Upon receipt by the Trustee of the portion of the purchase price of the WIFIA Bond on the Disbursement Date, the WIFIA Bond, delivered to the WIFIA Lender in connection with the execution of the WIFIA Loan Agreement, in the principal amount deemed purchased by the WIFIA Lender as of such Disbursement Date, including any amount purchased on any prior Disbursement Date and any Accreted Interest thereon, will have been duly authorized, executed and delivered by, and will constitute the valid and binding limited obligation of, the Commission, as a Bond entitled to the benefits of a Bond under the Indenture, enforceable under the laws of the State without any further action by the Commission or any other Person;

3. The Indenture has been duly authorized, executed and delivered by, and constitutes the valid and binding obligation of, the Commission. The Indenture creates a valid pledge of the Net Revenues of the Enterprise, which pledge constitutes a lien on and security interest in the Net Revenues, to secure the payment of the principal of, and interest on the WIFIA Bond, as and to the extent set forth in the Indenture and subject to the provisions of the Indenture permitting the application thereof for the purposes and on the terms and conditions set forth therein, irrespective of whether any party has notice of the pledge and without the need for any physical delivery, recordation, filing or further act to perfect such assignment or pledge;

4. The WIFIA Bond is a limited obligation of the Commission and is payable exclusively from and is secured by a pledge of the Net Revenues of the Enterprise on a parity with all other Bonds issued under the Indenture, including any Additional Bonds, in right of payment and right of security. The general fund of the City is not liable and the credit or taxing power of the City is not pledged for the payment of the WIFIA Bond or the interest thereon. The Commission has no taxing power. The WIFIA Bond is not secured by a legal or equitable pledge of, or charge, lien or encumbrance upon, any of the property of the City or of the Commission or any of its income or receipts, except the Net Revenues. All actions by the Commission that are required for the application of Net Revenues as required under the Indenture and under the WIFIA Loan Agreement have been duly and lawfully made; and

5. The WIFIA Bond, in the principal amount deemed purchased, issued and delivered to the WIFIA Lender on the Disbursement Date, will not adversely affect the exclusion from federal income taxation of any Bonds Outstanding.

Upon the delivery of such purchase price to the Trustee in immediately available funds and receipt of the foregoing documents and opinion, the Trustee shall make a notation in its registration books of the principal amount of the WIFIA Bond so purchased and delivered on such date and the resulting Outstanding WIFIA Bond Balance on such date, and the WIFIA Lender shall make similar notation on the WIFIA Bond, all in accordance with Section 44.01(c); provided that the failure of the WIFIA Lender to make such notation shall not affect in any manner the Commission's obligations hereunder or under the WIFIA Bond. The notation in the registration book of the Trustee shall also serve to authenticate the WIFIA Bond deemed issued, purchased and delivered on such date, regardless of the date of the original authentication on the WIFIA Bond.

The Trustee shall transfer the purchase price received from the WIFIA Lender on the Disbursement Date to the Commission for deposit by the Commission into the WIFIA Project Account or as otherwise instructed by the Commission. The Treasurer shall disburse amounts in the WIFIA Project Account as specified in a Written Requisition of the Commission.

Section 44.04. Establishment and Application of the WIFIA Project Account. The Commission hereby covenants and agrees to establish, maintain and hold hereunder within the Capital Project Fund, established under Section 3.04 of the Indenture, a separate account known as the “WIFIA Project Account” (herein called the “WIFIA Project Account”). The Treasurer shall hold the amounts on deposit in the WIFIA Project Account, which shall be maintained and accounted for by the Controller so long as any moneys are on deposit therein. Upon completion of the Project, the Commission may direct the transfer of any remaining balance in the WIFIA Project Account to any other lawfully available fund or account of the Commission.

The moneys in the WIFIA Project Account shall be held by the Treasurer in trust and applied to the Eligible Project Costs. All moneys held by the Treasurer in the WIFIA Project Account may be invested in Permitted Investments maturing not later than the date on which such moneys are required for payment by the Treasurer. The Treasurer shall pay out moneys from the WIFIA Project Account only upon warrants drawn by the Controller in the manner provided by law. No withdrawals shall be made from the WIFIA Project Account for any purpose not authorized by law.

Section 44.05. Terms of Redemption.

(a) *Optional Redemption.* The WIFIA Bond shall be subject to redemption prior to the WIFIA Bond Final Maturity Date, at the option of the Commission, from and to the extent of any source of available funds, as a whole or in part, on any date in principal amounts of \$1,000,000 or any integral multiple of \$1 in excess thereof, at a redemption price equal to 100% of the principal amount of the WIFIA Bond to be redeemed, plus accrued interest thereon to the date fixed for redemption, without premium. Each optional redemption of the WIFIA Bond shall be made on such date and in such principal amount as shall be specified by the Commission in a written notice delivered to the WIFIA Lender and the Trustee. In the case of any such optional redemption, such written notice shall be delivered to the WIFIA Lender and the Trustee not less than ten (10) days nor more than thirty (30) days prior to the date set for redemption, unless otherwise agreed by the WIFIA Lender with notice to the Trustee. At any time between delivery of such written notice and the applicable optional redemption date, the Commission may, without penalty or premium, rescind its notice of optional redemption by further written notice to the WIFIA Lender and the Trustee. Anything in this Indenture to the contrary notwithstanding, the failure by the Commission to make any optional redemption on the WIFIA Bond shall not constitute a breach or default under the Indenture.

(b) *Extraordinary Redemption from Net Loss Proceeds.* The WIFIA Bond shall be subject to redemption prior to its stated maturity, in whole or in part, at a redemption price equal to 100% of the principal amount of the WIFIA Bond to be redeemed, plus accrued interest thereon to the date fixed for redemption, without premium, from Net Loss Proceeds in accordance with the WIFIA Loan Agreement and Section 6.20 of the Indenture. The Commission shall provide, or shall cause the Trustee to provide, written notice to the WIFIA

Lender at least two (2) Business Days prior to the date on which it makes any such redemption; provided that the Borrower's failure to deliver such notice shall not diminish, impair or otherwise affect the Commission's obligation to make any such redemption as and when the circumstances requiring such redemption have occurred under the WIFIA Loan Agreement and the Indenture.

(c) *Minimum Sinking Fund Account Redemption.* The WIFIA Bond shall be subject to mandatory redemption from Minimum Sinking Fund Account Payments on each Principal Payment Date. The Minimum Sinking Fund Account Payment with respect to the WIFIA Bond on each Principal Payment Date shall equal the product of the Outstanding WIFIA Bond Balance as of the end of the Capitalized Interest Period times the percentage set forth on Exhibit A-2 to the WIFIA Bond for such Principal Payment Date. On or before each Disbursement Date, the Commission will provide to the Trustee and the WIFIA Lender an amended Minimum Sinking Fund Account Payment Schedule, approved by the WIFIA Lender, showing the Minimum Sinking Fund Account Payments required to be paid on the WIFIA Bond (as increased on such Disbursement Date) on each Principal Payment Date (assuming that the Capitalized Interest Period ends on October 1, 2025). Not later than thirty (30) days following the end of the Capitalized Interest Period, or, in the event the WIFIA Bond (or any portion thereof) is deemed purchased and delivered after the end of the Capitalized Interest Period, on or before the Disbursement Date, the Commission will provide to the Trustee and the WIFIA Lender an amended Minimum Sinking Fund Account Payment Schedule, approved by the WIFIA Lender, showing the Minimum Sinking Fund Account Payments required to be paid on each Principal Payment Date. If the WIFIA Bond Final Maturity Date is determined under the WIFIA Loan Agreement to be earlier than April 1, 2059, the applicable percentages shown in the Minimum Sinking Fund Account Payment Schedule shall be amended so that the percentage allocated to any Principal Payment Date following the earlier WIFIA Bond Final Maturity Date will be allocated pro-rata among the Principal Payment Dates occurring prior to the earlier WIFIA Bond Final Maturity Date, and such calculations shall be included by the Commission in the amended Exhibit A-2 provided to the Trustee and the WIFIA Lender pursuant to the preceding sentence, as approved by the WIFIA Lender. In addition, if the WIFIA Bond is redeemed in part pursuant to clauses (a) or (b) of this Section 44.05, each such partial redemption shall result in a reduction of the Minimum Sinking Fund Account Payments on a pro rata basis (or in such other manner approved by the WIFIA Lender) and the Commission shall provide to the Trustee and the WIFIA Lender, not later than thirty (30) days following such optional redemption date, an amended Minimum Sinking Fund Account Payment Schedule, approved by the WIFIA Lender, which schedule shall become effective upon delivery to the Trustee. The WIFIA Lender shall reflect any revisions to Minimum Sinking Fund Account Payment Schedule on Exhibit A-2 of the WIFIA Bond; provided that the failure to make any such revisions shall not affect in any manner the Commission's obligations hereunder or under the WIFIA Bond. The Commission shall not be required to give the WIFIA Lender any prior notice of such Minimum Sinking Fund Account redemption.

(d) *Notices.* Each notice of redemption given pursuant to this Section 44.05 shall be accompanied by a Certificate of the Commission identifying the provision of this Ninth Supplemental Indenture and the WIFIA Loan Agreement pursuant to which such redemption (and prepayment) is being made and containing a calculation in reasonable detail of the amount

of such redemption (and prepayment), including, if applicable, a revised schedule of Minimum Sinking Fund Account Payments resulting from redemption (and prepayment).

(e) *Application of Terms of Indenture.* The provisions of the Indenture relating to redemption of Bonds set forth in Sections 4.02, 4.03, 4.04, 4.05 and 4.06, to the extent inconsistent with this Section 44.05, shall not apply to the redemption of the WIFIA Bond and the WIFIA Lender waives any rights to notice provided thereunder.

Section 44.06. No Defeasance. Anything to the contrary in the Indenture notwithstanding, the WIFIA Bond shall not be subject to defeasance and no amounts in respect of the WIFIA Bond shall be considered or deemed to have been paid until the WIFIA Lender shall have received irrevocable payment in immediately available funds in accordance with the requirements for payment set forth in this Ninth Supplemental Indenture.

Section 44.07. No Reserve. On January 30, 2013, certain amendments set forth in the First Amendment that govern the sizing of the Required Reserve for each Series of Bonds became effective in accordance with the terms of the Indenture. In accordance therewith, the Commission has determined not to fund the Required Reserve for the WIFIA Bond.

Section 44.08. Notices; Payment Instructions .

(a) Notices to the WIFIA Lender hereunder shall be (a) in writing, (b) effective as provided below and (c) given by (i) nationally recognized courier service, (ii) hand delivery, or (iii) email, in each case to:

If to WIFIA Lender:

Environmental Protection Agency
WIFIA Director
WJC-W 6201A
1200 Pennsylvania Avenue NW
Washington, DC 20460

Attention: Jorianne Jernberg
Email: WIFIA@epa.gov

, or to such other address as shall be provided by the WIFIA Lender's Authorized Representative to the Commission and the Trustee. Unless otherwise instructed by the WIFIA Lender's Authorized Representative, all notices to the WIFIA Lender should be made by email to the email address noted above for the WIFIA Lender. Each such notice, request or communication shall be effective (x) if delivered by hand or by nationally recognized courier service, when delivered at the address specified in this Section 44.08 and (y) if given by email, when such email is delivered to the address specified in this Section 44.08; provided, that notices received on a day that is not a Business Day or after 5:00 p.m. Eastern Time on a Business Day will be deemed to be effective on the next Business Day.

(b) Any payments on the WIFIA Bond to the WIFIA Lender shall be made by wire transfer in immediately available funds in accordance with the payment instructions attached as Exhibit C to this Ninth Supplemental Indenture, as modified from time to time by the

WIFIA Lender through a written notice executed by a WIFIA Lender's Authorized Representative and delivered to the Commission and the Trustee at least five (5) Business Days prior to its proposed effective date.

Section 44.09. Commission Representations. The Commission has reviewed all proceedings heretofore taken relative to the authorization of the WIFIA Bond and has found, as a result of such review, that all conditions, things and acts required by law to exist, happen or be performed precedent to and in the issuance of the WIFIA Bond, except as otherwise provided in Section 44.03, do exist, have happened and have been performed in due time, form and manner as required by law, and the Commission is authorized, pursuant to each and every requirement of law, including the Law and the Ordinances to issue the WIFIA Bond in its maximum principal amount in Section 44.01(a) and in the manner and form otherwise provided in this Ninth Supplemental Indenture, without any further approval or action by the Board of Supervisors or the Commission.

Section 44.10. Consent to Amendments in Sixth Supplemental Indenture. By the purchase of the WIFIA Bond, the WIFIA Lender and any subsequent owner of the WIFIA Bond consents to the provisions of the Sixth Supplemental Indenture.

Section 44.11. No Amendment without Consent of the WIFIA Lender. This Ninth Supplemental Indenture shall not be amended except with the prior written consent of the WIFIA Lender.

ARTICLE XLV CITY REQUIREMENTS

As used in this Article, "Agreement" means the Indenture.

To the extent of any inconsistency between the provisions in this Article and the provisions in prior Articles of this Indenture entitled "City Requirements" or "Additional City Requirements," the provisions of this Article shall control.

Section 45.01. Local Business Enterprise Utilization; Liquidated Damages.

(a) The LBE Ordinance

The Trustee shall comply with all the requirements of the Local Business Enterprise and Non-Discrimination in Contracting Ordinance set forth in Chapter 14B of the San Francisco Administrative Code as it now exists or as it may be amended in the future (collectively the "LBE Ordinance"), provided such amendments do not materially increase the Trustee's obligations or liabilities, or materially diminish the Trustee's rights, under this Ninth Supplemental Indenture. Such provisions of the LBE Ordinance are incorporated by reference and made a part of this Ninth Supplemental Indenture as though fully set forth in this section. The Trustee's willful failure to comply with any applicable provision of the LBE Ordinance is a material breach of the Trustee's obligations under this Ninth Supplemental Indenture and shall entitle City, subject to any applicable notice and cure provisions set forth in this Ninth Supplemental Indenture, to

exercise any of the remedies provided for under this Ninth Supplemental Indenture, under the LBE Ordinance or otherwise available at law or in equity, which remedies shall be cumulative unless this Ninth Supplemental Indenture expressly provides that any remedy is exclusive. In addition, the Trustee shall comply fully with all other applicable local, state and federal laws prohibiting discrimination and requiring equal opportunity in contracting, including subcontracting.

(b) Enforcement

If the Trustee willfully fails to comply with any of the provisions of the LBE Ordinance, the rules and regulations implementing the LBE Ordinance, or the provisions of this Ninth Supplemental Indenture pertaining to LBE participation, the Trustee shall be liable for liquidated damages in an amount equal to the Trustee's net profit on this Ninth Supplemental Indenture, or 10% of the total amount of this Ninth Supplemental Indenture, or \$1,000, whichever is greatest. The Director of the City's Contracts Monitoring Division or any other public official authorized to enforce the LBE Ordinance (separately and collectively, the "Director of CMD") may also impose other sanctions against the Trustee authorized in the LBE Ordinance, including declaring the Trustee to be irresponsible and ineligible to contract with the City for a period of up to five years or revocation of the Trustee's LBE certification. The Director of CMD will determine the sanctions to be imposed, including the amount of liquidated damages, after investigation pursuant to Administrative Code §14B.17.

By entering into this Ninth Supplemental Indenture, the Trustee acknowledges and agrees that any liquidated damages assessed by the Director of the CMD shall be payable to City upon demand. The Trustee further acknowledges and agrees that any liquidated damages assessed may be withheld from any monies due to the Trustee on any contract with City.

The Trustee agrees to maintain records necessary for monitoring its compliance with the LBE Ordinance for a period of three years following termination or expiration of this Ninth Supplemental Indenture, and shall make such records available for audit and inspection by the Director of CMD or the Controller upon request.

Section 45.02. Nondiscrimination; Penalties.

(a) Trustee Shall Not Discriminate

In the performance of this Ninth Supplemental Indenture, the Trustee agrees not to discriminate against any employee, City and County employee working with the Trustee or subcontractor, applicant for employment with the Trustee or subcontractor, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status

(AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

(b) Subcontracts

The Trustee shall incorporate by reference in all subcontracts the provisions of §§12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code (copies of which are available from Purchasing) and shall require all subcontractors to comply with such provisions. The Trustee's failure to comply with the obligations in this subsection shall constitute a material breach of this Ninth Supplemental Indenture.

(c) Nondiscrimination in Benefits

The Trustee does not as of the date of this Ninth Supplemental Indenture and will not during the term of this Ninth Supplemental Indenture, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in §12B.2(b) of the San Francisco Administrative Code.

(d) Condition to Contract

As a condition to this Ninth Supplemental Indenture, the Trustee shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form CMD-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Contracts Monitoring Division (formerly 'Human Rights Commission').

(e) Incorporation of Administrative Code Provisions by Reference

The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Ninth Supplemental Indenture as though fully set forth herein. The Trustee shall comply fully with and be bound by all of the provisions that apply to this Ninth Supplemental Indenture under such Chapters, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, the Trustee understands that pursuant to §§12B.2(h) and 12C.3(g) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Ninth Supplemental Indenture may be assessed against the Trustee and/or deducted from any payments due the Trustee.

Section 45.03. MacBride Principles—Northern Ireland. Pursuant to San Francisco Administrative Code §12F.5, the City and County of San Francisco urges companies doing

business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles. By signing below, the person executing this Ninth Supplemental Indenture on behalf of the Trustee acknowledges and agrees that he or she has read and understood this section.

Section 45.04. Tropical Hardwood and Virgin Redwood Ban. Pursuant to §804(b) of the San Francisco Environment Code, the City and County of San Francisco urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

Section 45.05. Drug-Free Workplace Policy. The Trustee acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. The Trustee agrees that any violation of this prohibition by the Trustee, its employees, agents or assigns will be deemed a material breach of this Ninth Supplemental Indenture.

Section 45.06. Compliance with Americans with Disabilities Act. The Trustee acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. The Trustee shall provide the services specified in this Ninth Supplemental Indenture in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. The Trustee agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Ninth Supplemental Indenture and further agrees that any violation of this prohibition on the part of the Trustee, its employees, agents or assigns will constitute a material breach of this Ninth Supplemental Indenture.

Section 45.07. Sunshine Ordinance. In accordance with San Francisco Administrative Code §67.24(e), contracts, contractors' bids, responses to solicitations and all other records of communications between City and persons or firms seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

Section 45.08. Limitations on Contributions. Through execution of this Ninth Supplemental Indenture, the Trustee acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, the board of a state agency on which that individual serves, or a board on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of

negotiations for such contract or six months after the date the contract is approved. The Trustee acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. The Trustee further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of the Trustee's board of directors; the Trustee's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in the Trustee; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by the Trustee. Additionally, the Trustee acknowledges that the Trustee must inform each of the persons described in the preceding sentence of the prohibitions contained in section 1.126. The Trustee further agrees to provide to the City the names of each person, entity or committee described above.

Section 45.09. Requiring Minimum Compensation for Covered Employees.

(a) The Trustee agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 12P are incorporated herein by reference and made a part of this Ninth Supplemental Indenture as though fully set forth. The text of the MCO is available on the web at <http://www.sfgov.org/olse/mco>. A partial listing of some of the Trustee's obligations under the MCO is set forth in this Section. The Trustee is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this Section.

(b) The MCO requires the Trustee to pay the Trustee's employees a minimum hourly gross compensation wage rate and to provide minimum compensated and uncompensated time off. The minimum wage rate may change from year to year and the Trustee is obligated to keep informed of the then-current requirements. Any subcontract entered into by the Trustee shall require the subcontractor to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this Section. It is the Trustee's obligation to ensure that any subcontractors of any tier under this Ninth Supplemental Indenture comply with the requirements of the MCO. If any subcontractor under this Ninth Supplemental Indenture fails to comply, the City may pursue any of the remedies set forth in this Section against the Trustee.

(c) The Trustee shall not take adverse action or otherwise discriminate against an employee or other person for the exercise or attempted exercise of rights under the MCO. Such actions, if taken within 90 days of the exercise or attempted exercise of such rights, will be rebuttably presumed to be retaliation prohibited by the MCO.

(d) The Trustee shall maintain employee and payroll records as required by the MCO. If the Trustee fails to do so, it shall be presumed that the Trustee paid no more than the minimum wage required under State law.

(e) The City is authorized to inspect the Trustee's job sites and conduct interviews with employees and conduct audits of the Trustee.

(f) The Trustee's commitment to provide the Minimum Compensation is a material element of the City's consideration for this Ninth Supplemental Indenture. The City in its sole discretion shall determine whether such a breach has occurred. The City and the public will suffer actual damage that will be impractical or extremely difficult to determine if the Trustee fails to comply with these requirements. The Trustee agrees that the sums set forth in Section 12P.6.1 of the MCO as liquidated damages are not a penalty, but are reasonable estimates of the loss that the City and the public will incur for the Trustee's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.

(g) The Trustee understands and agrees that if it fails to comply with the requirements of the MCO, the City shall have the right to pursue any rights or remedies available under Chapter 12P (including liquidated damages), under the terms of this Ninth Supplemental Indenture, and under applicable law. If, within 30 days after receiving written notice of a breach of this Ninth Supplemental Indenture for violating the MCO, the Trustee fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, the Trustee fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City shall have the right to pursue any rights or remedies available under applicable law, including those set forth in Section 12P.6(c) of Chapter 12P. Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

(h) The Trustee represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the MCO.

(i) The City may conduct random audits of the Trustee. Random audits shall be (i) noticed in advance in writing; (ii) limited to ascertaining whether Covered Employees are paid at least the minimum compensation required by the MCO; (iii) accomplished through an examination of pertinent records at a mutually agreed upon time and location within ten days of the written notice; and (iv) limited to one audit of the Trustee every two years for the duration of this Ninth Supplemental Indenture. Nothing in this Ninth Supplemental Indenture is intended to preclude the City from investigating any report of an alleged violation of the MCO.

Section 45.10. Requiring Health Benefits for Covered Employees. Unless exempt, the Trustee agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of Chapter 12Q are incorporated herein by reference and made a part of this Ninth Supplemental Indenture as though fully set forth. The text of the HCAO is available on the web at www.sfgov.org/olse. Capitalized terms used in this Section and not defined in this Ninth Supplemental Indenture shall have the meanings assigned to such terms in Chapter 12Q.

(a) For each Covered Employee, the Trustee shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If the Trustee chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission.

(b) Notwithstanding the above, if the Trustee is a small business as defined in Section 12Q.3(e) of the HCAO, it shall have no obligation to comply with part (a) above.

(c) The Trustee's failure to comply with the HCAO shall constitute a material breach of this Ninth Supplemental Indenture. The City shall notify the Trustee if such a breach has occurred. If, within 30 days after receiving the City's written notice of a breach of this Ninth Supplemental Indenture for violating the HCAO, the Trustee fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, the Trustee fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City shall have the right to pursue the remedies set forth in 12Q.5(f)(1-6) and 12Q.5.1. Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

(d) Any Subcontract entered into by the Trustee shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. The Trustee shall notify City's Office of Contract Administration when it enters into such a Subcontract and shall certify to the Office of Contract Administration that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. The Trustee shall be responsible for its Subcontractors' compliance with Chapter 12Q. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this Section against the Trustee based on the Subcontractor's failure to comply, provided that the City has first provided the Trustee with notice and an opportunity to obtain a cure of the violation.

(e) The Trustee shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying the City with regard to the Trustee's noncompliance or anticipated noncompliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

(f) The Trustee represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

(g) The Trustee shall maintain employee and payroll records in compliance with the California Labor Code and Industrial Welfare Commission orders, including the number of hours each employee has worked on this Ninth Supplemental Indenture.

(h) The Trustee shall keep itself informed of the current requirements of the HCAO.

(i) The Trustee shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

(j) The Trustee shall provide the City with access to records pertaining to compliance with HCAO after receiving a written request from the City to do so and being provided at least ten business days to respond.

(k) The Trustee shall allow the City to inspect the Trustee's job sites and have access to the Trustee's employees in order to monitor and determine compliance with HCAO.

(l) The City may conduct random audits of the Trustee to ascertain its compliance with HCAO. The Trustee agrees to cooperate with the City when it conducts such audits.

(m) If the Trustee is exempt from the HCAO when this Ninth Supplemental Indenture is executed because its fees hereunder are in an amount that is less than \$25,000 (\$50,000 for nonprofits), but the Trustee later enters into an agreement or agreements that cause the Trustee's aggregate amount of all agreements with the City to reach \$75,000, all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of fees from agreements between the Trustee and the City to be equal to or greater than \$75,000 in the fiscal year.

Section 45.11. Prohibition on Political Activity with City Funds. In accordance with San Francisco Administrative Code Chapter 12.G, the Trustee may not participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure (collectively, "Political Activity") in the performance of the services provided under this Ninth Supplemental Indenture. The Trustee agrees to comply with San Francisco Administrative Code Chapter 12.G and any implementing rules and regulations promulgated by the City's Controller. The terms and provisions of Chapter 12.G are incorporated herein by this reference. In the event the Trustee violates the provisions of this Section, the City may, in addition to any other rights or remedies available hereunder, (i) terminate this Ninth Supplemental Indenture, and (ii) prohibit the Trustee from bidding on or receiving any new City contract for a period of two (2) years. The Controller will not consider the Trustee's use of profit as a violation of this Section.

Section 45.12. Conflict of Interest. Through its execution of this Ninth Supplemental Indenture, the Trustee acknowledges that it is familiar with the provisions of section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 *et seq.* and Section 1090 *et seq.* of the Government Code of the State of California, and certifies that it does not know of any facts which constitute a violation of said provision and agrees that it will immediately notify the City if it becomes aware of any such fact during the term of this Ninth Supplemental Indenture.

Section 45.13. Earned Income Credit (EIC) Forms. Administrative Code Section 12O requires that employers provide their employees with IRS Form W-5 (The Earned Income Credit Advance Payment Certificate) and the IRS EIC Schedule, as set forth below. Employers can locate these forms at the IRS Office, on the Internet, or anywhere that Federal Tax Forms can be found.

(a) The Trustee shall provide EIC Forms to each Eligible Employee at each of the following times: (i) within thirty days following the date on which this Ninth Supplemental Indenture becomes effective (unless the Trustee has already provided such EIC Forms at least once during the calendar year in which such effective date falls); (ii) promptly after any Eligible Employee is hired by the Trustee; and (iii) annually between January 1 and January 31 of each calendar year during the term of this Ninth Supplemental Indenture.

(b) Failure to comply with any requirement contained in subparagraph (a) of this Section shall constitute a material breach by the Trustee of the terms of this Ninth Supplemental Indenture. If, within thirty days after the Trustee receives written notice of such a breach, the Trustee fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty days, the Trustee fails to commence efforts to cure within such period or thereafter fails to diligently pursue such cure to completion, the City may pursue any rights or remedies available under this Ninth Supplemental Indenture or under applicable law.

(c) Any Subcontract entered into by the Trustee shall require the subcontractor to comply, as to the subcontractor's Eligible Employees, with each of the terms of this Section.

(d) Capitalized terms used in this Section and not defined in this Ninth Supplemental Indenture shall have the meanings assigned to such terms in Section 12O of the San Francisco Administrative Code.

Section 45.14. Preservative-treated Wood Containing Arsenic. The Trustee may not purchase preservative-treated wood products containing arsenic in the performance of this Ninth Supplemental Indenture unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under section 1304 of the Environment Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. The Trustee may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude the Trustee from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

Section 45.15. Protection of Private Information. The Trustee has read and agrees to the terms set forth in San Francisco Administrative Code sections 12M.2, "Nondisclosure of Private Information," and 12M.3, "Enforcement," and in Administrative Code Chapter 12M, "Protection of Private Information," which are incorporated herein as if fully set forth. The Trustee agrees that any failure of the Trustee to comply with the requirements of Section 12M.2 of Chapter 12M shall be a material breach of this Ninth Supplemental Indenture. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate this Ninth Supplemental Indenture, bring a false claim action against the Trustee pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar the Trustee.

Section 45.16. Proprietary or Confidential Information of the City. The Trustee understands and agrees that, in the performance of the work or services under this Ninth Supplemental Indenture or in contemplation thereof, the Trustee may have access to private or confidential information which may be owned or controlled by the City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to the City. The Trustee agrees that all information disclosed by City

to the Trustee shall be held in confidence and used only in the performance of this Ninth Supplemental Indenture. The Trustee shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data.

Section 45.17. Compliance with Laws. The Trustee shall keep itself fully informed of the City's Charter, codes, ordinances and regulations of the City and of all state, and federal laws in any manner affecting the performance of this Ninth Supplemental Indenture, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time.

Section 45.18. Works for Hire. If, in connection with services performed under this Ninth Supplemental Indenture, the Trustee or its subcontractors create artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, blueprints, source codes or any other original works of authorship, such works of authorship shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such works are the property of the City. If it is ever determined that any works created by the Trustee or its subcontractors under this Ninth Supplemental Indenture are not works for hire under U.S. law, the Trustee hereby assigns all copyrights to such works to the City, and agrees to provide any material and execute any documents necessary to effectuate such assignment. With the approval of the City, the Trustee may retain and use copies of such works for reference and as documentation of its experience and capabilities.

Section 45.19. Resource Conservation. Chapter 5 of the San Francisco Environment Code ("Resource Conservation") is incorporated herein by reference. Failure by the Trustee to comply with any of the applicable requirements of Chapter 5 will be deemed a material breach of this Ninth Supplemental Indenture.

Section 45.20. Public Access to Meetings and Records. If the Trustee receives cumulative total fees per year of at least \$250,000 in City funds or City-administered funds and is a non-profit organization as defined in Chapter 12L of the San Francisco Administrative Code, the Trustee shall comply with and be bound by all the applicable provisions of that Chapter. By executing this Ninth Supplemental Indenture, the Trustee agrees to open its meetings and records to the public in the manner set forth in §§12L.4 and 12L.5 of the Administrative Code. The Trustee further agrees to make good faith efforts to promote community membership on its Board of Directors in the manner set forth in §12L.6 of the Administrative Code. The Trustee acknowledges that its material failure to comply with any of the provisions of this paragraph shall constitute a material breach of this Ninth Supplemental Indenture. The Trustee further acknowledges that such material breach of this Ninth Supplemental Indenture shall be grounds for the City to terminate and/or not renew the agreement, partially or in its entirety.

Section 45.21. Guaranteed Maximum Costs.

(a) The City's obligation hereunder shall not at any time exceed the amount certified by the Controller for the purpose and period stated in such certification.

(b) Except as may be provided by laws governing emergency procedures, officers and employees of the City are not authorized to request, and the City is not required to

reimburse the Trustee for, commodities or services beyond the agreed upon contract scope unless the changed scope is authorized by amendment and approved as required by law.

(c) Officers and employees of the City are not authorized to offer or promise, nor is the City required to honor, any offered or promised additional funding in excess of the maximum amount of funding for which the contract is certified without certification of the additional amount by the Controller.

(d) The Controller is not authorized to make payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.

Section 45.22. Submitting False Claims; Monetary Penalties. Pursuant to San Francisco Administrative Code §21.35, any contractor, subcontractor or consultant who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. A contractor, subcontractor or consultant who submits a false claim shall also be liable to the City for the costs, including attorneys' fees, of a civil action brought to recover any of those penalties or damages, and may be liable to the City for a civil penalty of up to \$10,000 for each false claim. A contractor, subcontractor or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor or consultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

Section 45.23. Food Service Waste Reduction Requirements. Effective June 1, 2007, the Trustee agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Ninth Supplemental Indenture as though fully set forth. This provision is a material term of this Ninth Supplemental Indenture. By entering into this Ninth Supplemental Indenture, the Trustee agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, the Trustee agrees that the sum of one hundred dollars (\$100) liquidated damages for the first breach, two hundred dollars (\$200) liquidated damages for the second breach in the same year, and five hundred dollars (\$500) liquidated damages for subsequent breaches in the same year is a reasonable estimate of the damage that the City will incur based on the violation, established in light of the circumstances existing at the time this Ninth Supplemental Indenture was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by the City because of the Trustee's failure to comply with this provision.

Section 45.24. Graffiti Removal. Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws

protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with the City's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and County and its residents, and to prevent the further spread of graffiti.

The Trustee shall remove all graffiti from any real property owned or leased by the Trustee in the City and County of San Francisco within forty eight (48) hours of the earlier of the Trustee's (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This section is not intended to require the Trustee to breach any lease or other agreement that it may have concerning its use of the real property. The term "graffiti" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including by way of example only and without limitation, signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way. "Graffiti" shall not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San Francisco Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code sections 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.).

Any failure of the Trustee to comply with this section of this Ninth Supplemental Indenture shall constitute a material breach of this Ninth Supplemental Indenture.

Section 45.25. Agreement Made in California; Venue. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

Section 45.26. Ownership of Results. Any interest of the Trustee or its Subcontractors in drawings, plans, specifications, blueprints, studies, reports, memoranda, computation sheets, computer files and media or other documents prepared by the Trustee or its subcontractors in connection with services to be performed under this Ninth Supplemental Indenture shall become the property of and will be transmitted to the City. However, the Trustee may retain and use copies for reference and as documentation of its experience and capabilities.

Section 45.27. Audit and Inspection of Records. The Trustee agrees to maintain and make available to the City, during regular business hours, accurate books and accounting records relating to its work under this Ninth Supplemental Indenture. The Trustee will permit the City to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Ninth Supplemental Indenture, whether funded in whole or in part under

this Ninth Supplemental Indenture. The Trustee shall maintain such data and records in an accessible location and condition for a period of not less than three years after final payment under this Ninth Supplemental Indenture or until after final audit has been resolved, whichever is later. The State of California or any federal agency having an interest in the subject matter of this Ninth Supplemental Indenture shall have the same rights conferred upon the City by this Section.

Section 45.28. Subcontracting. The Trustee is prohibited from subcontracting this Ninth Supplemental Indenture or any part of it unless such subcontracting is first approved by the City in writing. Neither party shall, on the basis of this Ninth Supplemental Indenture, contract on behalf of or in the name of the other party. An agreement made in violation of this provision shall confer no rights on any party and shall be null and void.

Section 45.29. Assignment. The services to be performed by Trustee are personal in character and neither this Ninth Supplemental Indenture nor any duties or obligations hereunder may be assigned or delegated by the Trustee unless first approved by the City by written instrument executed and approved in the same manner as this Ninth Supplemental Indenture.

Section 45.30. Non-Waiver of Rights. The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

Section 45.31. City a Third Party Beneficiary. The City is hereby designated as a third party beneficiary for the purpose of enforcing all of the obligations of the Trustee contained in this Article of this Ninth Supplemental Indenture and to the extent that any other rights are given to the City hereunder.

[End of Ninth Supplemental Indenture]

IN WITNESS WHEREOF, the parties hereto have executed this Ninth Supplemental Indenture by their officers thereunto duly authorized as of the day and year first written above.

PUBLIC UTILITIES COMMISSION OF THE
CITY AND COUNTY OF SAN FRANCISCO

By: _____
General Manager of the Public Utilities
Commission of the City and County of
San Francisco

U.S. BANK NATIONAL ASSOCIATION

By: _____
Authorized Officer

[SEAL]

Attest:

Secretary of the Public Utilities
Commission of the City and County
of San Francisco

Approved as to form:
Dermis L Herrera, City Attorney

By: _____
Mark D. Blake, Deputy City Attorney

EXHIBIT A
FORM OF WIFIA BOND

Not to Exceed \$699,242,023 INITIAL PRINCIPAL AMOUNT
(excluding Accreted Interest)

No. R-1

PUBLIC UTILITIES COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO
WASTEWATER REVENUE BONDS
(2018 WIFIA LOAN)

Dated Date	Interest Rate	Final Maturity Date (subject to adjustment as provided in the Indenture)
July 27, 2018	[TO COME]	April 1, 2059

Registered Owner: United States Environmental Protection Agency

Not to Exceed INITIAL Principal Amount
(excluding the Accreted Interest): SIX HUNDRED NINETY-NINE MILLION TWO
HUNDRED FORTY-TWO THOUSAND TWENTY-
THREE DOLLARS

The PUBLIC UTILITIES COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO, a commission duly organized and existing under and pursuant to the Charter of the City and County of San Francisco and the laws of the State of California (herein called the “Commission”), for value received, hereby promises to pay (but only out of the revenues hereinafter referred to) to the registered owner set forth above (the “WIFIA Lender”), or registered assigns, on the maturity date set forth above (subject to the right or obligation of prior redemption hereinafter provided for), the sum of the aggregate initial principal amounts of this Bond issued on each Disbursement Date, as adjusted to reflect Accreted Interest as set forth below, and to pay (but only out of the Revenues hereinafter referred to) interest accrued on the Outstanding WIFIA Bond Balance (as hereinafter defined) at the interest rate set forth above at the times and in the manner set forth herein. This Bond will accrue interest on the Outstanding WIFIA Bond Balance commencing on the first Disbursement Date. Interest will accrue and be computed on the Outstanding WIFIA Bond Balance from time to time on the basis of a 360-day year of twelve (12) thirty (30) day months, and will be compounded semi-annually on each April 1 and October 1 (each a “Semi-Annual Payment Date”) occurring during the Capitalized Interest Period; provided that, in the event of any WIFIA Payment Default or any WIFIA Project Event of Default, this Bond shall bear interest on the Outstanding WIFIA Bond Balance at the WIFIA Bond Default Rate, (a) in the case of any WIFIA Payment Default, from (and including) its due date to (but excluding) the date of any payment so due, and (b) in the case of any WIFIA Project Event of Default, from (and including) the date of such occurrence until (and excluding) the date

such WIFIA Project Event of Default has been cured in accordance with the terms of the WIFIA Loan Agreement. The WIFIA Lender shall give notice to the Trustee and the Commission of any Payment Default or Project Event of Default, which notice shall specify the effective date of the WIFIA Bond Default Rate and shall be deemed conclusive by the Trustee absent manifest error. No failure or delay on the part of the WIFIA Lender in providing such notice, nor any defect in such notice shall affect in any manner the Commission's obligations under this Bond.

No payment of the principal of or interest on this Bond shall be payable by the Commission during the Capitalized Interest Period, and during the Capitalized Interest Period interest will accrue on the Outstanding WIFIA Bond Balance and will compound and be added to the Outstanding WIFIA Bond Balance on each Semi Annual Payment Date. Notwithstanding the foregoing, the Capitalized Interest Period shall end immediately upon written notification to the Commission and the Trustee by the WIFIA Lender in accordance with the WIFIA Loan Agreement that a WIFIA System Event of Default or a WIFIA Project Event of Default has occurred, in which case the Capitalized Interest Period shall cease and interest on the WIFIA Bond (accrued since the last Semi-Annual Payment Date) shall be payable on the next Semi-Annual Payment Date following such termination and notification by the WIFIA Lender.

Commencing on the Debt Service Commencement Date and on each successive Semi-Annual Payment Date through the end of the Interest Only Period, the Commission will pay interest accrued on the Outstanding WIFIA Bond Balance through (but not including) such Semi-Annual Payment Date. Commencing on the Semi-Annual Payment Date following the end of the Interest Only Period, the Commission will pay interest on the Outstanding WIFIA Bond Balance together with the Minimum Sinking Fund Account Payment due on each such Semi-Annual Payment Date (each of such Semi-Annual Payment Dates being referred to as a "Principal Payment Date") in accordance with the Minimum Sinking Fund Account Payment Schedule. Notwithstanding anything herein to the contrary, the Outstanding WIFIA Bond Balance and any accrued interest thereon shall be due and payable in full on the WIFIA Bond Final Maturity Date, unless required to be paid earlier due to acceleration or otherwise.

The term "Outstanding WIFIA Bond Balance" means, as of the date of calculation, the sum of (a) the aggregate principal amount of this Bond purchased and sold on each Disbursement Date to the WIFIA Lender (i.e., the sum of the funds received by the Trustee from the WIFIA Lender on each such Disbursement Date), plus (b) the Accreted Interest added to the principal balance of the WIFIA Bond on each Semi-Annual Payment Date occurring during the Capitalized Interest Period, which shall be the sum of (i) the interest accrued since the last Semi-Annual Payment Date on the Outstanding WIFIA Bond Balance as of such Semi-Annual Payment Date, and (ii) if any Disbursement Date has occurred since the last Semi-Annual Payment Date, the interest accrued on the amount of the proceeds of each disbursement since the applicable Disbursement Date, minus (c) the aggregate principal amount of this Bond paid or redeemed by the Commission on each Semi-annual Payment Date or any redemption date, if earlier.

Within thirty (30) days following each Disbursement Date, each Semi-Annual Payment Date, and each redemption date, the WIFIA Lender shall make a notation on the WIFIA Bond of the Outstanding WIFIA Bond Balance as of such Disbursement Date, Semi-Annual Payment Date or redemption date (as the case may be) and shall give written notice to the Commission

and the Trustee stating the Outstanding WIFIA Bond Balance as of such date, which statement and notation thereof shall be deemed conclusive absent manifest error; provided, however, that no failure to make such notation or any delay in giving such notice or in making such notation shall affect any of the obligations of the Commission on this WIFIA Bond.

The principal of, redemption price, if any, and interest on this Bond shall be payable to the registered owner by wire transfer in immediately available funds in US Dollars in accordance with the payment instructions provided by the registered owner in accordance with the Ninth Supplemental Indenture (defined below) and no presentation of the WIFIA Bond shall be required for any such payment, except that the final payment of the WIFIA Bond shall be made upon or following presentation of the WIFIA Bond for cancellation at the corporate trust office of the Trustee.

This Bond shall constitute a Capital Appreciation Bond during the Capitalized Interest Period, and thereafter shall automatically convert to a Current Interest Bond and Term Bond.

This Bond is issued under and pursuant to the provisions of the Charter of the City and County of San Francisco and all laws of the State of California supplemental thereto, including the Revenue Bond Law of 1941 to the extent made applicable by said Charter (herein collectively called the “Law”), and pursuant to an Indenture, dated as of January 1, 2003, between the Commission and the Trustee, as amended and supplemented, included as supplemented by that certain Ninth Supplemental Indenture, dated as of July 27, 2018 (the “Ninth Supplemental Indenture”, and together with all supplements, the “Indenture”). Capitalized terms not defined herein shall have the meanings set forth in the Ninth Supplemental Indenture.

Reference is hereby made to the Indenture (a copy of which is on file at the office of the Trustee) and to the Law for a description of the terms on which this Bond is issued, the provisions with regard to the nature and extent of the Revenues (as such term is defined in the Indenture) and the rights thereunder (and limitations thereon) of the registered owner of this Bond and the rights, duties and immunities of the Trustee and the rights and obligations of the Commission thereunder; and all the terms of the Indenture and the Law are hereby incorporated herein and constitute a contract between the Commission and the registered owner of this Bond, and to all the provisions thereof the owner of this Bond, by acceptance hereof, consents and agrees. The registered owner hereof shall have recourse to all of the provisions of the Law and the Indenture and shall be bound by all of the terms and conditions thereof.

This Bond is being issued to finance and refinance the acquisition and construction of improvements to the Enterprise, as more particularly described in the Indenture. The Bond is a special obligation of the Commission and is payable, as to the principal and redemption price thereof, interest thereon, from the revenues of the Enterprise (which, as more particularly defined in the Indenture, are therein and herein called the “Revenues”). This Bond is secured by a pledge of, and charge and lien upon, all of the Revenues, and the Revenues constitute a trust fund for the security and payment of the interest on and principal of the Bond, but nevertheless out of the Revenues certain amounts may be applied for other purposes prior to the payment of the interest on or principal of the Bond as provided in the Indenture. Additional series of Bonds and

Parity Loans payable from the Revenues have been and may be issued on a parity with this Bond, but only subject to the conditions and limitations contained in the Indenture.

The principal of and interest on this Bond are payable solely from the Revenues, and the Commission is not obligated to pay them except from the Revenues. The Commission has no taxing power. The general fund of the City and County of San Francisco is not liable, and the credit or taxing power of the City and County of San Francisco is not pledged, for the payment of the Bonds or their interest. This Bond is not secured by a legal or equitable pledge of, or charge, lien or encumbrance upon, any of the property of the Commission or any of its income or receipts, except the Revenues. The owner hereof has no right to compel the exercise of any taxing power of the City and County of San Francisco.

The rights and obligations of the Commission and the owners of this Bond may be modified or amended at any time in the manner, to the extent and upon the terms provided in the Indenture.

This Bond shall be subject to redemption prior to the WIFIA Bond Final Maturity Date, at the option of the Commission, from and to the extent of any source of available funds, as a whole or in part, on any date in principal amounts of \$1,000,000 or any integral multiple of \$1 in excess thereof, at a redemption price equal to 100% of the principal amount of this Bond to be redeemed, plus accrued interest thereon to the date fixed for redemption, without premium. Each optional redemption of this Bond shall be made on such date and in such principal amount as shall be specified by the Commission in a written notice delivered to the WIFIA Lender and the Trustee. In the case of any such optional redemption, such written notice shall be delivered to the WIFIA Lender and the Trustee not less than ten (10) days nor more than thirty (30) days prior to the date set for redemption, unless otherwise agreed by the WIFIA Lender with notice to the Trustee. At any time between delivery of such written notice and the applicable optional redemption date, the Commission may, without penalty or premium, rescind its announced optional redemption of the WIFIA Bond by further written notice to the WIFIA Lender and the Trustee.

This Bond shall be also subject to redemption prior to its stated maturity, in whole or in part, at a redemption price equal to 100% of the principal amount of the WIFIA Bond to be redeemed, plus accrued interest thereon to the date fixed for redemption, without premium, from Net Loss Proceeds in accordance with the WIFIA Loan Agreement and Section 6.20 of the Indenture. The Commission shall provide, or shall cause the Trustee to provide, written notice to the WIFIA Lender at least two (2) Business Days prior to the date on which it makes any such redemption; provided that the Commission's failure to deliver such notice shall not diminish, impair or otherwise affect the Commission's obligation to make any such redemption as and when the circumstances requiring such redemption have occurred under the WIFIA Loan Agreement and the Indenture.

This Bond is also subject to mandatory redemption from Minimum Sinking Fund Account Payments on each Principal Payment Date in the amounts set forth on Exhibit A-2 to this Bond (being the "Minimum Sinking Fund Account Payment Schedule"), as adjusted from time to time pursuant to the Ninth Supplemental Indenture. The Minimum Sinking Fund Account Payment with respect to this Bond on each Principal Payment Date shall equal the

product of the Outstanding WIFIA Bond Balance as of the end of the Capitalized Interest Period times the percentage set forth on the Minimum Sinking Fund Account Payment Schedule for such Principal Payment Date. On or before each Disbursement Date, the Commission will provide to the Trustee and the WIFIA Lender an amended Minimum Sinking Fund Account Payment Schedule, approved by the WIFIA Lender, showing the Minimum Sinking Fund Account Payments required to be paid on the WIFIA Bond (as increased on such Disbursement Date) on each Principal Payment Date (assuming that the Capitalized Interest Period ends on October 1, 2025). Not later than thirty (30) days following the end of the Capitalized Interest Period, or, in the event this Bond (or any portion thereof) is deemed purchased and delivered after the end of the Capitalized Interest Period, on the Disbursement Date, the Commission will provide to the Trustee and the WIFIA Lender an amended Minimum Sinking Fund Account Payment Schedule, approved by the WIFIA Lender, showing the Minimum Sinking Fund Account Payment required to be paid on each Principal Payment Date. If the WIFIA Bond Final Maturity Date is determined under the WIFIA Loan Agreement to be earlier than April 1, 2059, the applicable percentages shown in the Minimum Sinking Fund Account Payment Schedule shall be amended so that the percentage allocated to any Principal Payment Date following the earlier WIFIA Bond Final Maturity Date will be allocated pro-rata among the Principal Payment Dates occurring prior to the earlier Final Maturity Date, and such calculations shall be included by the Commission in the amended Minimum Sinking Fund Account Payment Schedule provided to the Trustee and the WIFIA Lender pursuant to the preceding sentence, as approved by the WIFIA Lender. In addition, if this Bond is redeemed in part pursuant to the two preceding paragraphs above, each such partial redemption shall result in a reduction of the Minimum Sinking Fund Account Payments on a pro rata basis (or in such other manner approved by the WIFIA Lender) and the Commission shall provide to the Trustee and the WIFIA Lender, not later than thirty (30) days following such optional redemption date, a revised Minimum Sinking Fund Account Payment Schedule, approved by the WIFIA Lender, which schedule shall become effective upon delivery to the Trustee. The WIFIA Lender shall reflect any revisions to Minimum Sinking Fund Account Payments on Exhibit A-2 to this Bond; provided that the failure to make any such revisions shall not affect in any manner the Commission's obligations under the Ninth Supplemental Indenture or under this Bond. The Commission shall not be required to give the WIFIA Lender any prior notice of such Minimum Sinking Fund Account Payment redemption.

This Bond shall be issued as a single, fully registered Bond without coupons, in an aggregate principal amount not to exceed the Maximum Initial Principal Amount plus the Accreted Interest. The principal amount of this Bond may be increased on each Disbursement Date upon satisfaction of the conditions for issuance of such increased principal amount as provided in the Ninth Supplemental Indenture.

This Bond is transferable by the registered owner hereof in person or by his attorney duly authorized in writing, at the principal corporate trust office of the Trustee in San Francisco, California, but only in the manner, subject to the conditions and limitations set forth in the Ninth Supplemental Indenture and upon payment of the charges provided in the Indenture, and upon surrender and cancellation of this Bond. Upon such transfer a new fully registered Bond or Bonds of the same series, and in an aggregate principal amount equal to the Outstanding WIFIA Bond Balance so transferred will be issued to the transferee. If less than the entire Outstanding WIFIA Bond Balance of the WIFIA Bond is so transferred, the Trustee shall authenticate and

deliver a separate WIFIA Bond or Bonds of the same series to each of the transferor and transferee, reflecting the Outstanding WIFIA Bond Balance on each such Bond and the revised Minimum Sinking Fund Account Payments applicable to such Bond.

The Commission and the Trustee may treat the registered owner hereof as the absolute owner hereof for all purposes, and the Commission and the Trustee shall not be affected by any notice to the contrary.

It is hereby certified that all of the conditions, things and acts required to exist, to have happened or to have been performed precedent to and in the issuance of this Bond on each Disbursement Date do exist, have happened or will have been performed in due and regular time, form and manner as required by the Law and the laws of the State of California, and that the amount of this Bond in its maximum principal amount, together with all other obligations of the Commission, does not, and will not, exceed any limit prescribed by the Law or any laws of the State of California, and is not, and will not, be in excess of the amount of Bonds permitted to be issued under the Indenture.

This Bond shall not be entitled to any benefit under the Indenture, or become valid or obligatory for any purpose, until the certificate of authentication and registration hereon endorsed have been signed by the Trustee.

IN WITNESS WHEREOF, the Public Utilities Commission of the City and County of San Francisco has caused this Bond to be executed on its behalf, signed by the manual or facsimile signatures of its General Manager and of the Controller of the City and County of San Francisco and countersigned by the manual or facsimile signature of its Secretary, all as of July 27, 2018.

PUBLIC UTILITIES COMMISSION OF THE
CITY AND COUNTY OF SAN FRANCISCO

General Manager of the Commission

Controller of the City and County of San Francisco

Countersigned:

Secretary of the Commission

[FORM OF TRUSTEE'S CERTIFICATE OF AUTHENTICATION AND
REGISTRATION TO APPEAR ON THE 2018 WIFIA BOND]

This Bond is the Bond described in the within-mentioned Indenture, which has been authenticated and registered on the date set forth below.

Dated: _____

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: _____
Authorized Officer

[FORM OF ASSIGNMENT]

For value received the undersigned do(es) hereby sell, assign and transfer unto _____ the within-mentioned Registered Bond and hereby irrevocably constitute(s) and appoint(s) _____ attorney, to transfer the same on the books of the Trustee with full power of substitution in the premises.

Dated: _____

By: _____
Authorized Officer

SIGNATURE GUARANTEED BY:

NOTICE: Signature must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company.

EXHIBIT A-2 TO FORM OF WIFIA BOND
MINIMUM SINKING FUND ACCOUNT PAYMENT SCHEDULE

Principal Payment Date	Applicable Percentage	Minimum Sinking Fund Account Payment
April 1, 2043		
October, 1, 2043		
April 1, 2044		
October, 1, 2044		
April 1, 2045		
October, 1, 2045		
April 1, 2046		
October, 1, 2046		
April 1, 2047		
October, 1, 2047		
April 1, 2048		
October, 1, 2048		
April 1, 2049		
October, 1, 2049		
April 1, 2050		
October, 1, 2050		
April 1, 2051		
October, 1, 2051		
April 1, 2052		
October, 1, 2052		
April 1, 2053		
October, 1, 2053		
April 1, 2054		
October, 1, 2054		
April 1, 2055		
October, 1, 2055		
April 1, 2056		
October, 1, 2056		
April 1, 2057		
October, 1, 2057		
April 1, 2058		
October, 1, 2058		
April 1, 2059		
October, 1, 2059		

EXHIBIT B

PAYMENT INSTRUCTIONS

Please follow the instructions provided below for sending WIFIA payments to EPA:

Payment Tips - To ensure proper credit please include the following information on your payment:

- Company/remitter's name (as it appears on EPA document)
 - Complete address, including city, state, zip
 - Remitter's point of contact person and phone number
 - EPA WIFIA Loan #, (NOT the remitter's number)
 - Reason for payment
- **Acceptable Payment Methods for WIFIA payments to EPA**
 1. **PAY.GOV** – Use of Pay.Gov to make payments to EPA is the **preferred electronic payment method**. Click here to access the system Pay.gov or <https://www.pav.gov> and search for **WIFIA**

Use of Pay.gov provides the ability to track payments made to EPA as well as schedule recurring, automatic payments. Although, it is not mandatory to register for a user id to access and use Pay.Gov, registration is recommended to have access to full- feature Pay.gov system functionality.

Once the Pay.gov EPA- WIFIA form is launched, the required payment details can be reviewed by clicking on the .pdf form button prior to initiating payments to EPA.

- a. Open the form and follow the on- screen instructions.
 - b. Select “Payment Type” from the drop down menu and complete all other required fields identified in the online form.
 - c. Follow the remaining on- screen instructions to successfully process the payment to EPA.
2. **FEDWIRE** – Wire transfers made through Fedwire are an alternative electronic wire transfer initiated between you and your organization’s Financial Institution (bank):
 - a. Fedwire is typically used to initiate financial institution (bank) generated “Same Day” electronic payments, or as alternative to using Pay.Gov or sending funds by check through the mail.

- b. Agency customers must work within the processing guidelines established by their bank. Bank guidelines may include processing cutoffs, transaction fees, and other bank requirements.
- c. Requests for transmitting funds electronically to EPA normally are initiated by the EPA customer or vendor to its bank's funds transfer department. Banks that do not maintain an account at a Federal Reserve Bank (FRB) must use the services of correspondent banks that do have an FRB account. Send Fedwire deposits as early as possible and no later than 5 p.m. ET on the desired "EPA" receipt date.
- d. The FEDWIRE payment initiated by your bank **MUST** contain all details below:*

TO (ABA)	021030004
RECEIVER**	TREAS NYC/(68011233)EPA
THIRD PARTY INFORMATION	Details provided in the Third Party Information fields on the form must include the details identified in the <u>Payment Tips</u> shown above.
<i>*Important: Failure to initiate the FEDWIRE electronic wire transaction properly with the above fields included, will result in untimely or non- receipt of funds at EPA.</i>	

- e. The Employee Identification Number is **520852695**. W-9 form – Request for Taxpayer – Identification Number and Certificate for EPA is attaching in the following page.

3. CHECK PAYMENTS – Send to address below:

**U.S. EPA
 Las Vegas Finance Center
 4220 S. Maryland Pkwy, Bldg C,
 Ste 503
 Las Vegas NV 89119**

Check payments must include the details identified in the Payment Tips above.

NOTE: When checks are provided as payment, you authorize the EPA to use information from your check to make a one- time electronic fund transfer from your account or to process the payment as a check transaction. When the EPA uses information from your check to make an electronic fund transfer, funds may be withdrawn from your account as soon as the same day we receive your payment, and you will not receive your check back from your financial institution.

- **Questions about payments to EPA should be directed to:**

**U.S EPA Las Vegas Finance Center
4220 South Maryland Parkway, Bldg C, Suite #503
Las Vegas, NV 89119**

Office Phone: (702)798- 2485, Office Hours: 7am to 4:30
PST

Voicemails can be left when calling outside these hours

Email: lvfc-grants@epa.gov

- **Questions about WIFIA program:**

Email address: wifia@epa.gov

EXHIBIT B

ANTICIPATED WIFIA LOAN DISBURSEMENT SCHEDULE

<u>Federal Fiscal Year</u>	<u>Amount</u>
2018	\$13,588,076
2019	\$77,280,152
2020	\$175,984,846
2021	\$185,646,789
2022	\$196,043,251
<u>2023</u>	<u>\$50,698,912</u>
Total	\$699,242,023

EXHIBIT C

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
AND OTHER RESPONSIBILITY MATTERS**

The undersigned, on behalf of the PUBLIC UTILITIES COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO (the "Borrower"), hereby certifies that the Borrower has fully complied with its verification obligations under 2 C.F.R. § 180.320 and hereby further confirms, based on such verification, that, to its knowledge, the Borrower and its principals (as defined in 2 C.F.R. § 180.995):

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;

(b) Have not within a three (3) year period preceding the Effective Date been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and

(d) Have not within a three (3) year period preceding the Effective Date had one or more public transactions (federal, state or local) terminated for cause or default.

Dated: _____

**PUBLIC UTILITIES COMMISSION OF THE
CITY AND COUNTY OF SAN FRANCISCO¹**

By: _____

Name:

Title:

¹ To be executed by Borrower's Authorized Representative.

EXHIBIT D-1

REQUISITION PROCEDURES

This **Exhibit D-1** sets out the procedures which the Borrower agrees to follow in submitting Requisitions for the disbursement of WIFIA Loan proceeds in respect of the Eligible Project Costs incurred in connection with the Project. Section 1 sets out the manner in which Requisitions are to be submitted and reviewed. Sections 2 through 4 set out the circumstances in which the WIFIA Lender may reject or correct Requisitions submitted by the Borrower or withhold a disbursement. The Borrower expressly agrees to the terms hereof, and further agrees that (i) the rights of the WIFIA Lender contained herein are in addition to (and not in lieu of) any other rights or remedies available to the WIFIA Lender under this Agreement, and (ii) nothing contained herein shall be construed to limit the rights of the WIFIA Lender to take actions including administrative enforcement action and actions for breach of contract against the Borrower if it fails to carry out its obligations under this Agreement during the term thereof.

Section 1. General Requirements. All requests by the Borrower for the disbursement of WIFIA Loan proceeds shall be made by electronic mail or overnight delivery service by submission to the WIFIA Lender, in accordance with Section 38 (*Notices; Payment Instructions*) of this Agreement, of a Requisition, in form and substance satisfactory to the WIFIA Lender and completed and executed by the Borrower's Authorized Representative. The form of Requisition is attached as **Appendix One** (*Form of Requisition*) to this **Exhibit D-1**. Supporting documentation should be submitted with the requisition.

The WIFIA Lender agrees to promptly send to the Borrower in accordance with Section 38 (*Notices; Payment Instructions*) of this Agreement, an acknowledgement of receipt of each Requisition in the form attached as **Appendix Two** (*[Approval/Disapproval] of the WIFIA Lender*) to this **Exhibit D-1** setting forth the date of receipt by the WIFIA Lender of such Requisition and setting forth the Business Day on which disbursement will be made absent denial by the WIFIA Lender. All disbursement requests must be received by the WIFIA Lender at or before 5:00 P.M. (EST) on the first (1st) Business Day of a calendar month in order to obtain disbursement by the fifteenth (15th) day of such calendar month or, if either such day is not a Business Day, the next succeeding Business Day. If a Requisition is approved by the WIFIA Lender, the WIFIA Lender will notify the Borrower of such approval and of the amount so approved.

Section 2. Rejection. A Requisition may be rejected in whole or in part by the WIFIA Lender if it is:

- (a) submitted without signature;
- (b) submitted under signature of a Person other than a Borrower's Authorized Representative;
- (c) submitted after prior disbursement of all proceeds of the WIFIA Loan;

(d) submitted without adequate documentation of Eligible Project Costs incurred or paid. Such documentation shall include invoices for costs incurred or paid;

(e) submitted without an accompanying engineer's certificate setting out a summary of the progress of construction of the Project and a general description of the work done for which the funds being requisitioned are being applied; or

(f) submitted without a copy of the most recent update to the risk register.

The WIFIA Lender will notify the Borrower of any Requisition so rejected, and the reasons therefor. Any Requisition rejected for the reasons specified in (a), (b) or (d) above must be resubmitted in proper form in order to be considered for approval. If a Requisition exceeds the balance of the WIFIA Loan proceeds remaining to be disbursed, the request will be treated as if submitted in the amount of the balance so remaining, and the WIFIA Lender will so notify the Borrower.

Section 3. Correction. A Requisition containing an apparent mathematical error will be corrected by the WIFIA Lender, after telephonic or email notification to the Borrower, and will thereafter be treated as if submitted in the corrected amount.

Section 4. Withholding. The WIFIA Lender shall be entitled to withhold approval (in whole or in part) of any pending or subsequent requests for the disbursement of WIFIA Loan proceeds if:

(a) a System Event of Default, a Project Event of Default, or an event that, with the giving of notice or the passage of time or both, would constitute a System Event of Default or a Project Event of Default under this Agreement, shall have occurred and be continuing; or

(b) the Borrower:

(i) knowingly takes any action, or omits to take any action, amounting to fraud or violation of any applicable federal or local criminal law, in connection with the transactions contemplated hereby; or

(ii) fails to construct the Project in a manner consistent with the Governmental Approvals with respect to the Project, or with good engineering and construction practices, where such failure prevents or materially impairs the Project from fulfilling its intended purpose, or prevents or materially impairs the ability of the WIFIA Lender to monitor compliance by the Borrower with applicable federal or local law pertaining to the Project or with the terms and conditions of this Agreement; or

(iii) fails to observe or comply with any applicable federal or local law, or any term or condition of this Agreement; or

(iv) fails to satisfy the conditions set forth in Section 4 (*Disbursement Conditions*) and Section 12(b) (*Conditions Precedent – Conditions Precedent to All Disbursements*) of this Agreement; or

(v) fails to deliver documentation satisfactory to the WIFIA Lender evidencing Eligible Project Costs claimed for disbursement at the times and in the manner specified by this Agreement; provided, that in such case the WIFIA Lender may, in its sole discretion, partially approve a disbursement request in respect of any amounts for which adequate documentation evidencing Eligible Project Costs has been provided and may, in its sole discretion, disburse in respect of such properly documented amounts.

APPENDIX ONE TO EXHIBIT D-1

FORM OF REQUISITION

United States Environmental Protection Agency
WIFIA Director
WJC-W 6201A
1200 Pennsylvania Avenue NW
Washington, DC 20460

Re: BIOSOLIDS DIGESTER FACILITIES PROJECT (WIFIA # N17128CA)

Ladies and Gentlemen:

Pursuant to Section 4 (*Disbursement Conditions*) of the WIFIA Loan Agreement, dated as of July 27, 2018 (the “**WIFIA Loan Agreement**”), by and between the PUBLIC UTILITIES COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO (the “**Borrower**”) and the UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, acting by and through the Administrator (the “**WIFIA Lender**”), we hereby request disbursement in the amount of \$[_____] in respect of Eligible Project Costs paid or incurred by or on behalf of the Borrower. Capitalized terms used but not defined herein have the meaning set forth in the WIFIA Loan Agreement. In connection with this Requisition, the undersigned does hereby represent and certify the following:

1. This Requisition is Requisition number [_____].
2. The requested date of disbursement is [_____] 15, 20[___] (the “**Disbursement Date**”)[, which is the first Business Day following [_____] 15, 20[_____]].
3. The amounts previously disbursed under the WIFIA Loan Agreement equal, in the aggregate, \$[_____].
4. The amounts hereby requisitioned have been paid or incurred by or on behalf of the Borrower for Eligible Project Costs and have not been paid for or reimbursed by any previous disbursement from WIFIA Loan proceeds. Except as set forth in the following paragraph, no portion of the amounts requisitioned will be applied to pay for Eligible Project Costs that have been previously paid with proceeds of debt of the Borrower that is not the WIFIA Loan (“Other Debt”).
5. \$[_____] of the amounts requested will be applied to Eligible Project Costs that have previously been temporarily paid from proceeds of Other Debt. Such amounts so requisitioned will be promptly applied by the Borrower to either (i) discharge a like principal amount of such Other Debt or (ii) reimburse the applicable fund or account from which the proceeds of such Other Debt were spent.
6. The amount of this Requisition, together with all prior Requisitions, does not exceed the amount of the WIFIA Loan, and the amount of this Requisition together with the sum of all disbursements of WIFIA Loan proceeds made and to be made for the current Federal

Fiscal Year will not exceed the cumulative disbursements through the end of the current Federal Fiscal Year as set forth in the Anticipated WIFIA Loan Disbursement Schedule.

7. All documentation evidencing the Eligible Project Costs to be reimbursed to the Borrower or to be used to pay Eligible Project Costs previously paid from proceeds of Other Debt by the above-requested disbursement has been delivered by the Borrower at the times and in the manner specified by the WIFIA Loan Agreement.
8. The Borrower has all Governmental Approvals necessary as of the date hereof and as of the Disbursement Date (immediately after giving effect to the above-requested disbursement of WIFIA Loan proceeds), for the development, construction, operation and maintenance of the Project and each such Governmental Approval is in full force and effect (and is not subject to any notice of violation, breach or revocation).
9. The Borrower is in compliance with the covenant set forth in Section 15(f) (*Affirmative Covenants – Insurance*) of the WIFIA Loan Agreement.
10. The Project has been, and is being, constructed in a manner consistent with all plans, specifications, engineering reports and facilities plans previously submitted to and approved by the WIFIA Lender and with good engineering and construction practices.
11. The representations and warranties of the Borrower set forth in the WIFIA Loan Agreement and in each other Related Document are true and correct as of the date hereof and as of the Disbursement Date, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).
12. As of the date hereof and on the Disbursement Date (immediately after giving effect to the above-requested disbursement of WIFIA Loan proceeds), (i) no System Event of Default or Project Event of Default or event of default under any other Related Document and (ii) no event that, with the giving of notice or the passage of time or both, would constitute a System Event of Default or Project Event of Default or event of default under any Related Document, in each case, has occurred and is continuing.
13. No Material Adverse Effect, or any event or condition that could reasonably be expected to have a Material Adverse Effect, has occurred or arisen since December 22, 2017.
14. Included with this requisition is an engineer's certificate setting out a summary of the progress of construction of the Project and a general description of the work done for which the funds being requisitioned are being applied.
15. The undersigned acknowledges that if the Borrower makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Government in connection with the Project, the Government reserves the right to impose on the Borrower the penalties of 18 U.S.C. § 1001, to the extent the Government deems appropriate.
16. A copy of this Requisition has been delivered to each of the above named addressees.

17. The undersigned is duly authorized to execute and deliver this Requisition on behalf of the Borrower.

[Add wire instructions for Trustee.]

Date: _____

**PUBLIC UTILITIES COMMISSION OF
THE CITY AND COUNTY OF SAN
FRANCISCO²**

By: _____

Name:

Title: _____

² To be executed by the Borrower's Authorized Representative.

APPENDIX TWO TO EXHIBIT D-1

**[APPROVAL/DISAPPROVAL] OF THE WIFIA LENDER
(To be delivered to the Borrower)**

Requisition Number [_____] is [approved in the amount of \$[_____]] [approved in part in the amount of \$[_____]] [not approved] by the WIFIA Lender (as defined herein) pursuant to Section 4 (*Disbursement Conditions*) of the WIFIA Loan Agreement, dated as of July 27, 2018, by and between the Public Utilities Commission of the City and County of San Francisco (the “**Borrower**”) and the United States Environmental Protection Agency, acting by and through the Administrator (the “**WIFIA Lender**”).

Any determination, action or failure to act by the WIFIA Lender with respect to the Requisition set forth above, including any withholding of a disbursement, shall be at the WIFIA Lender’s sole discretion, and in no event shall the WIFIA Lender be responsible for or liable to the Borrower for any and/or all consequence(s) which are the result thereof.

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY**, acting by and
through the Administrator

By: _____
WIFIA Lender’s Authorized Representative
Name:
Title:
Dated:

EXHIBIT A TO APPENDIX TWO TO EXHIBIT D-1

[Insert reasons for any partial or full denial of approval, if applicable.]

EXHIBIT D-2

**CERTIFICATION OF PRE-FUNDED ELIGIBLE PROJECT
COSTS DOCUMENTATION**

United States Environmental Protection Agency
WIFIA Director
WJC-W 6201A
1200 Pennsylvania Avenue NW
Washington, DC 20460

Re: BIOSOLIDS DIGESTER FACILITIES PROJECT (WIFIA # N17128CA)

Ladies and Gentlemen:

Pursuant to Section 4 (*Disbursement Conditions*) of the WIFIA Loan Agreement, dated as of July 27, 2018 (the “**WIFIA Loan Agreement**”), by and between the PUBLIC UTILITIES COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO (the “**Borrower**”) and the UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, acting by and through the Administrator (the “**WIFIA Lender**”), we hereby present this certificate in connection with the Borrower’s delivery of Pre-Funded Eligible Project Costs Documentation to the WIFIA Lender on [Date]. Capitalized terms used but not defined herein have the meaning set forth in the WIFIA Loan Agreement. The undersigned does hereby represent and certify the following:

1. This certificate is being delivered to the WIFIA Lender in connection with the Pre-Funded Eligible Project Costs Documentation and is applicable to the period between [_____] and [_____].
2. The amount of Pre-Funded Eligible Project Costs for which reimbursement will be sought from the WIFIA Loan pursuant to this certificate is \$[_____].
3. The sources of funding for such Pre-Funded Eligible Project Costs are [listed below / set forth in Exhibit [___] to this certificate].
4. The funds for which reimbursement will be sought were expended solely in connection with the payment or reimbursement of Eligible Project Costs.
5. As of the date hereof, there does not exist any System Event of Default or Project Event of Default or any event or condition that, with the lapse of time or giving of notice, would constitute a System Event of Default or Project Event of Default.
6. The undersigned acknowledges that if the Borrower makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Government in connection with the Project, the Government reserves the right to impose on the Borrower the penalties of 18 U.S.C. § 1001, to the extent the Government deems appropriate.
7. A copy of this certificate has been delivered to each of the above named addressees.

8. The undersigned is duly authorized to execute and deliver this certificate on behalf of the Borrower.

Date: _____

**PUBLIC UTILITIES COMMISSION OF
THE CITY AND COUNTY OF SAN
FRANCISCO³**

By: _____

Name:

Title: _____

³ To be executed by the Borrower's Authorized Representative.

EXHIBIT E

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY COMPLIANCE WITH LAWS

The Borrower shall, and shall require its contractors and subcontractors at all tiers for the Project to, comply in all material respects with any and all applicable federal and state laws. The following list of federal laws is illustrative of the type of requirements generally applicable to water and wastewater projects. It is not intended to be exhaustive.

Environmental Authorities

- Archeological and Historic Preservation Act, Pub. L. 93-291, as amended
- Archaeological Resources Protection Act, 16 U.S.C. §§ 470aa-mm
- Bald and Golden Eagle Protection Act, 16 U.S.C. §§ 668-668c
- Clean Air Act, Pub. L. 95-95, as amended
- Clean Water Act, Titles III, IV and V, Pub. L. 92-500, as amended
- Coastal Barrier Resources Act, Pub. L. 97-348
- Coastal Zone Management Act, Pub. L. 92-583, as amended
- Endangered Species Act, Pub. L. 93-205, as amended
- Farmland Protection Policy Act, Pub. L. 97-98
- Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations Environmental Justice, Executive Order 12898
- Fish and Wildlife Coordination Act, Pub. L. 85-624, as amended
- Floodplain Management, Executive Order 11988, 42 FR 26951, May 24, 1977, as amended by Executive Order 13690, 80 FR 6425, February 4, 2015
- Magnuson-Stevens Fishery Conservation and Management Act, Pub. L. 94-265
- Marine Mammal Protection Act, 16 U.S.C. §§ 1361-1407
- Migratory Bird Treaty Act, 16 U.S.C. §§ 703-712
- National Historic Preservation Act, Pub. L. 89-655, as amended
- National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq.
- Native American Graves Protection and Repatriation Act, 25 U.S.C. § 3001 et seq

- Protection of Wetlands, Executive Order 11990 as amended by Executive Order 12608
- Rivers and Harbors Act, 33 U.S.C. 403
- Safe Drinking Water Act, Pub L. 93-523, as amended
- Wild and Scenic Rivers Act, Pub. L. 90-54, as amended
- Wilderness Act, 16 U.S.C. § 1131 et seq.

Economic and Miscellaneous Authorities

- Debarment and Suspension, Executive Order 12549
- Demonstration Cities and Metropolitan Development Act, Pub. L. 89 -754, as amended, and Executive Order 12372
- Drug-Free Workplace Act, Pub. L. 100-690
- Labor Standards, 33 U.S.C. § 1372 and 40 U.S.C. 3141-3144, 3146 and 3147
- New Restrictions on Lobbying, Section 319 of Pub. L. 101-121
- Prohibitions relating to violations of the Clean Water Act or Clean Air Act with respect to federal contracts, grants, or loans under Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, and Executive Order 11738
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 et seq.)

Civil Rights, Nondiscrimination, Equal Employment Opportunity Authorities

- Age Discrimination Act, Pub. L. 94-135
- Equal Employment Opportunity, Executive Order 11246
- Section 13 of the Clean Water Act, Pub. L. 92-500
- Section 504 of the Rehabilitation Act, Pub. L 93-112 supplemented by Executive Orders 11914 and 11250
- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.)
- Participation by Disadvantaged Business Enterprises in Procurement under EPA Financial Assistance Agreements

EXHIBIT F
WIFIA DEBT SERVICE

SPFUC - Biosolids Digester
WIFIA Loan Amortization Schedule

Closing Date 7/27/2018
Loan Amount \$ 699,242,023.00
Interest rate 3.09%
Weight Average Life 34.5

Period Payment Date	Days in Period	Days in Year	Disbursement	Capitalized Interest	Interest Paid	Principal Repayment	% of Maximum Principal Outstanding	Semi-annual Debt Service Payment	Ending Balance
10/1/2018	180	360	\$ 13,588,076.00	\$ 69,978.60	\$ -	\$ -	0.00%	\$ -	\$ 13,658,054.60
4/1/2019	180	360	\$ 77,280,152.00	\$ 1,404,995.30	\$ -	\$ -	0.00%	\$ -	\$ 92,343,201.90
10/1/2019	180	360	\$ -	\$ 1,426,702.47	\$ -	\$ -	0.00%	\$ -	\$ 93,769,904.37
4/1/2020	180	360	\$ 175,984,846.00	\$ 4,167,710.91	\$ -	\$ -	0.00%	\$ -	\$ 273,922,461.28
10/1/2020	180	360	\$ -	\$ 4,232,102.03	\$ -	\$ -	0.00%	\$ -	\$ 278,154,563.31
4/1/2021	180	360	\$ 185,646,786.00	\$ 7,165,730.86	\$ -	\$ -	0.00%	\$ -	\$ 470,967,080.17
10/1/2021	180	360	\$ -	\$ 7,276,441.39	\$ -	\$ -	0.00%	\$ -	\$ 478,243,521.56
4/1/2022	180	360	\$ 196,043,251.00	\$ 10,417,730.64	\$ -	\$ -	0.00%	\$ -	\$ 684,704,503.20
10/1/2022	180	360	\$ -	\$ 10,578,684.58	\$ -	\$ -	0.00%	\$ -	\$ 695,283,187.78
4/1/2023	180	360	\$ 50,698,912.00	\$ 11,525,423.46	\$ -	\$ -	0.00%	\$ -	\$ 757,507,523.24
10/1/2023	180	360	\$ -	\$ 11,703,491.24	\$ -	\$ -	0.00%	\$ -	\$ 769,211,014.48
4/1/2024	180	360	\$ -	\$ 11,884,310.18	\$ -	\$ -	0.00%	\$ -	\$ 781,095,324.66
10/1/2024	180	360	\$ -	\$ 12,067,922.77	\$ -	\$ -	0.00%	\$ -	\$ 793,163,247.43
4/1/2025	180	360	\$ -	\$ 12,254,372.18	\$ -	\$ -	0.00%	\$ -	\$ 805,417,619.61
10/1/2025	180	360	\$ -	\$ 12,443,702.23	\$ -	\$ -	0.00%	\$ -	\$ 817,861,321.84
4/1/2026	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
10/1/2026	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
4/1/2027	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
10/1/2027	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
4/1/2028	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
10/1/2028	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
4/1/2029	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
10/1/2029	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
4/1/2030	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
10/1/2030	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
4/1/2031	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
10/1/2031	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
4/1/2032	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
10/1/2032	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
4/1/2033	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
10/1/2033	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
4/1/2034	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
10/1/2034	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
4/1/2035	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
10/1/2035	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
4/1/2036	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
10/1/2036	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
4/1/2037	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
10/1/2037	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
4/1/2038	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
10/1/2038	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
4/1/2039	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
10/1/2039	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
4/1/2040	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
10/1/2040	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
4/1/2041	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
10/1/2041	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
4/1/2042	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
10/1/2042	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
4/1/2043	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ -	0.00%	\$ 12,635,957.43	\$ 817,861,321.84
10/1/2043	180	360	\$ -	\$ -	\$ 12,635,957.43	\$ 10,305,052.66	1.26%	\$ 22,941,010.09	\$ 807,556,269.18
4/1/2044	180	360	\$ -	\$ -	\$ 12,476,744.36	\$ 10,468,624.92	1.28%	\$ 22,945,369.28	\$ 797,087,644.26
10/1/2044	180	360	\$ -	\$ -	\$ 12,315,004.11	\$ 10,632,197.19	1.30%	\$ 22,947,201.30	\$ 786,455,447.07
4/1/2045	180	360	\$ -	\$ -	\$ 12,150,736.66	\$ 10,795,769.45	1.32%	\$ 22,946,506.11	\$ 775,659,677.62
10/1/2045	180	360	\$ -	\$ -	\$ 11,983,942.02	\$ 10,959,341.72	1.34%	\$ 22,943,283.74	\$ 764,700,335.90
4/1/2046	180	360	\$ -	\$ -	\$ 11,814,620.19	\$ 11,122,913.98	1.36%	\$ 22,937,534.17	\$ 753,577,421.92
10/1/2046	180	360	\$ -	\$ -	\$ 11,642,771.17	\$ 11,286,486.25	1.38%	\$ 22,929,257.42	\$ 742,290,935.67
4/1/2047	180	360	\$ -	\$ -	\$ 11,468,394.96	\$ 11,531,844.64	1.41%	\$ 23,000,239.60	\$ 730,759,091.03
10/1/2047	180	360	\$ -	\$ -	\$ 11,290,227.96	\$ 23,472,619.94	2.87%	\$ 34,762,847.90	\$ 707,286,471.09
4/1/2048	180	360	\$ -	\$ -	\$ 10,927,575.98	\$ 23,799,764.47	2.91%	\$ 34,727,340.45	\$ 683,486,706.62
10/1/2048	180	360	\$ -	\$ -	\$ 10,559,869.62	\$ 24,208,695.13	2.96%	\$ 34,768,564.75	\$ 659,278,011.49
4/1/2049	180	360	\$ -	\$ -	\$ 10,185,845.28	\$ 24,617,625.79	3.01%	\$ 34,803,471.07	\$ 634,660,385.70
10/1/2049	180	360	\$ -	\$ -	\$ 9,805,502.96	\$ 27,152,995.89	3.32%	\$ 36,958,498.85	\$ 607,507,389.81
4/1/2050	180	360	\$ -	\$ -	\$ 9,385,989.18	\$ 27,561,926.55	3.37%	\$ 36,947,915.73	\$ 579,945,463.26
10/1/2050	180	360	\$ -	\$ -	\$ 8,960,157.41	\$ 27,970,857.21	3.42%	\$ 36,931,014.62	\$ 551,974,606.05
4/1/2051	180	360	\$ -	\$ -	\$ 8,528,007.67	\$ 28,461,574.01	3.48%	\$ 36,989,581.68	\$ 523,513,032.04
10/1/2051	180	360	\$ -	\$ -	\$ 8,088,276.35	\$ 29,034,076.93	3.55%	\$ 37,122,353.28	\$ 494,478,955.11
4/1/2052	180	360	\$ -	\$ -	\$ 7,639,699.86	\$ 29,524,793.72	3.61%	\$ 37,164,493.58	\$ 464,954,161.39
10/1/2052	180	360	\$ -	\$ -	\$ 7,183,541.80	\$ 29,933,724.38	3.66%	\$ 37,117,266.18	\$ 435,020,437.01
4/1/2053	180	360	\$ -	\$ -	\$ 6,721,065.76	\$ 30,424,441.18	3.72%	\$ 37,145,506.94	\$ 404,595,995.83
10/1/2053	180	360	\$ -	\$ -	\$ 6,251,008.14	\$ 30,915,157.97	3.78%	\$ 37,166,166.11	\$ 373,680,837.86
4/1/2054	180	360	\$ -	\$ -	\$ 5,773,368.95	\$ 31,405,874.76	3.84%	\$ 37,179,243.71	\$ 342,274,563.10
10/1/2054	180	360	\$ -	\$ -	\$ 5,288,148.18	\$ 31,896,591.56	3.90%	\$ 37,184,739.74	\$ 310,378,371.54
4/1/2055	180	360	\$ -	\$ -	\$ 4,795,345.85	\$ 32,387,308.35	3.96%	\$ 37,182,654.20	\$ 277,991,063.19
10/1/2055	180	360	\$ -	\$ -	\$ 4,294,961.93	\$ 32,878,025.14	4.02%	\$ 37,172,987.07	\$ 245,113,038.05
4/1/2056	180	360	\$ -	\$ -	\$ 3,786,996.44	\$ 33,368,741.94	4.08%	\$ 37,155,738.38	\$ 211,744,296.11
10/1/2056	180	360	\$ -	\$ -	\$ 3,271,449.38	\$ 33,941,244.86	4.15%	\$ 37,212,694.24	\$ 177,803,051.25
4/1/2057	180	360	\$ -	\$ -	\$ 2,747,057.15	\$ 34,431,961.65	4.21%	\$ 37,179,018.80	\$ 143,371,089.60
10/1/2057	180	360	\$ -	\$ -	\$ 2,215,083.34	\$ 35,004,464.58	4.28%	\$ 37,219,547.92	\$ 108,366,625.02
4/1/2058	180	360	\$ -	\$ -	\$ 1,674,264.36	\$ 35,576,967.51	4.35%	\$ 37,251,231.87	\$ 72,789,657.51
10/1/2058	180	360	\$ -	\$ -	\$ 1,124,600.21	\$ 36,067,684.30	4.41%	\$ 37,192,284.51	\$ 36,721,973.21
4/1/2059	180	360	\$ -	\$ -	\$ 567,354.49	\$ 36,721,973.21	4.49%	\$ 37,289,327.85	\$ -
Total	180	360	\$ 699,242,023.00	\$ 118,619,298.84	\$ 689,812,079.20	\$ 817,861,321.84		\$ 1,507,673,401.19	

EXHIBIT G-1

OPINIONS REQUIRED OF COUNSEL TO BORROWER

An opinion of the counsel of the Borrower, dated as of the Effective Date, to the effect that:

(a) the Borrower is duly formed, validly existing, and in good standing under the laws of the jurisdiction of its organization;

(b) the Borrower has all requisite power and authority to conduct its business and to execute and deliver, and to perform its obligations under the Related Documents to which it is a party;

(c) the execution and delivery by the Borrower of, and the performance of its respective obligations under, the Related Documents to which it is a party, have been duly authorized by all necessary organizational or regulatory action;

(d) the Borrower has duly executed and delivered each Related Document to which it is a party and each such Related Document constitutes the legal, valid and binding obligation of such party; enforceable against such party in accordance with their respective terms;

(e) no authorization, consent, or other approval of, or registration, declaration or other filing with any governmental authority of the United States of America or of the State is required on the part of the Borrower for the execution and delivery by such party of, and the performance of such party under, any Related Document to which it is a party other than authorizations, consents, approvals, registrations, declarations and filings that have already been timely obtained or made by the Borrower;

(f) the execution and delivery by the Borrower of, and compliance with the provisions of, the Related Documents to which it is a party in each case do not (i) violate the Organizational Documents of the Borrower, (ii) violate the law of the United States of America or of the State or (iii) conflict with or constitute a breach of or default under any material agreement or other instrument known to such counsel to which the Borrower is a party, or to the best of such counsel's knowledge, after reasonable review, any court order, consent decree, statute, rule, regulation or any other law to which the Borrower is subject;

(g) to our knowledge after due inquiry, there are no actions, suits, proceedings or investigations against the Borrower by or before any court, arbitrator or any other Governmental Authority in connection with the Related Documents or the Project that are pending; and

(h) the Borrower is not entitled to claim governmental immunity in any breach of contract action under the WIFIA Loan Agreement or the WIFIA Bond or by the Trustee under the Indenture Documents..

EXHIBIT G-2

OPINIONS REQUIRED FROM BOND COUNSEL

An opinion of bond counsel, dated as of the Effective Date, to the effect that:

(a) the Borrower has been duly created and validly exists as a commission under and pursuant to the Charter of the City and the laws of the State (including the Charter, as amended to the date hereof) (the “Borrower Act”), with good right and power to issue the WIFIA Bond;

(b) each of the Indenture Documents and the WIFIA Loan Documents has been duly authorized, executed and delivered by the Borrower, is in full force and effect and constitutes the legal, valid, and binding obligation of the Borrower, enforceable against the Borrower in accordance with its respective terms and conditions;

(c) upon receipt by the Trustee of the portion of the purchase price of the WIFIA Bond on each Disbursement Date in compliance with the provisions of the WIFIA Supplemental Indenture, the WIFIA Bond delivered to the WIFIA Lender in connection with the execution of the WIFIA Loan Agreement, in the principal amount deemed purchased by the WIFIA Lender as of such Disbursement Date, including any amount purchased on any prior Disbursement Date and any capitalized interest thereon, will be secured by the Net System Revenues and will be a Bond entitled to the benefits of a Bond under the Indenture, enforceable under the laws of the State without any further action by the Commission or any other Person, and will be on a parity with all other Bonds issued under the Indenture, including any Additional Bonds, in right of payment and right of security;

(d) the Indenture creates a valid pledge of the Net System Revenues, which pledge constitutes a lien on and security interest in the Net System Revenues, to secure the payment of the principal of, and interest on the Bonds (including, upon payment of the purchase price of the WIFIA Bond pursuant to the WIFIA Supplemental Indenture, the WIFIA Bond), subject to the provisions of the Indenture permitting the application thereof for the purposes and on the terms and conditions set forth therein, irrespective of whether any party has notice of the pledge and without the need for any physical delivery, recordation, filing or further act to perfect such assignment or pledge;

(e) subject to the satisfaction of the provisions of the WIFIA Supplemental Indenture on each Disbursement Date, all actions by the Borrower that are required for the application of System Revenues as required under the Indenture and under the WIFIA Loan Agreement will have been duly and lawfully made on each such Disbursement Date;

(f) the Borrower has complied with the requirements of State law to lawfully pledge the Net System Revenues and use the Net System Revenues as required by the terms of the Indenture and the WIFIA Loan Agreement; and

(g) the Borrower is not an investment company required to register under the Investment Company Act of 1940, as amended;

EXHIBIT H

FORM OF CERTIFICATE OF TRUSTEE

PUBLIC UTILITIES COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO

WIFIA Bond, Biosolids Digester Facilities Project (WIFIA N17128CA)

The undersigned, U.S. Bank National Association (the “*Trustee*”), by its duly appointed, qualified and acting authorized officer, certifies with respect to the above referenced bond (the “*WIFIA Bond*”) dated as of July 27, 2018, as follows (capitalized terms used in this Certificate which are not otherwise defined shall have the meanings given to such terms in the Indenture (as defined below)):

1. That the Trustee is a national banking association duly organized and validly existing and in good standing under the laws of the United States of America.

2. All approvals, consents and orders of any governmental authority or agency having jurisdiction over the Trustee in the matter which would constitute a condition precedent to the performance by the Trustee of its duties and obligations under the documents pertaining to the issuance of the WIFIA Bond have been obtained by the Trustee and are in full force and effect.

3. That the documents pertaining to the issuance of the WIFIA Bond to which the Trustee is a party were executed by the Trustee and the WIFIA Bond was authenticated on behalf of the Trustee by one or more of the persons whose names and offices appear on Annex One attached hereto and made part hereof, that each person was at the time of the execution of such documents and the authentication of the WIFIA Bond and now is duly appointed, qualified and acting incumbent of his or her respective office, that each such person was authorized to execute such documents and to authenticate the WIFIA Bond, and that the signature appearing after the name of each such person is a true and correct specimen of that person’s genuine signature.

4. That the undersigned is authorized to act as Trustee and accept the trusts conveyed to it under the Indenture (“*Trusts*”), has accepted the Trusts so conveyed and in so accepting the Trusts and so acting is not in violation of any provision of its articles of association or bylaws, any law, regulation or court or administrative order or, to its knowledge, any agreement or other instrument to which it is a party or by which it may be bound.

5. That attached to this Certificate as Annex One is a full, true and correct copy of excerpts from resolutions of the bylaws of the Trustee that evidence the Trustee’s trust powers and the authority of the officers referred to above to act on behalf of the Trustee; and that these excerpts and other applicable documents were in effect on the date or dates such officers acted and remain in full force and effect today, and such excerpts and documents have not been amended since the date of the last amendment thereto shown on any such copy, as applicable.

6. That receipt is acknowledged of all instruments, certifications and other documents or confirmations required to be received by the Trustee pursuant to that certain Indenture, dated as of January 1, 2003, by and between the Public Utilities Commission of the City and County of San Francisco (the “*Borrower*”) and the Trustee (as amended, the “*Indenture*”).

7. That receipt is also acknowledged of that certain WIFIA Loan Agreement, dated as of July 27, 2018 (the “*WIFIA Loan Agreement*”), between the Borrower and the United States Environmental Protection Agency, acting by and through the Administrator.

8. That the Trustee also accepts its appointment and agrees to perform the duties and responsibilities of Trustee for and in respect of the WIFIA Bond as set forth in the Indenture and the WIFIA Loan Agreement, including from time to time redeeming all or a portion of the WIFIA Bond as provided in Article IV of the Indenture. In accepting such duties and responsibilities, the Trustee shall be entitled to all of the privileges, immunities, rights and protections set forth in Article VIII of the Indenture.

9. That all funds and accounts for the payment of the WIFIA Bond pursuant to the Indenture have been established as provided in the Indenture.

[SIGNATURE PAGE FOLLOWS]

Dated: July 27, 2018

U.S. BANK NATIONAL ASSOCIATION

By: _____
Authorized Officer

ANNEX ONE TO EXHIBIT H
EXCERPTS OF BYLAWS AND INCUMBENCY CERTIFICATE

EXHIBIT I

FORM OF BORROWER'S OFFICER'S CERTIFICATE

Reference is made to that certain WIFIA Loan Agreement, dated as of July 27, 2018 (the “**WIFIA Loan Agreement**”), by and among the Public Utilities Commission of the City and County of San Francisco (the “Borrower”) and the United States Environmental Protection Agency, acting by and through the Administrator (the “**WIFIA Lender**”). Capitalized terms used in this certificate and not defined shall have the respective meanings ascribed to such terms in the WIFIA Loan Agreement.

The undersigned, Michael Carlin, as Borrower's Authorized Representative, does hereby certify on behalf of the Borrower and not in his/her personal capacity, as of the date hereof:

- (a) pursuant to Section 12(a)(ii) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, attached hereto as **Exhibit A** are complete and fully executed copies of each Indenture Document, together with any amendments, waivers or modifications thereto, in each case that has been entered into on or prior to the Effective Date, and each such agreement is in full force and effect, and all conditions contained in such documents to the closing of the transactions contemplated thereby have been fulfilled or effectively waived by the WIFIA Lender in its sole discretion;
- (b) pursuant to Section 12(a)(iv) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, attached hereto as **Exhibit B** is a certificate to the absence of debarment, suspension or voluntary exclusion from participation in Government contracts, procurement and non-procurement matters with respect to the Borrower and its principals (as defined in 2 C.F.R. § 180.995);
- (c) pursuant to Section 12(a)(v) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, as of the Effective Date, there has been no reduction, withdrawal or suspension of the public Investment Grade Ratings assigned to the WIFIA Loan and the Bonds then Outstanding;
- (d) pursuant to Section 12(a)(vi) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, attached hereto as **Exhibit C** is an incumbency certificate that lists all persons, together with their positions and specimen signatures, who are duly authorized by the Borrower to execute the Related Documents to which the Borrower is or will be a party, and who have been appointed a Borrower's Authorized Representative in accordance with Section 27 (*Borrower's Authorized Representative*) of the WIFIA Loan Agreement;
- (e) pursuant to Section 12(a)(vii) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, as of the Effective Date, the

aggregate of all funds committed to the development and construction of the Project as set forth in the Base Case Financial Model, the Project Budget and in the ten (10)-year financial plan delivered by the Borrower pursuant to Section 12(a)(xxv) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement are sufficient to carry out the Project, pay all Total Project Costs anticipated for the Project and achieve Substantial Completion by the Projected Substantial Completion Date;

- (f) pursuant to Section 12(a)(viii) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, attached hereto as **Exhibit D** are true, correct and complete copies of each Principal Project Contract that has been executed on or prior to the Effective Date (as listed below), and each such Principal Project Contract is in full force and effect and has not been amended, amended and restated, modified or supplemented except as listed below and attached hereto as part of **Exhibit D**:

- (i) [*Insert names of Principal Project Contracts*];

- (g) pursuant to Section 12(a)(ix) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, (i) the Borrower has obtained all Governmental Approvals needed (A) as of the Effective Date in connection with the Project and (B) to execute and deliver, and perform its obligations under the WIFIA Loan Agreement and (ii) each such Governmental Approval is final and non-appealable and in full force and effect (and is not subject to any notice of violation, breach or revocation);

- (h) pursuant to Section 12(a)(x) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, attached hereto as **Exhibit E** is the Base Case Financial Model, which Base Case Financial Model (i) demonstrates that projected System Revenues are sufficient to meet the Bond Amortization Schedule, (ii) demonstrates compliance with the Rate Covenant for each Borrower Fiscal Year through the Final Maturity Date, and (iii) demonstrates that the Borrower has developed, and identified adequate revenues to implement, a plan for operating, maintaining and repairing the Project over the useful life of the Project;

- (i) pursuant to Section 12(a)(xi) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, the Borrower (i) is authorized, pursuant to the State Constitution, the laws of the State, the Charter and the Indenture, to pledge, assign, and grant the Liens on the Net System Revenues purported to be pledged, assigned, and granted pursuant to the Indenture Documents, without the need for notice to any Person, physical delivery, recordation, filing or further act (excluding only the delivery of the certificates and the opinion of bond counsel to the Borrower as a condition precedent to each disbursement of WIFIA Loan proceeds in accordance with the WIFIA Supplemental Indenture and as specified in Section 12(b)(xiv) (*Conditions Precedent – Conditions Precedent to All Disbursements*) of the WIFIA Loan

Agreement); (ii) has recorded or filed, or caused to be recorded or filed, for record in such manner and in such places as are required all documents and instruments, and taken or caused to be taken all other actions, as are necessary or desirable to establish and enforce the Lien on the Net System Revenues (for the benefit of the WIFIA Lender and the other Secured Parties) to the extent contemplated by the Indenture Documents; and (iii) has paid, or caused to be paid, all taxes and filing fees that are due and payable in connection with the execution, delivery or recordation of any Indenture Documents or any instruments, certificates or financing statements in connection with the foregoing;

- (j) pursuant to Section 12(a)(xiii) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, (i) attached hereto as **Exhibit F** is a true, correct and complete copy of the final NEPA Determination, which document has not been revoked or amended on or prior to the date hereof, (ii) the Borrower has complied with all other applicable federal, state or local environmental review and approval requirements with respect to the Project, and (iii) the Borrower has complied with all applicable requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 et seq.) and Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.);
- (k) pursuant to Section 12(a)(xv) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, (i) the Borrower's Federal Employer Identification Number is 94-6000417, (ii) the Borrower's Data Universal Numbering System number is 786391599, and (iii) the Borrower has registered with, and obtained confirmation of active registration status from, the federal System for Award Management (www.SAM.gov), and attached hereto as **Exhibit G** is evidence of each of (ii) and (iii);
- (l) pursuant to Section 12(a)(xvi) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, (i) the insurance required pursuant to Section 15(f) (*Affirmative Covenants - Insurance*) is in full force and effect and such insurance complies with the requirements of the Indenture and the WIFIA Loan Agreement, and (ii) attached hereto as **Exhibit H** is a certificate, signed by the Director of the City's Risk Management Division, certifying as to the Borrower's self-insurance program;
- (m) pursuant to Section 12(a)(xvii) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, attached hereto as (i) **Exhibit I-1** is a copy of the Borrower's Organizational Documents, as in effect on the Effective Date, which Organizational Documents are in full force and effect and have not been amended since the date of the last amendment thereto shown on **Exhibit I-1**, (ii) **Exhibit I-2** is a copy of all resolutions authorizing the Borrower to execute and deliver, and to perform its respective obligations under, the WIFIA Loan Documents to which it is a party, and such resolutions have not been subsequently modified, rescinded or amended, are in full force and effect in the form adopted, and are the only resolutions adopted by the Borrower relating to the matters

described therein, and (iii) as **Exhibit I-3** is a copy of such further instruments and documents as are necessary, appropriate or advisable to effectuate the foregoing resolutions and to consummate and implement the transactions contemplated by such resolutions and the WIFIA Loan Documents;

- (n) pursuant to Section 12(a)(xviii) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, the Borrower has duly adopted a resolution authorizing the issuance of the WIFIA Bond and execution of the WIFIA Loan Agreement and the WIFIA Supplemental Indenture, and pledging the security set forth in the WIFIA Loan Documents, and such resolution remains in full force and effect;
- (o) pursuant to Section 12(a)(xx) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, there are no performance security instruments currently in effect or required to be delivered to or by the Borrower on or before the Effective Date pursuant to any Principal Project Contract in effect as of the Effective Date;
- (p) pursuant to Section 12(a)(xxi) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, the representations and warranties of the Borrower set forth in the WIFIA Loan Agreement and in each other Related Document to which the Borrower is a party are true and correct on and as of the date hereof, except to the extent that such representations and warranties expressly relate to an earlier date, in which case such representations and warranties were true and correct as of such earlier date; and
- (q) pursuant to Section 12(a)(xxii) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, (i) the maximum principal amount of the WIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), together with the amount of any other credit assistance provided under the Act to the Borrower, does not exceed forty-nine percent (49%) of reasonably anticipated Eligible Project Costs and (ii) as required pursuant to §3908(b)(9) of the Act, the total federal assistance provided to the Project, including the maximum principal amount of the WIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), does not exceed eighty percent (80%) of Total Project Costs.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the undersigned has executed this certificate as of the date first mentioned above.

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

By: _____

Name: Michael Carlin

Title: Deputy General Manager and
Chief Operation Officer

EXHIBIT C TO EXHIBIT I
INCUMBENCY CERTIFICATE

The undersigned certifies that he/she is the [Secretary] of the Public Utilities Commission of the City and County of San Francisco, a commission duly organized and existing under and pursuant to the Charter of the City and County of San Francisco and the laws of the State of California (the "Borrower"), and as such he/she is authorized to execute this certificate and further certifies that the following persons have been elected or appointed, are qualified, and are now acting as officers or authorized persons of the Borrower in the capacity or capacities indicated below, and that the signatures set forth opposite their respective names are their true and genuine signatures. He/She further certifies that any of the officers listed below is authorized to sign agreements and give written instructions with regard to any matters pertaining to the WIFIA Loan Documents and/or the Indenture Documents as the Borrower's Authorized Representative (each as defined in that certain WIFIA Loan Agreement, dated as of the date hereof, between the Borrower and the United States Environmental Protection Agency, acting by and through the Administrator):

<u>Name</u>	<u>Title</u>	<u>Signature</u>
[_____]	[_____]	_____
[_____]	[_____]	_____
[_____]	[_____]	_____
[_____]	[_____]	_____
[_____]	[_____]	_____

IN WITNESS WHEREOF, the undersigned has executed this certificate as of this _____ day of [____], 2018.

PUBLIC UTILITIES COMMISSION OF THE
CITY AND COUNTY OF SAN FRANCISCO

By: _____
Name:
Title:

EXHIBIT J

FORM OF CERTIFICATE OF SUBSTANTIAL COMPLETION

[Letterhead of Borrower]

[Date]

Environmental Protection Agency
WIFIA Director
WJC-W 6201A
1200 Pennsylvania Avenue NW
Washington, DC 20460

Project: Biosolids Digester Facilities Project (WIFIA # N17128CA)

Dear Director:

This Notice is provided pursuant to Section 15(g)(i)(A) (*Affirmative Covenants – Notice – Substantial Completion*) of that certain WIFIA Loan Agreement (the “**WIFIA Loan Agreement**”), dated as of July 27, 2018, by and between the Public Utilities Commission of the City and County of San Francisco (the “**Borrower**”) and the United States Environmental Protection Agency, acting by and through its Administrator (the “**WIFIA Lender**”).

Unless otherwise defined herein, all capitalized terms in this Notice have the meanings assigned to those terms in the WIFIA Loan Agreement.

I, the undersigned, in my capacity as the Borrower’s Authorized Representative and not in my individual capacity, do hereby certify to the WIFIA Lender that:

- (a) on *[insert date Substantial Completion requirements were satisfied]*, the Project satisfied each of the requirements for Substantial Completion set forth in the *[Insert reference to applicable Principal Project Contract(s)]*;
- (b) Substantial Completion has been declared under each of the above-referenced agreements and copies of the notices of Substantial Completion under such agreements are attached to this certification; and
- (c) Substantial Completion, as defined in the WIFIA Loan Agreement, has been achieved.

[Borrower’s Authorized Representative]
