

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: August 9, 2021

CAO File No. 0220-05291-1045

Council File No. 20-1176

Council District: 6

To: The Mayor
The City Council

From: Matthew W. Szabo, City Administrative Officer



Reference: Los Angeles Wastewater System Revenue Bond Debt Financing Program
Council File 20-1176
Public Works Board Report 2020-0561

Subject: **LOS ANGELES WASTEWATER SYSTEM – DONALD C. TILLMAN ADVANCED WATER PURIFICATION FACILITY AND GROUNDWATER REPLENISHMENT PROJECT – UNITED STATES ENVIRONMENTAL PROTECTION AGENCY WATER INFRASTRUCTURE FINANCE AND INNOVATION ACT (WIFIA) PROGRAM LOAN AGREEMENT – ISSUANCE OF A SUBORDINATE BOND THROUGH A PRIVATE PLACEMENT WITH THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (SERIES 2021 WIFIA BOND)**

RECOMMENDATIONS

That the City Council, subject to the approval of the Mayor:

1. ADOPT the Twenty-Sixth Supplemental Subordinate General Resolution, which includes findings related to the private placement of the Series 2021 WIFIA Bond, approval of the form of the WIFIA Loan Agreement, authorization for the City Administrative Officer to execute and enter into the WIFIA Loan Agreement, execution of various documents required to consummate the transaction, and authorizes the City Administrative Officer to take necessary actions required to manage the transaction;
2. ADOPT an Ordinance providing for the issuance of the WIFIA Bond through a private placement with the Environmental Protection Agency and amends the Los Angeles Administrative Code to add special funds for the WIFIA Bond, to be transmitted under separate cover by the City Attorney; and,
3. AUTHORIZE the City Administrative Officer to make technical changes and adjustments necessary to those transactions included in this report and to implement the intent of the Mayor and City Council.

SUMMARY

The City Administrative Officer (“CAO”) requests authority to issue a subordinate bond through a private placement with the United States Environmental Protection Agency (“EPA” or “WIFIA Lender”), the Los Angeles Wastewater (“LAWW”) System Subordinate Revenue Bond, Series 2021 WIFIA Bond (“WIFIA Bond”), in the amount of up to \$223,921,010. Proceeds of the Series 2021 WIFIA Bond will be used to finance a portion of the Donald C. Tillman Water Reclamation Plant (“DCTWRP”) Advanced Water Purification Facility (“AWPF”) Project costs. The principal, premium, and interest on the WIFIA Bond will be secured and payable solely from the revenues and from amounts in the Sewer Construction and Maintenance Fund (“SCM”). The General Fund of the City is not liable for the payment of the principal, interest on, or premium, if any, on the WIFIA Bond.

This Office recommends the sale of the WIFIA Bond through a private placement with the WIFIA Lender and the execution of the WIFIA Loan Agreement, which provides for the purchase of the WIFIA Bond by the WIFIA Lender. This recommendation is based upon existing market conditions and that it is in the best interests of the City to sell the WIFIA Bond through a private placement. The interest rate for the WIFIA Bond is expected to be lower than if the City were to issue bonds through a sale in the open capital market. In May 2021, the WIFIA Lender provided a sample amortization schedule that illustrated an interest rate of 2.25 percent. The final interest rate for the WIFIA Bond will be set the morning of closing and will be based on the weighted average life (WAL) of the loan and the corresponding State and Local Government Series (SLGS) rate plus one basis point. As of August 4, 2021, this rate is 1.71 percent. The comparable yield to maturity for a tax-exempt bond issue with the same WAL would be approximately 2.67 as of the same date, with the WIFIA Bond providing an approximate 0.96 percent yield to maturity advantage.

The CAO recommends the adoption of the Twenty-Sixth Supplemental Subordinate General Resolution (Attachment A), which authorizes the issuance of the WIFIA Bond, the private placement of such bond, the execution and delivery of documents related to the bond, including the WIFIA Loan Agreement (Attachment B), and related actions.

The Mayor and City Council will also need to approve an Ordinance which provides for the issuance of the WIFIA Bond through a private placement with the EPA and establishes special funds for the WIFIA Bond. This report has been prepared by the City Attorney and will be submitted separately.

The closing of the bonds is scheduled for the week of September 20, 2021. The City will also deliver two ratings for the WIFIA Bond within 90 days of closing.

This report contains the financing information of the proposed bond issuance as required by California Senate Bill No. 450 (“SB 450”). By placing this report on the Council Agenda for City Council consideration, the City fulfills the requirement to disclose the financing information in a meeting open to the public.

FISCAL IMPACT STATEMENT

There is no impact to the General Fund as a result of the recommended Los Angeles Wastewater System Subordinate Series 2021 WIFIA Bond as debt service is paid solely from the Sewer Construction and Maintenance Fund.

FINANCIAL POLICIES STATEMENT

The recommendations in this report comply with the City's Financial Policies in that debt service on the Los Angeles Wastewater System Subordinate Series 2021 WIFIA Bond will be paid from the Sewer Construction and Maintenance Fund.

DEBT IMPACT STATEMENT

There is no debt impact to the City's General Fund from the approval of the recommendations in this report as debt service on the Wastewater System Revenue Bonds (including the Los Angeles Wastewater System Subordinate Series 2021 WIFIA Bond) are paid from the Sewer Construction and Maintenance Fund. The issuance of approximately \$224 million in Los Angeles Wastewater System Subordinate Series 2021 WIFIA Bond is currently expected to result in the City paying a total of approximately \$320 million, including \$96 million in interest, over 30 years at a true interest cost of approximately 2.25 percent. Debt service payments will commence on December 1, 2026. The City will only pay interest for the first five years (approximately \$5,038,223 annually), followed by relatively level debt service payments thereafter of approximately \$11,808,696 (annually). Debt service amounts are conservatively estimated, subject to the receipt of a final debt service schedule from the United States Environmental Protection Agency upon the effective date of the loan.

These borrowing amounts and interest rates are based on market conditions as of May 14, 2021. Actual borrowing amounts and interest rates are subject to change based on market conditions at the time of financial close.

FINDINGS

1. Background

The WIFIA Bond is issued pursuant to the Wastewater System Subordinate Revenue General Resolution, adopted by the City Council on March 26, 1991, as amended and supplemented (the "Subordinate General Resolution"). Under the Subordinate General Resolution, the City has previously issued multiple series of Subordinate Bonds (the "Existing Subordinate Bonds") that have a lien on Revenues subordinate to that of the Existing Senior Lien Bonds. The City currently has outstanding Subordinate Bonds in the aggregate principal amount of \$1,558,245,000, excluding commercial paper notes. Per the Subordinate General Resolution, a reserve fund is not required for Subordinate Bonds, including the WIFIA Bond.

Proceeds of the WIFIA Bond will be used to fund a portion of the project costs for the DCTWRP AWPf Project (Project). The DCTWRP AWPf Project consists of the following components:

- (a) a new advanced water purification facility treatment train to treat up to approximately nineteen (19) million gallons per day ("MGD") of undisinfected tertiary effluent from the DCTWRP to produce up to approximately fifteen and a half (15.5) MGD of purified water suitable for groundwater replenishment via the Hansen Spreading Grounds;
- (b) new larger maintenance facilities to support the growth of the plants' processes and systems due to the Project; and,
- (c) one new primary equalization tank with a total volume of approximately 6.75 MGD of influent storage capacity to allow the AWPf to operate at a constant flow.

Water Infrastructure Finance and Innovation Act of 2014

The Water Infrastructure Finance and Innovation Act of 2014 established the WIFIA Program, a federal credit program administered by the EPA, for eligible water and wastewater infrastructure projects. WIFIA can fund up to a maximum of 49 percent of eligible project costs with a 35 year maximum final maturity date from substantial completion of the project. The interest rate will be equal or greater than the US Treasury rate of a similar maturity, which can range from 1.71 percent to 3.9 percent.

The Bureau of Sanitation (LASAN) submitted a letter of interest for the Fiscal Year 2018 WIFIA Selection Round. In October 2018, LASAN received notification from the EPA that the Project was selected to submit an application for credit assistance. On July 31, 2019 the LASAN submitted its application for a WIFIA loan for the DCTWRP AWPf Project. In October 2020, the City Council authorized the Director of the Bureau of Sanitation, or designee to accept, negotiate, execute, and submit all documents, which may be necessary to secure the financing agreement for the DCTWRP AWPf Project from the EPA's WIFIA Program (Council File 20-1176). LASAN and the CAO have been working cooperatively with the EPA on the WIFIA underwriting process to ensure that the documents are consistent with the Subordinate General Resolution. The CAO is now requesting the remaining City Council approvals to continue the financial close process.

2. Proposed Transaction

The WIFIA Bond will be issued to provide up to \$224 million in new money for the DCTWRP AWPFF Project. The estimated total cost of the Project is \$504,281,000. Up to 49 percent of the total project costs can be funded by the WIFIA Bond. The remaining costs will be funded by the SCM Fund, cost share agreements with the Los Angeles Department of Water and Power (LADWP), and a potential future State Revolving Fund Loan. In a Letter of Intent dated March 24, 2021, LADWP stated its intention to share 100 percent of the costs of the AWPFF component and the equalization component, as well as 50 percent of the construction costs of the new maintenance facilities; the method and timeline of payment of this cost share are to be detailed in future agreements between LASAN and LADWP. It is anticipated that the SCM Fund will front fund the Project costs, which may include the use of short-term debt proceeds, such as commercial paper notes and/or bond anticipation notes. The WIFIA Bond proceeds will be drawn down at the time of substantial completion of the Project and will be used to pay the commercial paper notes when due, or refund any other outstanding debt associated with the Project. The projected substantial completion date of the project is September 30, 2027. The final maturity date of the WIFIA Bond will be the earlier of June 1, 2056 and the principal payment date immediately preceding the date that is thirty-five (35) years following the substantial completion date.

The costs of issuance (“COI”) for WIFIA Bond includes fees for bond counsel, municipal advisors, rating agencies, EPA’s credit processing fee, and other associated costs. COI will be paid from the SCM Fund. At this time, the estimated total COI amount for this bond series is \$652,573.

3. State Senate Bill 450

California Senate Bill 450 (“SB 450”) was approved and signed by Governor Edmund G. Brown, Jr. on October 9, 2017. It requires that prior to the authorization of the issuance of bonds with a term greater than 13 months, the governing body of a public entity obtain and disclose specified information regarding the bonds in a meeting open to the public. The following information is required under SB 450:

1. All-In true interest cost (“TIC”) of the bonds;
2. Finance charge of the bonds (Costs of Issuance);
3. Amount of proceeds received from the sale of the bonds; and
4. Total payment amount (Total Debt Service).

The table below contains the financing information required by SB 450:

Series	All-In True Interest Cost	Cost of Issuance	Total Par	Total Debt Service
2021 WIFIA Bond	2.25%	\$ 652,573	\$ 223,921,000	\$ 320,408,511

¹The actual All-In True Interest Cost of the Series 2021 WIFIA Bond is unknown as the final interest rate will be set the day of closing based on the most recent State and Local Government Series (SLGS) securities rate + one basis point.

4. Financing Team

The firm providing municipal advisory services for this financing is Public Resources Advisory Group (Local Business Enterprise, previously approved by the Mayor and City Council (C.F. 19-0355). Hawkins Delafield & Wood LLP (“Hawkins”) (Local Business Enterprise) serves as Bond and Tax Counsel for this transaction. Hawkins is on the City’s qualified list of legal services for the City’s various bond programs, previously approved by the Mayor and City Council (C.F. 12-0917).

5. Required Documents

To proceed with the recommended transaction for the WIFIA Bond, the City Council will need to adopt the Twenty-Sixth Supplemental Subordinate General Resolution (Attachment A), which provides for the approval of the following:

- Findings related to the private placement of the WIFIA Bond;
- Approval of the substantial form of the WIFIA Loan Agreement (Attachment B); and
- Execution of documents and additional actions by the City Administrative Officer.

An accompanying City Attorney report and draft ordinance, to be submitted under separate cover, will need to be approved to authorize the issuance of the WIFIA Bond through a private placement and amend the Los Angeles Administrative Code to establish the necessary special funds for the WIFIA Bond.

MWS:HTT:SMS:09220029

ATTACHMENTS

Attachment A – Twenty-Sixth Supplemental Subordinate Resolution
Exhibit A – Form of the Series 2021 WIFIA Bond

Attachment B – WIFIA Loan Agreement

ATTACHMENT A

TWENTY-SIXTH SUPPLEMENTAL RESOLUTION

THE COUNCIL OF THE CITY OF LOS ANGELES

TWENTY-SIXTH SUPPLEMENTAL RESOLUTION

Adopted by the Council of the City on

September __, 2021

and

SUPPLEMENTING THE

WASTEWATER SYSTEM SUBORDINATE REVENUE BONDS GENERAL RESOLUTION

Which Was

Adopted by the Council of the City on

March 26, 1991

AND AUTHORIZING AND APPROVING THE ISSUANCE OF
WASTEWATER SYSTEM SUBORDINATE REVENUE BOND, SERIES 2021 (WIFIA),
THE PRIVATE PLACEMENT OF SUCH BOND, THE EXECUTION AND DELIVERY OF
DOCUMENTS RELATED THERETO AND RELATED ACTIONS

TWENTY-SIXTH SUPPLEMENTAL RESOLUTION

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(This table of contents is not part of the Twenty-Sixth Supplemental Resolution and has been added only for convenience of reference. The captions herein are of no legal effect and do not vary the meaning or legal effect of any part of this Twenty-Sixth Supplemental Resolution.)

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Exhibit A – Form of the Series 2021 WIFIA Bond A-1

TWENTY-SIXTH SUPPLEMENTAL RESOLUTION

Providing for

City of Los Angeles
Wastewater System Subordinate Revenue Bond
Series 2021 (WIFIA)

WHEREAS, the City Council (the “Council”) of the City of Los Angeles (the “City”) on November 10, 1987 adopted a resolution designated as the “Wastewater System Revenue Bonds General Resolution,” as amended and supplemented by supplemental resolutions thereto (collectively, the “General Resolution”), which sets forth the basic terms under which the City may issue wastewater system revenue bonds and which provides for a pledge of Revenues (as defined in the General Resolution) to secure all Bonds (defined below) issued thereunder; and

WHEREAS, the General Resolution provides that each Series of Bonds issued thereunder shall be authorized by, and the terms thereof set forth in, a Supplemental Resolution; and

WHEREAS, the Council, by resolution adopted on February 24, 1987, submitted to the qualified voters of the City the proposition of issuing bonds pursuant to the procedures set forth in the Revenue Bond Law of 1941, §54300 *et seq.* of the California Government Code (the “Revenue Bond Law”) for the purpose of financing a portion of a major wastewater system improvement program; and

WHEREAS, at three elections, the voters voting on the respective propositions authorized a total of \$3,500,000,000 in bonds for the purpose of financing a portion of a major wastewater system improvement program; and

WHEREAS, on June 8, 1999, the City adopted a new Charter of the City (the “Charter”), which Charter became operative on and as of July 1, 2000; and

WHEREAS, pursuant to Article 6.7 of Chapter 1 of Division 11 of the Administrative Code of the City (the “Procedural Ordinance”), the Council, exercising the powers reserved to the City under the Constitution of the State of California, and its powers under Section 361 of the Charter, may determine that revenue bonds, notes and other indebtedness or obligations (as defined in said Article 6.7 and as used for purposes of this preamble, “Bonds”) be issued as provided in said Article 6.7 for the purpose of financing project costs, refunding outstanding Bonds, establishing reserves and paying costs of issuance in connection with such Bonds, payable from the SCM Fund (as defined in the General Resolution), and said Article 6.7 shall provide a complete alternative method of issuing such Bonds without a vote of qualified voters in the City; and

WHEREAS, the City has, under the General Resolution and individual supplemental resolutions thereto, issued wastewater system revenue bonds, all of which are Senior Lien Bonds (to the extent Outstanding) and are collectively referred to herein as the “Prior Senior Bonds,” \$971,695,000 of which are Outstanding as of the date hereof; and

WHEREAS, the Council on March 26, 1991 adopted a resolution designated as the “Wastewater System Subordinate Revenue Bonds General Resolution,” as amended and

supplemented by supplemental resolutions thereto (collectively, the “Subordinate General Resolution”), which sets forth the basic terms under which the City may issue wastewater system subordinate revenue bonds and which provides for a pledge of Revenues to secure all Subordinate Bonds (as defined in the Subordinate General Resolution) issued thereunder on a basis subordinate to the Senior Lien Bonds issued under the General Resolution; and

WHEREAS, the City has, under the Subordinate General Resolution and individual supplemental resolutions thereto, authorized the issuance of \$400,000,000 maximum authorized amount of its Wastewater System Commercial Paper Revenue Notes (the “Commercial Paper Notes”), and wastewater system subordinate revenue bonds, \$1,558,245,000 of which are outstanding as of the date hereof (the “Prior Subordinate Bonds”), all of which are Subordinate Bonds (to the extent Outstanding); and

WHEREAS, the Subordinate General Resolution provides that additional Subordinate Bonds may be issued in one or more Series, and the City has determined that it is now appropriate to authorize the issuance of a Series of Subordinate Bond, designated as the Wastewater System Subordinate Revenue Bond, Series 2021 (WIFIA), with such additional Series and subseries designations as shall be deemed necessary or appropriate as provided herein (the “Series 2021 WIFIA Bond”), through the adoption of this Twenty-Sixth Supplemental Resolution (the “Twenty-Sixth Supplemental Resolution”) for the purpose of (i) refunding all or a portion of any interim debt obligation, including bond anticipation notes, that may be issued to finance or refinance the WIFIA Project (the “Refunded Subordinate Bond”) and/or (ii) paying all or a portion of outstanding Commercial Paper Notes issued to finance the WIFIA Project; and

WHEREAS, the Series 2021 WIFIA Bond shall be issued pursuant to and in accordance with the Procedural Ordinance, and, with respect to the portion of the proceeds of the Series 2021 WIFIA Bond used to refund the Refunded Subordinate Bond and designated as “Refunding Bonds,” if applicable, Articles 10 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5 (Section 53570 *et seq.* and Section 53580 *et seq.*, respectively) of the California Government Code (the “Refunding Law”) and the provisions of the Subordinate General Resolution, including this Twenty-Sixth Supplemental Resolution; and

WHEREAS, the Series 2021 WIFIA Bond may be issued in such amount and with such payment terms and details as the City Administrative Officer, upon the advice of the City’s municipal advisors shall determine to be in the City’s best interests and which are otherwise consistent with the provisions and parameters of the Subordinate General Resolution and this Twenty-Sixth Supplemental Resolution; and

WHEREAS, any refunding to be accomplished with the proceeds of the Series 2021 WIFIA Bond issued pursuant to this Twenty-Sixth Supplemental Resolution will result in either (A) (1) a minimum present value savings equal to at least 90% of the maximum call option value of the Refunded Subordinate Bond being refunded or (2) a minimum average net present value savings of 3%, expressed as a percentage of the principal amount of the Refunded Subordinate Bond being refunded, or (B) a desirable restructuring of debt or benefits to the manageability and convenience of the bond financing and refunding program for the System, as determined by the City Administrative Officer, upon the advice of the City’s municipal advisors, at or before the time

of issuance and in accordance with the City’s Debt Management Policy , dated September 23, 2020 (the “Debt Management Policy”); and

WHEREAS, the aggregate principal amount of the Series 2021 WIFIA Bond issued pursuant to this Twenty-Sixth Supplemental Resolution for the purpose of refunding the Refunded Subordinate Bond shall not be limited in principal amount if such refunding satisfies the Debt Management Policy; and

WHEREAS, Sections 5450 *et seq.* of the California Government Code (the “Government Code”) provide statutory authority for pledging collateral for the payment of principal or redemption price of, and interest on bonds, and the Government Code creates a continuing perfected security interest which shall attach immediately to such collateral irrespective of whether the parties to the pledge documents have notice of the pledge and without the need for any physical delivery, recordation, filing, or further act, and the City hereby warrants and represents that pursuant to the Subordinate General Resolution and this Twenty-Sixth Supplemental Resolution, the Owner of the Series 2021 WIFIA Bond has a second priority perfected security interest in Revenues that serve as the collateral for the Series 2021 WIFIA Bond pursuant to the Government Code; and

WHEREAS, the City has determined, based upon the existing market conditions and upon the advice of its municipal advisor, that it is in the best financial interests of the City to sell the Series 2021 WIFIA Bond through a private placement with the United States Environmental Protection Agency, acting by and through the Administrator of the United States Environmental Protection Agency, or its assigns (the “WIFIA Lender”); and

WHEREAS, the City has further determined that it is not practicable or compatible with the City’s best interests to select the other professionals for the Series 2021 WIFIA Bond by sealed competitive bids, and the Council desires to make relevant findings in this regard in order to comply with recent judicial interpretations of such requirements; and

WHEREAS, the City will receive an opinion of Bond Counsel in accordance with Section 11.02 of the Subordinate General Resolution; and

WHEREAS, it is desirable that the Council provide for the issuance, securing and private placement of the Series 2021 WIFIA Bond; and

WHEREAS, the Twenty-Sixth Supplemental Resolution is adopted in accordance with the provisions of the Subordinate General Resolution;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City, as follows:

ARTICLE I

DEFINITIONS; INTERPRETATION

Section 1.01. Definitions. Unless otherwise specifically provided in this Section, capitalized terms used in this Twenty-Sixth Supplemental Resolution shall have the meanings ascribed to them in the Subordinate General Resolution, or if not used therein, in the General

Resolution. The following definitions shall apply to terms used in this Twenty-Sixth Supplemental Resolution unless the context clearly requires otherwise:

“Authorized City Representative” means the Mayor, the City Clerk, the City Controller, the City Administrative Officer or a duly authorized designee of any of the foregoing, or any one or more of them and, in addition to the foregoing, for the purpose of directing the investment of money under the Subordinate General Resolution only, the Treasurer or any Assistant Treasurer.

“Authorized Denominations” means denominations of \$5,000 and integral multiples thereof.

“Charter” means the Charter of the City of Los Angeles.

“City Administrative Officer” means the City Administrative Officer of the City, any Assistant City Administrative Officer of the City or any duly authorized designee thereof.

“Commercial Paper Notes” means the City’s Wastewater System Commercial Paper Revenue Notes which the City has issued and will issue from time to time on a parity with the other Subordinate Bonds, as authorized as of the date hereof under the Subordinate General Resolution, as supplemented.

“Fitch” means Fitch Ratings, Inc. and its successors and assigns, or, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the City.

“General Resolution” means the resolution entitled “Wastewater System Revenue Bonds General Resolution” adopted by the Council on November 10, 1987 and setting forth the terms under which wastewater system Senior Lien Bonds may be issued and secured, as amended and supplemented from time to time in accordance with the terms thereof.

“Interest Payment Date” for the Series 2021 WIFIA Bond, means each June 1 and December 1, commencing on the Debt Service Payment Commencement Date (as defined in the WIFIA Loan Agreement).

“Kroll” means Kroll Bond Rating Agency and its successors and assigns, or, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the City.

“Opinion of Bond Counsel” means an Opinion of Counsel by Bond Counsel.

“Opinion of Counsel” means a written opinion of counsel who is acceptable to the City. The counsel may be an employee of or counsel to the City.

“Prior Senior Bonds” means, collectively, all Senior Lien Bonds issued by the City pursuant to the General Resolution prior to this Twenty-Sixth Supplemental Resolution.

“Prior Subordinate Bonds” means, collectively, all Subordinate Bonds issued by the City pursuant to the Subordinate General Resolution prior to this Twenty-Sixth Supplemental

Resolution; provided, that, as used in this Twenty-Sixth Supplemental Resolution, the term “Prior Subordinate Bonds” does not include the Commercial Paper Notes.

“Refunded Subordinate Bond” means all or any interim debt obligation, including bond anticipation notes, that may be issued to finance or refinance the WIFIA Project, which is to be refunded by proceeds of the Series 2021 WIFIA Bond.

“SCM Fund” means, collectively, the Sewer Construction and Maintenance Fund, the Sewer Operation and Maintenance Fund and the Sewer Capital Fund previously created by the City and more particularly described in Section 5.03 of the General Resolution.

“Series 2021 WIFIA Bond” means the City of Los Angeles Wastewater System Subordinate Revenue Bond, Series 2021 (WIFIA) authorized to be issued pursuant to this Twenty-Sixth Supplemental Resolution.

“S&P” means Standard & Poor’s Corporation and its successors and assigns, or, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the City.

“Subordinate General Resolution” means the resolution entitled “Wastewater System Subordinate Revenue Bonds General Resolution” adopted by the Council on March 26, 1991 and setting forth the terms under which wastewater system Subordinate Bonds may be issued and secured, as amended and supplemented from time to time in accordance with the terms thereof.

“Subordinate 2021 WIFIA Bond Debt Service Fund” has the meaning provided in Section 6.01.

“WIFIA Construction Fund” has the meaning provided in the WIFIA Loan Agreement.

“WIFIA Lender” means the United States Environmental Protection Agency, acting by and through the Administrator of the United States Environmental Protection Agency, or its assigns.

“WIFIA Loan Agreement” means the WIFIA Loan Agreement, by and between the City and the WIFIA Lender, providing for the purchase of the Series 2021 WIFIA Bond by the WIFIA Lender.

“WIFIA Project” has the meaning ascribed to the term “Project,” as set forth in the WIFIA Loan Agreement.

“WIFIA Reserve Fund” has the meaning provided in the WIFIA Loan Agreement.

Section 1.02. Incorporation of Definitions in the Subordinate General Resolution. Except as otherwise provided in Section 1.01 hereof, all words, terms and phrases defined in the Subordinate General Resolution shall have the same meanings in this Twenty-Sixth Supplemental Resolution as in the Subordinate General Resolution. Except as otherwise provided in any Supplemental Resolution hereafter adopted, all terms which are defined in this Twenty-Sixth Supplemental Resolution, unless the context otherwise requires, shall have the same meanings in such Supplemental Resolution as in this Twenty-Sixth Supplemental Resolution.

Section 1.03. Article and Section References. Except as otherwise indicated, references to Articles and Sections are to Articles and Sections of this Twenty-Sixth Supplemental Resolution.

ARTICLE II

SECURITY AND AUTHORIZATION

Section 2.01. Subordinate General Resolution; Special Obligation. The Series 2021 WIFIA Bond authorized by this Twenty-Sixth Supplemental Resolution is a Subordinate Bond issued under the terms of the Subordinate General Resolution and secured by and entitled to the security and the rights granted by the Subordinate General Resolution. The Series 2021 WIFIA Bond shall be issued subordinate to the Prior Senior Bonds and any other Senior Lien Bonds issued hereafter and shall be issued on a parity with the Commercial Paper Notes, the Prior Subordinate Bonds and any other Subordinate Bonds issued hereafter.

The Series 2021 WIFIA Bond shall be and is a special, limited obligation of the City, and the City shall be obligated to pay the principal of, premium, if any, and interest on the Series 2021 WIFIA Bond solely from the Revenues and from amounts in the SCM Fund, the WIFIA Reserve Fund (to the extent established pursuant to the terms of the WIFIA Loan Agreement), the WIFIA Construction Fund and the Subordinate 2021 WIFIA Bond Debt Service Fund. The general fund of the City is not liable for the payment of the principal of, interest on or premium, if any, on the Series 2021 WIFIA Bond. Neither the full faith and credit nor the taxing power of the City is pledged to pay the Series 2021 WIFIA Bond. The pledge, assignment and lien on the Revenues granted pursuant to the General Resolution to secure the Senior Lien Bonds shall, in all respects, be prior to the pledge, assignment and lien on the Revenues granted by the Subordinate General Resolution and this Twenty-Sixth Supplemental Resolution. The principal of and interest on the Series 2021 WIFIA Bond and any premiums upon the redemption of any thereof are not a debt of the City nor a legal or equitable pledge, charge, lien or encumbrance upon any of its property or upon any of its income, receipts or revenues except the Revenues and amounts in the SCM Fund, the WIFIA Reserve Fund (to the extent established pursuant to the terms of the WIFIA Loan Agreement), the WIFIA Construction Fund and the Subordinate 2021 WIFIA Bond Debt Service Fund.

Section 2.02. Authorization. The Series 2021 WIFIA Bond is hereby declared to be issued under the terms of the Charter, the Procedural Ordinance and/or the Refunding Law, as applicable, and secured as provided for in the Charter, the Procedural Ordinance and the Subordinate General Resolution; provided that the security provided for the Series 2021 WIFIA Bond is also granted subordinate to the prior and senior lien to secure Senior Lien Bonds issued under the General Resolution, and on a parity with the lien granted to secure other Subordinate Bonds, including Commercial Paper Notes, issued under the Subordinate General Resolution, and provided that liens on the Revenues which are subordinate to the liens securing the Subordinate Bonds may be granted. The Series 2021 WIFIA Bond may recite that it is issued pursuant to the Charter, the Procedural Ordinance and/or the Refunding Law, as applicable. It is hereby declared that the portion of the proceeds of the Series 2021 WIFIA Bond issued as refunding bonds may be held in part and for such time as the City may deem advisable in trust for the protection of the owners of the Refunded Subordinate Bond.

ARTICLE III

DESCRIPTION OF THE SERIES 2021 WIFIA BOND

Section 3.01. Designation of the Series 2021 WIFIA Bond; Principal Amount. The Series 2021 WIFIA Bond is hereby authorized to be issued under the Subordinate General Resolution and this Twenty-Sixth Supplemental Resolution. The aggregate principal amount of the Series 2021 WIFIA Bond issued pursuant to this Twenty-Sixth Supplemental Resolution to finance the WIFIA Project, including to pay Commercial Paper Notes and/or refund the Refunded Subordinate Bond, shall not exceed \$223,921,010. The aggregate principal amount of Series 2021 WIFIA Bond issued pursuant to this Twenty-Sixth Supplemental Resolution for the purpose of refunding the Refunded Subordinate Bond shall not be limited except as provided in the recitals hereto and Section 3.03 hereof. The Series 2021 WIFIA Bond shall be issued in such principal amount and shall be designated as the “City of Los Angeles Wastewater System Subordinate Revenue Bond, Series 2021 (WIFIA),” with such additional subseries designations (if any), as determined by the City.

Section 3.02. Series 2021 WIFIA Bond Under the Subordinate General Resolution; Security. The Series 2021 WIFIA Bond is issued under, secured by and subject to the terms of the Subordinate General Resolution and is secured by the Revenues in accordance with the terms of the Subordinate General Resolution. The Series 2021 WIFIA Bond is a special obligation of the City payable only from the Revenues, the SCM Fund, the WIFIA Construction Fund, the WIFIA Reserve Fund (to the extent established pursuant to the terms of the WIFIA Loan Agreement) and the Subordinate 2021 WIFIA Bond Debt Service Fund, and not from the general fund of the City, and the City is not obligated to pay the Series 2021 WIFIA Bond from any other source.

Section 3.03. Terms of the Series 2021 WIFIA Bond; Signature. The Series 2021 WIFIA Bond shall be issuable only as a fully registered bond. The Series 2021 WIFIA Bond shall be signed by the Mayor or the City Administrative Officer and shall be authenticated by any Authorized City Representative. Any such signature may be by facsimile, provided that there shall be at least one manual signature. The Series 2021 WIFIA Bond shall be numbered as any Authorized City Representative shall determine.

The Series 2021 WIFIA Bond, upon initial issuance, shall be dated the date of the WIFIA Loan Agreement. The Series 2021 WIFIA Bond shall bear interest as provided in the WIFIA Loan Agreement.

Interest on the Series 2021 WIFIA Bond shall be paid on each June 1 and December 1, commencing on the Debt Service Payment Commencement Date, as set forth in the WIFIA Loan Agreement. Interest shall be calculated on the basis of a year of 360 days and twelve 30-day months.

The Series 2021 WIFIA Bond shall mature on the date and in the amount set forth in the WIFIA Loan Agreement, subject to prior redemption (if applicable) or prepayment or acceleration, and bear interest at the annual rate set forth in the WIFIA Loan Agreement, provided, however, that the final maturity of the Series 2021 WIFIA Bond will not be later than 40 years from the date of issuance thereof and the true interest cost on the Series 2021 WIFIA Bond will not exceed 7%.

Payment of principal of and interest on the Series 2021 WIFIA Bond shall be made on the payment dates therefor as provided in the WIFIA Loan Agreement. With respect to the Series 2021 WIFIA Bond, principal and interest shall be paid to the WIFIA Lender. The Series 2021 WIFIA Bond shall be substantially in the form set forth in Section 3.06 hereof. Principal, interest and premium, if any, will be paid in money of the United States that at the time of payment is legal tender for payment of public and private debts.

Interest on overdue principal of the Series 2021 WIFIA Bond and, to the extent lawful, on overdue interest on the Series 2021 WIFIA Bond will be payable at the Default Rate (as defined in the WIFIA Loan Agreement).

Any refunding to be accomplished with the proceeds of the Series 2021 WIFIA Bond issued pursuant to this Twenty-Sixth Supplemental Resolution shall comply with the Debt Management Policy.

Section 3.04. Exchange and Transfer of Series 2021 WIFIA Bond. The Series 2021 WIFIA Bond which is delivered to the Treasurer for exchange may be exchanged for an equal total unpaid principal amount of the Series 2021 WIFIA Bond and maturity but of different Authorized Denominations. The Series 2021 WIFIA Bond presented to the Treasurer shall be transferred upon the registration books in accordance with the procedures determined by the Treasurer and as provided in Section 3.06 of the Subordinate General Resolution.

The Treasurer will not, however, be required to transfer or exchange the Series 2021 WIFIA Bond during the period beginning 15 days before the mailing of notice calling the Series 2021 WIFIA Bond for redemption and ending on the date notice of redemption is mailed nor to transfer or exchange the Series 2021 WIFIA Bond which has been selected for redemption.

Section 3.05. Draw Down Bond. The WIFIA Lender shall fund the purchase price of the Series 2021 WIFIA Bond (or if there are multiple draws, the purchase price of the related portion of the Series 2021 WIFIA Bond from time to time) in accordance with the WIFIA Loan Agreement to provide funds to finance or refinance the WIFIA Project. Amounts funded shall be noted as set forth in the WIFIA Loan Agreement. Upon each disbursement by the WIFIA Lender of money in accordance with the WIFIA Loan Agreement, the aggregate amount of the Series 2021 WIFIA Bond purchased shall be increased in such amount and the Series 2021 WIFIA Bond will be Outstanding in the aggregate amount of such disbursements (subject to any redemption of any portion of the Series 2021 WIFIA Bond) and the Series 2021 WIFIA Bond shall accrue interest as provided the WIFIA Loan Agreement.

Section 3.06. Form of Series 2021 WIFIA Bond. The Series 2021 WIFIA Bond shall be substantially in the form set forth in Exhibit A, with such additions, deletions and modifications as shall be necessary or appropriate to conform such form to the terms of such Series.

ARTICLE IV

REDEMPTION

Section 4.01. Notices to Bondholders. Prior to the redemption of the Series 2021 WIFIA Bond, the City shall give notice to the registered Owner of the Series 2021 WIFIA Bond to be

redeemed as provided in Section 4.03 of the Subordinate General Resolution. Such notice shall be given in accordance with Section 4.02 or Section 4.03 hereof, as applicable.

Each further notice of redemption given hereunder shall contain the information required by Section 4.03 of the Subordinate General Resolution plus (i) the CUSIP number for the Series 2021 WIFIA Bond, or portions thereof being redeemed; (ii) the date of original issuance of the Series 2021 WIFIA Bond; (iii) the rate of interest borne by the Series 2021 WIFIA Bond being redeemed; (iv) the maturity date of the Series 2021 WIFIA Bond being redeemed; (v) the redemption price or, if applicable, a description of the mechanism or method for determining the redemption price; and (vi) any other descriptive information to identify accurately the Series 2021 WIFIA Bond or portions thereof being redeemed.

Each further notice of redemption shall be sent at least 20 days to the Municipal Securities Rulemaking Board's Electronic Municipal Market Access System at <http://emma.msrb.org/>.

Any notice given pursuant to this Section 4.01 may be conditional, and may be rescinded by written notice given by the City. Upon such rescission, the City shall give notice of such rescission in the same manner (*i.e.*, by Mail or by telecopy or other electronic means of communication), and to the same persons, as notice of such redemption was given pursuant to this Section. Any optional redemption of the Series 2021 WIFIA Bond and notice thereof shall be rescinded and cancelled if for any reason on the date fixed for redemption moneys are not available and held in trust for such purpose in an amount sufficient to pay in full on such date the principal of, interest, and any premium due on such Series 2021 WIFIA Bond called for redemption.

Section 4.02. Optional Redemption of the Series 2021 WIFIA Bond. The Series 2021 WIFIA Bond may be subject to optional redemption from proceeds of any optional prepayments under the WIFIA Loan Agreement. Notice of optional redemption shall be given in accordance with the provisions for notice of optional prepayment under Section 9(b) of the WIFIA Loan Agreement, without duplication.

Section 4.03. Mandatory Redemption. The City shall redeem one hundred percent (100%) of the Series 2021 WIFIA Bond then Outstanding in full from proceeds of a mandatory prepayment pursuant to Section 9(a) of the WIFIA Loan Agreement upon the incurrence or existence of any Senior Project Obligations (as defined in the WIFIA Loan Agreement). Notice of redemption pursuant to this Section shall be given in accordance with the provisions for notice of mandatory prepayment under Section 9(a) of the WIFIA Loan Agreement, without duplication.

Section 4.04. Payment of Series 2021 WIFIA Bond Called for Redemption. Upon surrender to the Treasurer, the Series 2021 WIFIA Bond called for redemption shall be paid at the redemption price, including accrued and unpaid interest, if any, to the redemption date.

Section 4.05. Selection of Series 2021 WIFIA Bond for Redemption; Series 2021 WIFIA Bond Redeemed in Part. The Series 2021 WIFIA Bond may be optionally redeemed in inverse order of maturity.

Upon surrender of the Series 2021 WIFIA Bond to be redeemed, the Authorized City Representative acting as Authenticating Agent or other Authenticating Agent, if one has been

appointed, will authenticate for the holder a new Series 2021 WIFIA Bond of the same maturity equal in principal amount to the unredeemed portion of the Series 2021 WIFIA Bond surrendered.

ARTICLE V

APPLICATION OF PROCEEDS

Section 5.01. Application of Proceeds. The proceeds of the Series 2021 WIFIA Bond received by the City shall be applied by the City in accordance with the WIFIA Loan Agreement for the following purposes and in such amounts and in such manner as directed by the City:

(a) the amount needed to refund the Refunded Subordinate Bond shall be transferred to the paying agent for the Refunded Subordinate Bond and used to pay the Refunded Subordinate Bond; and/or

(b) the amount needed to pay the Commercial Paper Notes when due shall be transferred to the issuing and paying agent for the Commercial Paper Notes and deposited into the Commercial Paper Notes Debt Service Fund and used to pay the Commercial Paper Notes.

ARTICLE VI

DEBT SERVICE FUND

Section 6.01. Debt Service Fund.

(a) The City will, by ordinance create a separate fund for the Series 2021 WIFIA Bond within the City Treasury for the Series 2021 WIFIA Bond, designated as the “Wastewater System Subordinate Revenue Bonds Debt Service Fund, Series 2021 (WIFIA)” (the “Subordinate 2021 WIFIA Bond Debt Service Fund”), which shall be a Debt Service Fund as provided in the Subordinate General Resolution for the Series 2021 WIFIA Bond. Amounts in the Subordinate 2021 WIFIA Bond Debt Service Fund shall be used to pay principal of, and interest and any premium on, the Series 2021 WIFIA Bond as the same become due and payable.

(b) Amounts in the Subordinate 2021 WIFIA Bond Debt Service Fund and the WIFIA Reserve Fund (to the extent established pursuant to the terms of the WIFIA Loan Agreement) shall be pledged to secure the Series 2021 WIFIA Bond.

(c) All moneys in the Subordinate 2021 WIFIA Bond Debt Service Fund shall be held (i) uninvested, (ii) in Government Obligations with a maturity not longer than 30 days or such earlier date on which funds will be needed to make payments on the Series 2021 WIFIA Bond, or (iii) in repurchase agreements which are fully secured by Government Obligations.

ARTICLE VII

AGENTS

Section 7.01. Appointment of Agent. The City may from time to time appoint a bank, trust company or other financial institution to serve as Paying Agent, Registrar or Authenticating

Agent in place of or in addition to the City with respect to the Series 2021 WIFIA Bond. The City hereby appoints the City Clerk as Authenticating Agent for the Series 2021 WIFIA Bond.

Section 7.02. Resignation; Removal. Any entity at any time serving as Paying Agent, Authenticating Agent and/or Registrar may resign any one or more of such positions in accordance with the terms of its agreement with the City or may be removed by the City in accordance with the terms of such agreement.

Section 7.03. Replacement. If the Paying Agent, Authenticating Agent, Registrar or other agent resigns or is removed, the City may appoint a new Paying Agent, Authenticating Agent or Registrar or may provide that such functions as were provided by the Paying Agent, Authenticating Agent and/or Registrar be undertaken directly by the City.

ARTICLE VIII

APPROVALS AND AUTHORIZATIONS

Section 8.01. Findings Related to Private Placement of the Series 2021 WIFIA Bond. Pursuant to Section 371(e)(10) of the Charter, the Council hereby finds that, due to current market conditions, the use of sealed competitive bidding to sell bonds to finance the WIFIA Project would be undesirable and impractical and it is in the best financial interests of the City to finance or refinance the WIFIA Project through a private placement with the WIFIA Lender.

Section 8.02. Approval of WIFIA Loan Agreement.¹ The WIFIA Loan Agreement in substantially the form before this Council is hereby approved. The City Administrative Officer is hereby authorized to execute and enter into the WIFIA Loan Agreement with the WIFIA Lender with respect to the Series 2021 WIFIA Bond, in substantially the form presented to this Council, with such changes as said City Administrative Officer, upon the advice of the City Attorney, deems necessary and appropriate. The signature of any City Administrative Officer shall be sufficient to bind the City and cause the WIFIA Loan Agreement to be a valid and binding obligation of the City.

Section 8.03. Execution of Documents; Additional Actions. The City Administrative Officer is hereby authorized to execute any documents necessary to procure municipal bond insurance upon such terms as the City Administrative Officer determines (if the City Administrative Officer, upon the advice of the City's municipal advisor, determines that such municipal bond insurance is cost effective) and to execute such certificates, agreements, forms and other closing documents, and such other instruments or documents as are necessary or appropriate to consummate the transactions contemplated by this Twenty-Sixth Supplemental Resolution and to carry out the intent hereof. The City Administrative Officer is authorized and directed to do any and all things and to take any and all further actions to carry out the intent hereof.

¹ **Note to City:** Please confirm you do not also need to specifically authorize entry into the WIFIA Term Sheet.

ARTICLE IX

MISCELLANEOUS

Section 9.01. Notices.

(a) Any notice, request, direction, designation, consent, acknowledgment, certification, appointment, waiver or other communication required or permitted by this Twenty-Sixth Supplemental Resolution or the Series 2021 WIFIA Bond shall be in writing except as expressly provided otherwise in this Twenty-Sixth Supplemental Resolution or the Series 2021 WIFIA Bond.

(b) Any notice or other communication, otherwise specified, shall be sufficiently given and deemed given when delivered by hand or by Mail or by such other means as is specifically provided therefor, and addressed as provided in the Subordinate General Resolution.

(c) Any addressee may designate additional or different addresses for purposes of this Section.

(d) If any of S&P, Fitch and/or Kroll shall have provided a credit rating for any of the Series 2021 WIFIA Bond at the request of the City, the City shall give written notice to each of S&P, Fitch and/or Kroll then providing a credit rating on any of the Series 2021 WIFIA Bond if at any time (i) payment of principal and interest on the Series 2021 WIFIA Bond is accelerated pursuant to the provisions of Section 9.02(a) of the General Resolution or (ii) there is any amendment to the General Resolution or this Twenty-Sixth Supplemental Resolution. Notice, in the case of an event referred to in clause (ii) hereof, shall include a copy of any such amendment. Notices sent to S&P shall be addressed to Standard & Poor's, 55 Water Street, New York, New York 10041; notices sent to Fitch shall be addressed to Fitch at Fitch, Inc., One State Street Plaza, New York, New York 10004; notices sent to Kroll shall be addressed to Kroll Bond Rating Agency, 845 Third Avenue, New York, New York 10022, or to such other address as S&P, Fitch or Kroll, respectively, shall supply to the City.

Section 9.02. Limitation of Rights. Nothing expressed or implied in this Twenty-Sixth Supplemental Resolution or the Series 2021 WIFIA Bond shall give any person other than the City, and the Bondholders any right, remedy or claim under or with respect to this Twenty-Sixth Supplemental Resolution.

Section 9.03. Supplemental Resolution a Contract. This Twenty-Sixth Supplemental Resolution), together with the Subordinate General Resolution, is adopted by the City for the benefit of the Bondholders and together they constitute a contract with the Subordinate Bondholders.

Section 9.04. Severability. If any provision of the Twenty-Sixth Supplemental Resolution shall be determined to be unenforceable, that shall not affect any other provision of this Twenty-Sixth Supplemental Resolution.

Section 9.05. Payments due on Non-Business Days. If a payment date is not a Business Day, then payment may be made on the next Business Day, and no interest shall accrue for the intervening period.

Section 9.06. Governing Law. This Twenty-Sixth Supplemental Resolution shall be governed by and construed in accordance with the laws of the State.

Section 9.07. Captions. The captions in this Twenty-Sixth Supplemental Resolution are for convenience only and do not define or limit the scope or intent of any provisions or Sections of this Twenty-Sixth Supplemental Resolution.

Section 9.08. Ratification of Prior Actions. All actions heretofore taken by any officers, employees, agents or directors of the City, with respect to the issuance, delivery or sale of the Series 2021 WIFIA Bond, or in connection with or related to any of the agreements or documents referenced herein or to the refunding of the Refunded Subordinate Bond are hereby approved, confirmed and ratified.

Section 9.09. Effective Date. This Twenty-Sixth Supplemental Resolution shall take effect from and upon its adoption.

Approved as to Form

MICHAEL N. FEUER, City Attorney

By: _____
Deputy City Attorney

EXHIBIT A

FORM OF SERIES 2021 WIFIA BOND

UNITED STATES OF AMERICA
STATE OF CALIFORNIA
CITY OF LOS ANGELES
WASTEWATER SYSTEM SUBORDINATE REVENUE BOND,
SERIES 2021 (WIFIA)

No. 1

D.C. TILLMAN ADVANCED WATER PURIFICATION FACILITY PROJECT

**(WIFIA – N18109CA)
WIFIA BOND**

Registered Owner: UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, acting
by and through the Administrator of the United States Environmental Protection Agency

Maximum Principal Amount: \$223,921,010

Effective Date: [●]

Interest Rate Per Annum: [●]

Due: June 1, 2056

CITY OF LOS ANGELES, a municipal corporation and a charter city of the State of California, organized and operating under the terms of the Charter of the City of Los Angeles and the Constitution of the State of California (the “**Borrower**”), for value received, hereby promises to pay to the order of the **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**, acting by and through the Administrator of the United States Environmental Protection Agency, or its assigns (the “**WIFIA Lender**”), the lesser of (x) the Maximum Principal Amount set forth above and (y) the aggregate unpaid principal amount of all disbursements (the “**Disbursements**”) made by the WIFIA Lender (such lesser amount being hereinafter referred to as the “**Outstanding Principal Sum**”), together with accrued and unpaid interest (including, if applicable, interest at the Default Rate, as defined in the WIFIA Loan Agreement (as defined below)) on the Outstanding Principal Sum and all fees, costs and other amounts payable in connection therewith, as more fully described in the WIFIA Loan Agreement. The principal hereof shall be payable in the manner and at the place provided in the WIFIA Loan Agreement in accordance with Error! Reference source not found. (*WIFIA Debt Service*) to the WIFIA Loan Agreement, as revised from time to time in accordance with the WIFIA Loan Agreement, until paid in full (which Error! Reference source not found., as modified from time to time in accordance with the terms of the WIFIA Loan Agreement, is incorporated in and is a part of this WIFIA Bond). The WIFIA Lender is hereby authorized to modify the Loan Amortization Schedule included in Error! Reference source not found. to the

WIFIA Loan Agreement from time to time in accordance with the terms of the WIFIA Loan Agreement to reflect the amount of each disbursement made thereunder and the date and amount of principal or interest paid by the Borrower thereunder. Absent manifest error, the WIFIA Lender's determination of such matters as set forth on Error! Reference source not found. to the WIFIA Loan Agreement 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.

THIS SUBORDINATE BOND IS A SPECIAL, LIMITED OBLIGATION OF THE CITY OF LOS ANGELES. THE PRINCIPAL HEREOF, PREMIUM, IF ANY, AND INTEREST HEREON ARE PAYABLE SOLELY FROM CERTAIN WASTEWATER SYSTEM REVENUES AND OTHER AMOUNTS ON DEPOSIT IN CERTAIN SPECIAL LIMITED FUNDS AS DESCRIBED IN THE WIFIA LOAN AGREEMENT. THIS SUBORDINATE BOND IS AN OBLIGATION THAT IS JUNIOR AND SUBORDINATE TO SENIOR BONDS ISSUED UNDER THE SENIOR RESOLUTION AS TO LIEN AND SOURCE OF SECURITY FOR PAYMENT FROM REVENUES. THE BORROWER IS NOT OBLIGATED TO MAKE PAYMENT HEREON FROM ANY OTHER SOURCE. THIS SUBORDINATE BOND IS NOT PAYABLE FROM THE GENERAL FUND OF THE BORROWER AND NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE BORROWER IS PLEDGED TO THE PAYMENT OF ANY AMOUNTS DUE ON THIS SUBORDINATE BOND.

Payments hereon are to be made in accordance with Section 8**Error! Reference source not found.** (*Payment of Principal and Interest – Manner of Payment*) and **Error! Reference source not found.** (*Notices*) of the WIFIA Loan Agreement as the same become due. Principal of and interest on this WIFIA Bond shall be paid in funds available on or before the due date and in any lawful coin or currency of the United States of America that at the date of payment is legal tender for the payment of public and private debts.

This WIFIA Bond has been executed pursuant to that certain WIFIA Loan Agreement, dated as of [●], 2021, between the WIFIA Lender and the Borrower (the “**WIFIA Loan Agreement**”) and is issued to evidence the obligation of the Borrower under the WIFIA Loan Agreement to repay the loans made by the WIFIA Lender and any other payments of any kind required to be paid by the Borrower under the WIFIA Loan Agreement or the other WIFIA Loan Documents referred to therein. Reference is made to the WIFIA Loan Agreement for details relating to the Borrower's obligations hereunder. All capitalized terms used in this WIFIA Bond and not defined herein shall have the meanings set forth in the WIFIA Loan Agreement.

This WIFIA Bond may be prepaid at the option of the Borrower in whole or in part (and, if in part, the principal installments and amounts thereof to be prepaid are to be determined in accordance with the WIFIA Loan Agreement; provided that such prepayments shall be in principal amounts of at least \$1,000,000 or any integral multiple of \$1 in excess thereof), from time to time, but not more than annually, without penalty or premium, by paying to the WIFIA Lender all or part of the principal amount of the WIFIA Bond in accordance with the WIFIA Loan Agreement.

This WIFIA Bond shall be subject to mandatory prepayment on the terms and conditions set forth in the WIFIA Loan Agreement.

Payment of the obligations of the Borrower under this WIFIA Bond is secured pursuant to the Subordinate Resolution and the WIFIA Supplemental Resolution.

To secure the payment of this WIFIA Bond and all Subordinate Bonds issued pursuant to the terms of the Subordinate Resolution, the Borrower has pledged, placed a second lien upon and assigned to the WIFIA Lender and Bondholders of the other Subordinate Bonds (1) the Revenues and (2) the Revenues held in the SCM Fund including the earnings on such Revenues. The Borrower has previously pledged and assigned the Revenues and granted a lien upon the Revenues to secure all Senior Bonds, whenever issued, including Senior Bonds issued subsequent to the execution and delivery of this WIFIA Bond. The pledge, assignment and lien on the Revenues granted to secure the Senior Bonds shall, in all respects, be prior to the pledge, assignment and lien granted by the Subordinate Resolution.

Any delay on the part of the WIFIA Lender in exercising any right hereunder shall not operate as a waiver of any such right, and any waiver granted with respect to one default shall not operate as a waiver in the event of any subsequent default.

All acts, conditions and things required by the Constitution and laws of the State to happen, exist, and be performed precedent to and in the issuance of this WIFIA Bond have happened, exist and have been performed as so required. This WIFIA Bond is issued with the intent that the federal laws of the United States of America shall govern its construction to the extent such federal laws are applicable and the internal laws of the State shall govern its construction to the extent such federal laws are not applicable.

This Subordinate Bond shall not be valid until the City Clerk, as Authenticating Agent, signs the certificate of authentication on the first page of this Subordinate Bond.

Customary abbreviations may be used in the name of a Bondholder or an assignee, such as TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian), and UGMA (= Uniform Gifts to Minors Act).

Dated:

CITY CLERK, as duly Authorized
AUTHENTICATING AGENT FOR THE
CITY OF LOS ANGELES, certifies that
this is one of the Subordinate Bonds
referred to in the Subordinate General
Resolution and Twenty-Sixth
Supplemental Resolution referred to
herein.

CITY OF LOS ANGELES

By: _____
[Mayor or City Administrative Officer]

By: _____

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

(Please print or type, write Name and Address, including Zip Code,
and Federal Taxpayer Identification or Social Security Number of Assignee)

this Subordinate Bond and all rights hereunder, and hereby irrevocably constitutes and appoints

Agent to transfer this Subordinate Bond on the books of the Borrower, with full power of substitution in the premises.

Dated: _____, 20__

Signed by:

NOTICE: The signature to this assignment must correspond with the name as it appears on the face of this Subordinate Bond in every particular, without alteration or enlargement or any change whatsoever.

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.

ATTACHMENT B

WIFIA LOAN AGREEMENT

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

WIFIA LOAN AGREEMENT

For Up to \$223,921,010

With

CITY OF LOS ANGELES

For the

**D.C. TILLMAN ADVANCED WATER PURIFICATION FACILITY PROJECT
(WIFIA – N18109CA)**

Dated as of [●], 2021

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WIFIA LOAN AGREEMENT

THIS WIFIA LOAN AGREEMENT (this “**Agreement**”), dated as of [●], 2021, is by and between **CITY OF LOS ANGELES**, a municipal corporation and charter city of the State of California (the “**State**”), with an address at 200 North Main Street, Room 1500, Los Angeles, California 90012 (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 and by Section 4201 of America’s Water Infrastructure Act of 2018 (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;

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

WHEREAS, the Borrower has requested that the WIFIA Lender make the WIFIA Loan (as defined herein) in a principal amount not to exceed \$223,921,010 to be used to pay a portion of the Eligible Project Costs (as defined herein) pursuant to the application for WIFIA financial assistance dated July 13, 2020 (the “**Application**”);

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

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 for a portion of the costs of the Project through the issuance of the WIFIA Bond (as defined herein), upon the terms and conditions set forth herein;

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

ARTICLE I DEFINITIONS AND INTERPRETATION

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 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**” means the Act as defined in the recitals hereto.

“**Additional Bonds**” means Additional Senior Bonds and Additional Subordinate Bonds.

“**Additional Principal Project Contract**” means (a) any contract, agreement, letter of intent, understanding or instrument listed in Part B of **Schedule 12(n)** (*Principal Project Contracts*) and (b) any other 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 the case of this clause (b), the termination of which could reasonably be expected to have a Material Adverse Effect, but excluding, in the case of this clause (b), any (A) insurance policies or documents pertaining to the Borrower’s self-insurance program (as applicable), (B) Governmental Approvals and (C) agreements, documents and instruments (1) providing for, governing or evidencing any Obligations and any related Permitted Lien for such Obligations or (2) entered into to consummate any investment permitted by Section 14(h)(ii) (*Affirmative Covenants – System Funds; Permitted Investments*).

“**Additional Senior Bonds**” means any Senior Bonds that are issued or incurred on or after the Effective Date.

“**Additional Subordinate Bonds**” means any Subordinate Bonds that are issued or incurred on or after the Effective Date.

“**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 Section 4(d) (*Disbursement Conditions; Quarterly Approval of Eligible Project Costs*).

“**Anti-Corruption Laws**” means all laws, rules and regulations of any jurisdiction from time to time concerning or relating to bribery or corruption.

“Anti-Money Laundering Laws” means all U.S. and other applicable laws, rules and regulations of any jurisdiction from time to time concerning or related to anti-money laundering, including but not limited to those contained in the Bank Secrecy Act and the Patriot Act.

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

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

“Bankruptcy Related Event” means, with respect to the Borrower, (a) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of the Borrower 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 the Borrower 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) the Borrower 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) fail to make a payment of WIFIA Debt Service in accordance with the provisions of Section 8 (*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, in each case 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; (c) (i) any Person shall commence a process pursuant to which all or a substantial part of the Pledged Collateral 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 Obligations, or (ii) any Person shall commence a process pursuant to which all or a substantial part of the Pledged Collateral may be sold or otherwise disposed of pursuant to a sale or disposition of such Pledged Collateral in lieu of foreclosure; or (d) any receiver, trustee, liquidator, custodian, sequestrator, conservator or similar official shall transfer, pursuant to directions issued by the Bondholders, funds on deposit in any of the System funds or accounts upon the occurrence and during the continuation of an Event of Default under this Agreement or an event of default under the Resolution Documents for application to the prepayment or repayment of any principal amount of the Obligations other than in accordance with the provisions of the General Resolutions.

“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 (including the Project) 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.

“**Beneficial Owners**” means, with respect to Obligations in certificated form which are held by the Bondholders for investors who either directly or through others own interests therein, the owners of such interests and, with respect to an Obligation issued in the form of a contract, lease or other obligation in which the ownership interest has been fractionalized and there have been delivered certificates or other instruments evidencing fractionalized ownership interests therein, the owners of the certificates or other instruments evidencing such ownership interests. In order to be entitled to the rights granted to Beneficial Owners under a General Resolution, any entity claiming to be a Beneficial Owner must prove such status by delivering to the Registrar or the Borrower, as the case may be, a written certificate of the Bondholder through which such ownership interest is claimed evidencing such person’s ownership interest in a specified Obligation or Obligations.

“**Bondholder**” means, at any given time, the person in whose name an Obligation is or Obligations are at such time registered on the books maintained by the Borrower or its Registrar. Beneficial Owners are not Bondholders and shall, except as specifically provided in the General Resolutions, derive their rights only through the entity which is the Bondholder of the Obligation in which they are a Beneficial Owner.

“**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 after giving thirty (30) days’ prior written notice to the WIFIA Lender in accordance with Section 15(h) (*Negative Covenants – Fiscal Year*).

“**Borrower’s Authorized Representative**” means any Person who shall be designated as such pursuant to Section 21 (*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 Los Angeles, California; provided that the term “day,” when used without the modifier “Business,” shall mean calendar day.

“**Closing Certificate**” has the meaning provided in Section 11(a)(ix) (*Conditions Precedent – Conditions Precedent to Effectiveness*).

“**Code**” means the Internal Revenue Code of 1986, or any successor tax code, as amended from time to time, and the applicable regulations proposed or promulgated thereunder.

“**Commercial Paper Program**” shall mean an aggregate principal amount of short-term obligations of the Borrower payable from the Revenues and authorized by the Council to be incurred through the issuance and refinancing, from time to time, of notes of the Borrower with

maturities of not to exceed two hundred seventy (270) days. The maximum aggregate principal amount of such notes which may be Outstanding at any time is limited by the Council. The term “Commercial Paper Program” shall also include the Borrower’s agreement with and obligations to any and all banks or other credit enhancers or liquidity providers entered into in connection with the program.

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

“**Construction Fund**” means any of the Construction Funds created as described in Section 5.06 (*The Construction Funds*) of the Subordinate Resolution and, where specifically stated as such, the Construction Funds (as defined in the Senior Resolution).

“**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 10(a)(ii) (*Fees and Expenses – Fees*).

“**Construction Schedule**” means (a) the initial schedule or schedules on which the construction timetables for the Project are set forth, attached as **Schedule II** (*Construction Schedule*), and (b) any updates thereto included in the periodic reports submitted to the WIFIA Lender pursuant to Section 16(d) (*Reporting Requirements – Construction Reporting*) most recently approved by the WIFIA Lender.

“**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.

“**Council**” means the City Council of the Borrower.

“**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>.

“**Credit Facility**” means an instrument or instruments such as an irrevocable letter of credit and reimbursement agreement related thereto, a standby purchase agreement, a guaranty, an insurance policy, a surety bond or a committed line of credit issued by one or more financial institutions, including any amendments or extensions to an existing instrument or instruments supporting the liquidity of any Outstanding Obligations and/or the payment of principal, interest and redemption price of Outstanding Obligations which bear an interest rate subject to fluctuation or subsequent adjustment, as the same may be amended or supplemented from time to time, and upon the issuance of any alternate Credit Facility for any Obligations, such alternate Credit Facility.

“Debt Service Fund” means any of the Debt Service Funds as described in Section 5.04 (*The Debt Service Funds*) of the Subordinate Resolution and, where specifically stated in the Subordinate Resolution as such, the Debt Service Fund as defined in the Senior Resolution.

“Debt Service Payment Commencement Date” means the earlier to occur of (a) the Payment Date immediately succeeding the Initial Disbursement Date and (b) the Payment Date falling closest to, but not later than, the fifth (5th) anniversary of the Substantial Completion Date.

“Default” means any event or condition that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

“Default Rate” means an interest rate equal to the lesser of (a) the sum of (i) the WIFIA Interest Rate plus (ii) five hundred (500) basis points and (b) the maximum rate permitted by the laws of the State.

“Development Default” means (a) the Borrower abandons work or fails, in the reasonable judgment of the WIFIA Lender, to diligently prosecute the work related to the Project or (b) the Borrower fails to achieve Substantial Completion of the Project by September 30, 2028.

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

“Effective Date” means the date of this Agreement; provided that final acceptance and financing of the Project shall not occur until the Borrower satisfies the conditions precedent in Section 11(b) (*Conditions Precedent – Conditions Precedent to Final Acceptance and Financing of the Project*).

“Eligible Project Costs” means amounts in the Project Budget approved by the WIFIA Lender, which are paid by or for the account of the Borrower in connection with the Project (including, as applicable, Project expenditures incurred prior to the receipt of WIFIA credit assistance), 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 (with respect to Obligations other than the WIFIA Loan) 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 applicable federal law, including the Act.

“**Eligible Project Costs Documentation**” has the meaning provided in Section 1 of **Exhibit D-1** (*Requisition Procedures and Form of Requisition*).

“**EMMA**” means the Electronic Municipal Market Access system as described in 1934 Act Release No. 59062 and maintained by the Municipal Securities Rulemaking Board established pursuant to Section 15B(b)1 of the Securities Exchange Act of 1934, as amended, and its successors.

“**Environmental Laws**” has the meaning provided in Section 12(p) (*Representations and Warranties of Borrower – Environmental Matters*).

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

“**Event of Default**” has the meaning provided in Section 17(a) (*Events of Default and Remedies*).

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

“**Existing Principal Project Contract**” means each contract of the Borrower set forth in Part A of **Schedule 12(n)** (*Principal Project Contracts*).

“**Expenses**” means the total operating expenses of the System as determined in accordance with GAAP, except to the extent such items are included in such operating expenses, depreciation, interest on Outstanding Obligations and amortization of financing expenses.

“**Federal Fiscal Year**” 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 Disbursement Date**” means the earliest of (a) the date on which the WIFIA Loan has been disbursed in full; (b) the last anticipated date of disbursement set forth in the then-current Anticipated WIFIA Loan Disbursement Schedule; (c) the date on which the Borrower has certified to the WIFIA Lender that it will not request any further disbursements under the WIFIA Loan; (d) the date on which the WIFIA Lender terminates its obligations relating to disbursements of any undisbursed amounts of the WIFIA Loan in accordance with Section 17 (*Events of Default and Remedies*); and (e) the date that is one (1) year after the Substantial Completion Date.

“**Final Maturity Date**” means the earlier of (a) June 1, 2056 (or such earlier date as is set forth in an updated **Exhibit F** (*WIFIA Debt Service*) pursuant to Section 8(f) (*Payment of Principal and Interest – Adjustments to Loan Amortization Schedule*)); and (b) the Principal Payment Date immediately preceding the date that is thirty-five (35) years following the Substantial Completion Date.

“**Financial Statements**” has the meaning provided in Section 12(t) (*Representations and Warranties of Borrower – Financial Statements*).

“**Fixed Level Payment**” has the meaning provided in Section 8(c) (*Payment of Principal and Interest – Fixed Level Payments*).

“**Flow of Funds**” means the requirements specified in Section [●] of the WIFIA Supplemental Resolution, a copy of which is attached hereto as **Schedule V** (*Flow of Funds*).

“**GAAP**” means generally accepted accounting principles for U.S. state and local governments, as established by the Government Accounting Standards Board (or any successor entity with responsibility for establishing accounting rules for governmental entities), in effect from time to time in the United States of America.

“**General Resolutions**” means the Senior Resolution and the Subordinate Resolution.

“**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.

“**Indemnitee**” has the meaning provided in Section 32 (*Indemnification*).

“**Initial Disbursement Date**” means the date of the first disbursement of the WIFIA Loan.

“**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 Only Period**” means the period commencing on the Debt Service Payment Commencement Date and ending on the date that is six (6) months prior to the Level Payment Commencement Date (or on such earlier date as all amounts due or to become due to the WIFIA Lender hereunder are declared immediately due and payable).

“**Interest Payment Date**” means each June 1 and December 1.

“**Interim Financing**” means interim bond anticipation notes, commercial paper or other short-term temporary financing, including any combination thereof, relating to the Project, in each case with a maturity not later than five (5) years following the issuance or incurrence thereof.

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

“**Level Payment Commencement Date**” means June 1, 2032.

“**Level Payment Period**” means the period commencing on the Level Payment Commencement Date and ending on the Final Maturity Date (or on such earlier date as all amounts due or to become due to the WIFIA Lender hereunder are declared immediately due and payable).

“**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.

“**Loan Amortization Schedule**” means the loan amortization schedule reflected in the applicable column of **Exhibit F** (*WIFIA Debt Service*), as amended from time to time in accordance with Section 8(f) (*Payment of Principal and Interest – Adjustments to Loan Amortization Schedule*).

“**Material Adverse Effect**” means (a) a change in or effect on (i) the System, the Project or the Revenues, or (ii) the business, operations, properties, condition (financial or otherwise) or prospects of the Borrower, which would, in either case, materially and adversely affect the Borrower’s ability to pay its obligations secured by Net Revenues when due or (b) a material adverse effect on (i) the legality, validity or enforceability of any material provision of any WIFIA Loan Document, (ii) the ability of the Borrower to enter into, perform or comply with any of its material obligations under any WIFIA Loan Document, (iii) the validity, enforceability or priority of the Liens provided under the Resolution Documents on the Pledged Collateral or (iv) 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 Finding of No Significant Impact for the Project issued by EPA on March 31, 2020 in accordance with NEPA.

“**Net Revenues**” means, for any given period, the Revenues for such period less the Expenses for such period, but excluding any profits or losses on the early extinguishment of debt or on the sale or other disposition, not in the ordinary course of business, of investments or fixed or capital assets.

“**Non-Debarment Certificate**” means a certificate, signed by the Borrower’s Authorized Representative, as 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 and supplemented by 2 C.F.R. 1532.995), substantially in the form attached hereto as **Exhibit C** (*Form of Non-Debarment Certificate*).

“**Non-Lobbying Certificate**” means a certificate, signed by the Borrower’s Authorized Representative, with respect to the prohibition on the use of appropriated funds for lobbying pursuant to 49 C.F.R. § 20.100(b), substantially in the form attached hereto as **Exhibit E** (*Form of Non-Lobbying Certificate*).

“**Obligations**” means the Senior Bonds and the Subordinate Bonds.

“**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 10(a)(iii) (*Fees and Expenses – Fees*).

“**Organizational Documents**” means: (a) the constitutional and statutory provisions that are the basis for the existence and authority of the Borrower, including any enabling statutes, ordinances or public charters and any other organic laws establishing the Borrower and (b) the resolutions, bylaws, code of regulations, operating procedures or other organizational documents (including any amendments, modifications or supplements thereto) of or adopted by the Borrower by which the Borrower, its powers, operations or procedures or its securities, bonds, notes or other obligations are governed or from which such powers are derived.

“**Outstanding**” means, when used with respect to Obligations, Obligations which have been authenticated and delivered under a General Resolution, except:

(a) Obligations cancelled or purchased by the Borrower for cancellation or delivered to or acquired by the Borrower for cancellation and, in all cases, with the intent to extinguish the debt represented thereby;

(b) Obligations or portions of Obligations which have been paid or are deemed to be paid in accordance with Article VIII (*Defeasance*) of the Senior Resolution or Article VIII (*Defeasance*) of the Subordinate Resolution;

(c) Obligations in lieu of which other Obligations have been authenticated under Section 3.05 (*Mutilated, Lost, Stolen or Destroyed Bonds*) of the Senior Resolution or Section 3.05 (*Mutilated, Lost, Stolen or Destroyed Subordinate Bonds*) of the Subordinate Resolution;

(d) Obligations or portions of Obligations that have become due (at maturity or on redemption, acceleration or otherwise) and for the payment of which sufficient moneys, including interest accrued to the due date, are held by the Borrower or an agent of the Borrower separate and apart for such purpose;

(e) Obligations which, under the terms of the Supplemental Resolution pursuant to which they were issued, are deemed to be no longer Outstanding; and

(f) for purposes of any consent or other action to be taken by the holders of a specified percentage of Obligations under a General Resolution, Obligations held by or for the account of Borrower, unless such Obligations are pledged to secure a debt to an unrelated party, in which case such Obligations shall, for purposes of consents and other Bondholder action, be deemed to be Outstanding and owned by the party to which such Obligations are pledged.

“Outstanding WIFIA Loan Balance” means (a) the aggregate principal amount of the WIFIA Loan drawn by the Borrower minus (b) the aggregate principal amount of the WIFIA Loan repaid by the Borrower, as determined in accordance with Section 8(f) (*Payment of Principal and Interest – Adjustments to Loan Amortization Schedule*).

“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 Date” means each Interest Payment Date and each Principal Payment Date.

“Payment Default” has the meaning provided in Section 17(a)(i) (*Events of Default and Remedies – Payment Default*).

“Permitted Liens” means:

(a) Liens imposed pursuant to the General Resolutions and the WIFIA Loan Documents;

(b) Liens imposed by law, including Liens for taxes that are not yet due or are being contested in compliance with Section 14(l) (*Affirmative Covenants – Material Obligations*);

(c) carriers’, warehousemen’s, mechanics’, materialmen’s, repairmen’s and other like Liens imposed by law, arising in the ordinary course of business and securing obligations that are not overdue by more than thirty (30) days or are being contested in compliance with Section 14(l) (*Affirmative Covenants – Material Obligations*);

(d) pledges and deposits made in the ordinary course of business in compliance with workers’ compensation, unemployment insurance, and other social security laws or regulations;

(e) deposits to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business;

(f) judgment Liens in respect of judgments that do not constitute an Event of Default under Section 17(a)(vi) (*Events of Default and Remedies – Material Adverse Judgment*); and

(g) easements, zoning restrictions, rights-of-way and similar encumbrances and exceptions on real property imposed by law or arising in the ordinary course of business that, in any case, do not materially interfere with or materially impair the value or operation of the System.

“**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.

“**Pledged Collateral**” means (a) the Revenues, (b) the Revenues held in the SCM Fund including the earnings on such Revenues and (c) all moneys and securities held in the WIFIA Debt Service Fund, the WIFIA Reserve Fund (to the extent such fund is established pursuant to the terms of this Agreement) and the WIFIA Construction Fund.

“**Principal Payment Date**” means each June 1, commencing on the Level Payment Commencement Date.

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

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

“**Project**” means the D.C. Tillman Advanced Water Purification Facility Project, consisting of the following components with respect to the Borrower’s Donald C. Tillman Water Reclamation Plant (the “**DCTWRP**”):

(a) a new advanced water purification facility (“**AWPF**”) treatment train to treat up to approximately nineteen (19) million gallons per day (“**MGD**”) of undisinfected tertiary effluent from the DCTWRP to produce up to approximately fifteen and a half (15.5) MGD of purified water suitable for groundwater replenishment via the Hansen Spreading Grounds;

(b) new larger maintenance and warehouse facilities to support the growth of the plant’s additional processes and systems due to the Project and an ancillary warehouse to support the demolition of the existing maintenance and warehouse facilities; and

(c) one new primary equalization tank with a total volume of approximately 6.75 million gallons of influent storage capacity to allow the AWPF to operate at a constant flow.

“**Project Budget**” means the budget for the Project attached to this Agreement as **Schedule I (Project Budget)** 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.

“Projected Substantial Completion Date” means September 30, 2027, as such date may be adjusted in accordance with Section 16(d) (*Reporting Requirements – Construction Reporting*).

“Public Benefits Report” has the meaning provided in Section 16(e) (*Reporting Requirements – Public Benefits Report*).

“Rate Covenant” means the requirements specified in Section 14(a)(i) (*Affirmative Covenants – Rate Covenant*) and Section 14(a)(ii) (*Affirmative Covenants – Rate Covenant*).

“Registrar” means, with respect to the Obligations or any Series of Obligations, the bank, trust company or other entity, if any, designated to perform the function of Registrar under a General Resolution or any Supplemental Resolution instead of or in addition to the Treasurer’s office of the Borrower.

“Related Documents” means the WIFIA Loan Documents, the Resolution Documents and the Principal Project Contracts.

“Requisition” has the meaning provided in Section 4(a) (*Disbursement Conditions; Quarterly Approval of Eligible Project Costs*).

“Reserve Fund” means any Debt Service Reserve Fund created for a Series of Subordinate Bonds as described in Section 5.05 (*Reserve Fund*) of the Subordinate Resolution and where specifically stated as such, the Reserve Fund (as defined in the Senior Resolution).

“Resolution Documents” means the General Resolutions, the Supplemental Resolutions (including the WIFIA Supplemental Resolution) and each Credit Facility.

“Revenues” means all revenues of the SCM Fund and revenues otherwise attributable to the System, including, but not limited to, those revenues currently arising as a result of the imposition of sewer service charges, industrial waste surcharge and inspection fees, sewage disposal contract charges, sewerage facility charges and bonded sewer fees and all other income and receipts derived by the Borrower from the ownership or operation of the System or arising from the System and including amounts attributable to extensions, additions and improvements to the System and all other amounts received by the Borrower in payment for providing wastewater collection, treatment and/or disposal services; and all earnings received from the investment of the SCM Fund, the Debt Service Fund (as defined in the Senior Resolution), the Reserve Fund (as defined in the Senior Resolution) and the Emergency Fund (as defined in the Senior Resolution); and all earnings received on the Debt Service Funds and, if any, Reserve Funds created for Subordinate Bonds; provided that Revenues shall not include:

- (a) any amount received from the levy or collection of taxes;
- (b) amounts received under contracts or agreements with governmental or private entities and designated for capital costs;
- (c) grants received from the Government, from the State or other political bodies;

(d) earnings on the Construction Funds and earnings on the Construction Funds (as defined in the Senior Resolution);

(e) the proceeds of borrowings; and

(f) proceeds of insurance.

“Sanctioned Country” means, at any time, a country or territory which is itself the subject or target of any Sanctions.

“Sanctioned Person” means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by OFAC or the U.S. Department of State, (b) any Person operating, organized or resident in a Sanctioned Country, or (c) any Person owned or controlled by any such Person or Persons.

“Sanctions” means economic or financial sanctions or trade embargoes imposed, administered, or enforced from time to time by the Government, including those administered by OFAC or the U.S. Department of State.

“SCM Fund” means, collectively, the Borrower’s Sewer Construction and Maintenance Fund, Sewer Operation and Maintenance Fund and Sewer Capital Fund established under the terms of the Borrower’s Municipal Code as special funds in the City Treasury into which the Revenues are to be deposited and such term also includes any other fund or series of funds into which Revenues are deposited.

“Senior Bonds” means bonds, notes and all other obligations issued or incurred under the terms of the Senior Resolution and secured under the terms of the Senior Resolution by a pledge of the Revenues prior to that pledge securing Subordinate Bonds issued under the Subordinate Resolution.

“Senior Project Obligations” means any Senior Bonds or any other obligations on parity with the Senior Bonds, in each case all or a portion of the proceeds of which are or will be applied at any time to fund all or any portion of Total Project Costs.

“Senior Resolution” means the Wastewater System Revenue Bonds General Resolution adopted by the Council on November 10, 1987, as amended from time to time.

“Series” means, when used with respect to Subordinate Bonds, Subordinate Bonds issued at the same time or sharing some other common term or characteristic and designated as a separate Series, and shall also mean a Commercial Paper Program authorized by the Council notwithstanding the fact that the Subordinate Bonds constituting part of such program are issued at different times and from time to time; and when used with respect to Senior Bonds, has the meaning assigned to such term in the Senior Resolution.

“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 set forth in Section 10(a)(i) (*Fees and Expenses – Fees*).

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

“**Subordinate Bonds**” mean bonds, notes and other indebtedness, obligations or securities of any kind or class issued or incurred as provided in Article III (*Issuance of Subordinate Bonds and Terms Thereof*) of the Subordinate Resolution and secured by the Subordinate Resolution and by the subordinate pledge of the Revenues granted thereby. The term “Subordinate Bonds” includes, but is not limited to, obligations in the form of bonds, notes, contracts, lease obligations, bond anticipation notes, commercial paper and certificates of participation. “Subordinate Bond” or “Subordinate Bonds” shall not include any obligations incurred by the Borrower as permitted by Section 6.06 (*Restriction Upon Prior and Parity Obligations; Provision for Subordinated Obligations*) of the Subordinate Resolution which rank junior to the Subordinate Bonds issued pursuant to and secured by the Subordinate Resolution.

“**Subordinate Resolution**” means the Wastewater System Subordinate Revenue Bonds General Resolution adopted by the Council on March 26, 1991, as amended from time to time.

“**Substantial Completion**” means, with respect to the Project, the stage at which the Project is able to perform the functions for which the Project is designed.

“**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 Resolution**” means any supplemental resolution adopted by the Council providing for the issuance of a Series or multiple Series of Obligations, amending and/or supplementing a General Resolution or amending and/or supplementing another Supplemental Resolution.

“**System**” means the Borrower’s entire wastewater collection, transportation, drainage, treatment and disposal system, including all sewers, pipes, buildings, systems, plants, works, equipment, improvements and other facilities or undertakings of the Borrower relating to the collection, transportation, treatment and disposal of sewage, wastewater, industrial wastewater and infiltration/inflows incidental thereto, including those facilities in existence at the time of adoption of the Subordinate Resolution and any and all subsequent additions, extensions, improvements, acquisitions and replacements thereto and all facilities and undertakings relating to or useful in connection with the construction, improvement, replacement, expansion, extension, operation and maintenance of the System. The term “System” more specifically includes, but is not limited to, sewage and wastewater treatment and disposal plants, sewage pumping plants, water reclamation plants, sewer maintenance yards and headquarters, intercepting and collecting sewers, outfall sewers, trunk, connecting, relief and other sewer mains and additions to, alterations of and reconstruction of, any of them and the lands, rights of way, pipe, conduits, equipment, machinery, apparatus, and property necessary therefor.

“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 financing (including costs of issuance); (b) amounts, if any, required by any WIFIA Loan Document or Resolution Document to be paid into any fund or account upon the incurrence of the WIFIA Loan or any other Obligation, in each case in respect of the Project; (c) payments when due (whether at the maturity of principal, the due date of interest, or upon optional or mandatory prepayment) in respect of any indebtedness of the Borrower or any Credit Facility maintained by 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.

“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, pandemic 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.

“Updated Financial Model” means the Base Case Financial Model, updated in accordance with Section 16(a) (*Reporting Requirements – Updated Financial Model*).

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

“WIFIA Authorization” means that certain Official Action of the Council, dated October 28, 2020, adopting a report from the Energy, Climate Change, and Environmental Justice Committee of the Council and authorizing the Director of the Bureau of Sanitation of the Borrower, or designee, to accept, negotiate, execute, and submit all documents which may be necessary to secure a WIFIA financing agreement for the Project.

“WIFIA Bond” means the bond issued and delivered by the Borrower in substantially the form of **Exhibit A** (*Form of WIFIA Bond*).

“WIFIA Construction Fund” means the construction fund of the Borrower established pursuant to Section 3 of the WIFIA Ordinance and referred to as the Wastewater System Subordinate Revenue Bond, Series 2021 (WIFIA) Accounting Fund.

“**WIFIA CUSIP Number**” has the meaning provided in Section 11(a)(ix)(G) (*Conditions Precedent – Conditions Precedent to Effectiveness*).

“**WIFIA Debt Service**” means with respect to any Payment Date occurring on or after the Debt Service Payment Commencement Date, the principal portion of the Outstanding WIFIA Loan 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, (a) as set forth on **Exhibit F** (*WIFIA Debt Service*) and (b) due and payable on such Payment Date in accordance with the provisions of Section 8(a) (*Payment of Principal and Interest – Payment of WIFIA Debt Service*).

“**WIFIA Debt Service Fund**” means the debt service fund of the Borrower established pursuant to Section 2 of the WIFIA Ordinance and referred to as the Wastewater System Subordinate Revenue Bond Debt Service Fund, Series 2021 (WIFIA).

“**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 22 (*WIFIA Lender’s Authorized Representative*).

“**WIFIA Loan**” means the secured loan 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 \$223,921,010, to be used in respect of Eligible Project Costs.

“**WIFIA Loan Documents**” means this Agreement, the WIFIA Bond, the WIFIA Authorization, the WIFIA Ordinance and the WIFIA Supplemental Resolution.

“**WIFIA Ordinance**” means Ordinance No. [●] passed by the Council on [●], 2021 providing for the issuance of the WIFIA Bond and the addition to the Los Angeles Administrative Code of the WIFIA Debt Service Fund and the WIFIA Construction Fund.

“**WIFIA Reserve Fund**” means the reserve fund of the Borrower established and maintained to the extent required pursuant to Section 14(j) (*Affirmative Covenants – WIFIA Reserve Fund*).

“**WIFIA Reserve Fund Requirement**” means, as of any Payment Date, an amount calculated on the same basis as the reserve fund requirement on any Outstanding Subordinate Bond that includes such a requirement. To the extent there is more than one Outstanding Subordinate Bond with a reserve fund requirement, the WIFIA Reserve Fund Requirement shall be calculated on the same basis as the reserve fund requirement on the Outstanding Subordinate Bond that produces the highest WIFIA Reserve Fund Requirement result. To the extent there is no debt service reserve requirement on any Outstanding Subordinate Bond, the WIFIA Reserve Fund Requirement shall be equal to \$0.

“**WIFIA Reserve Funding Trigger Event**” has the meaning provided in Section 14(j) (*Affirmative Covenants – WIFIA Reserve*).

“**WIFIA Supplemental Resolution**” means [●].

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. 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 31 (*Notices*) 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 this 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 prepayment of the WIFIA Bond.

ARTICLE II THE WIFIA LOAN

Section 3. WIFIA Loan Amount. The principal amount of the WIFIA Loan shall not exceed \$223,921,010. WIFIA Loan proceeds available to be drawn shall be disbursed from time to time in accordance with Section 4 (*Disbursement Conditions; Quarterly Approval of Eligible Project Costs*), Section 11(b) (*Conditions Precedent – Conditions Precedent to Final Acceptance and Financing of the Project*) and Section 11(c) (*Conditions Precedent – Conditions Precedent to Disbursements*).

Section 4. Disbursement Conditions; Quarterly Approval of Eligible Project Costs.

(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, including for the purpose of paying or redeeming, in whole or in part, amounts owed by the Borrower under an Interim Financing the proceeds of which were applied to pay Eligible Project Costs. 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 cost 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 and Form of Requisition*), along with all documentation and other information required thereby (unless such documentation and information was previously provided and approved in accordance with Section 4(e) and Section 4(f)), submitted by the Borrower to, and approved by, the WIFIA Lender, all in accordance with the procedures of **Exhibit D-1** (*Requisition Procedures and Form of Requisition*) and subject to the requirements of this Section 4 and the conditions set forth in Section 11(b) (*Conditions Precedent – Conditions Precedent to Final Acceptance and Financing of the Project*) and Section 11(c) (*Conditions Precedent – Conditions Precedent to Disbursements*); provided that no disbursements of WIFIA Loan proceeds shall be made after the Final Disbursement Date.

(b) Each Requisition shall include a certification by the Borrower certifying as to the following: (i) whether reimbursement or payment is being requested with respect to (A) Eligible Project Costs that have been submitted by it pursuant to Section 4(e) and approved by the WIFIA Lender pursuant to Section 4(f) or (B) other Eligible Project Costs incurred by the Borrower; (ii) the Eligible Project Costs for which reimbursement or payment is being requested has not been reimbursed or paid by any previous disbursement of WIFIA Loan proceeds; and (iii) to the extent any Eligible Project Costs described in clause (i)(B) above are included in the

Requisition, that such Eligible Project Costs have not and will not be submitted by the Borrower for approval pursuant to Section 4(e) and Section 4(f).

(c) The Borrower shall deliver copies of each Requisition to the WIFIA Lender and 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 and Form of Requisition*). In no event shall disbursements be made more than once each month.

(d) 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. Subject to this Section 4, any scheduled disbursement (as reflected in the Anticipated WIFIA Loan Disbursement Schedule) that remains undrawn at the end of any Federal Fiscal Year shall automatically roll forward to be available in the next succeeding Federal Fiscal Year up to the last anticipated date of disbursement set forth in the Anticipated WIFIA Loan Disbursement Schedule, having the effect of automatically updating the Anticipated WIFIA Loan Disbursement Schedule without need for the WIFIA Lender's approval. The Borrower may also 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.

(e) On a quarterly basis, the Borrower shall submit to the WIFIA Lender Eligible Project Costs Documentation with respect to all Eligible Project Costs incurred in such quarter, satisfactory to the WIFIA Lender in form and substance, along with a certification in the form of **Exhibit D-2** (*Certification of Eligible Project Costs Documentation*), or, if no Eligible Project Costs were incurred in such quarter, a written statement indicating the same; provided that no such submission shall be required (x) before the date that is sixty (60) days after the Effective Date or (y) for any costs incurred prior to the Effective Date.

(f) The Eligible Project Costs Documentation and the related certification submitted pursuant to Section 4(e) shall contain sufficient detail to enable the WIFIA Lender to verify that any costs submitted by the Borrower for reimbursement are Eligible Project Costs. Within sixty (60) days following the receipt of the Eligible Project Costs Documentation and the accompanying certification, the WIFIA Lender shall deliver a notice to the Borrower confirming (i) which Eligible Project Costs incurred by the Borrower set forth in the certification have been approved or denied (and, if denied, the reasons therefor) and (ii) the cumulative amount of Eligible Project Costs that have been approved as of the date of such notice. Any approved amounts of Eligible Project Costs shall be disbursed at such time as the Borrower submits a

Requisition in respect of such approved amounts in accordance with Section 4(a) and Section 4(b). The Borrower shall not submit a Requisition that seeks reimbursement of Eligible Project Costs for which the related 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 have been irrevocably paid in full in immediately available funds.

Section 6. Interest Rate. The interest rate with respect to the Outstanding WIFIA Loan Balance (the “WIFIA Interest Rate”) shall be [●] and [●] hundredths percent ([●]%) per annum. Interest will accrue and be computed on the Outstanding WIFIA Loan Balance from time to time on the basis of a three hundred sixty (360) day year of twelve (12) thirty (30) day months; provided that, upon the occurrence of an Event of Default, the Borrower shall pay interest on the Outstanding WIFIA Loan 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 other Event of Default, from (and including) the date of such occurrence to (but excluding) the earlier of the date on which (i) such Event of Default has been cured or waived (if applicable) in accordance with the terms of this Agreement and (ii) the Outstanding WIFIA Loan Balance has been irrevocably paid in full in immediately available funds. Interest on the WIFIA Loan and the corresponding WIFIA Bond 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 the WIFIA Lender) have been disbursed to the Borrower for use on the Project in accordance with Section 4 (*Disbursement Conditions; Quarterly Approval of Eligible Project Costs*).

Section 7. Security and Priority; Flow of Funds.

(a) As security for the WIFIA Loan, and concurrently with the issuance and delivery of this Agreement, the Borrower has pledged, assigned and granted to the WIFIA Lender for its benefit, Liens on the Pledged Collateral to the extent and in the manner and priority set forth in the Subordinate Resolution and the WIFIA Supplemental Resolution and has delivered to the WIFIA Lender, as the Bondholder, the WIFIA Bond. The Lien on the Pledged Collateral to secure the WIFIA Loan for the benefit of the WIFIA Lender is and shall be (i) subordinate in right of payment and right of security to the Lien on the Pledged Collateral in favor of the Senior Bonds and (ii) *pari passu* in right of payment and right of security to the Lien on the Pledged Collateral in favor of other Subordinate Bonds. The WIFIA Bond is a Subordinate Bond under the Subordinate Resolution. Amounts in the WIFIA Debt Service Fund and the WIFIA Reserve Fund (to the extent such fund is established pursuant to the terms of this Agreement) shall be secured by a valid and binding pledge, assignment and Lien, automatically and without the need for any notice to or from any Person, physical delivery, recordation, filing or further act, and shall not be subject to any Lien in favor of any Person other than the WIFIA Lender.

(b) Except for Permitted Liens, the Pledged Collateral will be free and clear of any pledge, Lien, charge or encumbrance thereon or with respect thereto, that is of equal rank with or senior to the pledge of the Borrower created under the Resolution 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.

(c) The Borrower shall not use the Revenues to make any payments or satisfy any obligations other than in accordance with the provisions of this Section 7 and the Resolution Documents and shall not apply any portion of the Revenues in contravention of this Agreement or the Resolution Documents.

(d) All Revenues (except (i) the earnings on the Debt Service Fund (as defined in the Senior Resolution) and the Reserve Fund (as defined in the Senior Resolution), in each case created and held under the Senior Resolution for which special provision is made in the Senior Resolution, and (ii) the earnings on funds created and held under Supplemental Resolutions for which special provisions may be made thereunder) shall, immediately upon receipt thereof, be deposited by the Borrower into the SCM Fund. Amounts deposited in the SCM Fund shall be applied in the order of priority described, and in accordance with the Flow of Funds.

Section 8. Payment of Principal and Interest.

(a) Payment of WIFIA Debt Service.

(i) No WIFIA Debt Service shall be due or payable prior to the Debt Service Payment Commencement Date. On each Payment Date occurring on or after the Debt Service Payment Commencement Date, the Borrower shall pay WIFIA Debt Service by making (A) semi-annual payments of interest, on each Interest Payment Date, (B) annual payments of principal, on each Principal Payment Date, and (C) payments of any other amounts 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 mandatory redemption or prepayment or acceleration of the maturity of the WIFIA Loan 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. Payments of WIFIA Debt Service shall be made in the amounts and on the Payment Dates as set forth in **Exhibit F** (*WIFIA Debt Service*), as the same may be revised pursuant to Section 8(f) (*Payment of Principal and Interest – Adjustments to Loan Amortization Schedule*).

(ii) Notwithstanding anything herein to the contrary, the Outstanding WIFIA Loan 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 maturity of the WIFIA Loan and WIFIA Bond have been accelerated or the WIFIA Loan and the WIFIA Bond are subject to mandatory redemption or prepayment).

(b) Interest Payments and Interest Only Period.

(i) Interest shall accrue on the WIFIA Loan commencing on the Initial Disbursement Date and shall be payable commencing on the Debt Service Payment Commencement Date.

(ii) 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 Loan Balance, and no payment of principal will be due and payable.

(c) Fixed Level Payments. During the Level Payment Period, the Borrower shall make payments of principal on each Principal Payment Date and payments of interest on each Interest Payment Date. Each amount consisting of (i) the sum of the principal and interest payments due on June 1 of any year plus (ii) the interest payment due on December 1 of such year will be approximately equal (each such amount, a “**Fixed Level Payment**”). The amount of the Fixed Level Payment shall be calculated in such manner that the Outstanding WIFIA Loan Balance as of the Level Payment Commencement Date shall be reduced to \$0 on the Final Maturity Date (assuming that interest accrues during such period on the Outstanding WIFIA Loan Balance at the rate per annum set forth in Section 6 (*Interest Rate*) in the absence of an Event of Default, that all Fixed Level Payments are made in a timely manner during such period, and that no additional payments of principal or interest on the WIFIA Loan are made during such period). No later than thirty (30) days prior to the beginning of the Level Payment Period, the WIFIA Lender shall give written notice to the Borrower of the amount of the related Fixed Level Payment, which amount shall be deemed conclusive absent manifest error, but no failure to provide or delay in providing the Borrower with such notice shall affect any payment obligation (including the timing thereof) or other obligation of the Borrower under this Agreement or any other WIFIA Loan Document. To the extent that any prepayment of the WIFIA Loan is made during the Level Payment Period in addition to the Fixed Level Payments, such prepayment shall be applied to the remaining Outstanding WIFIA Loan Balance and the resulting Fixed Level Payments shall be recalculated as provided in Section 9(d) (*Prepayment – General Prepayment Instructions*) and reflected in a revised **Exhibit F** (*WIFIA Debt Service*).

(d) 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 substantially in the form of **Exhibit A** (*Form of WIFIA Bond*), having a maximum principal amount of \$223,921,010, bearing interest at the WIFIA Interest Rate and having principal and interest payable on the same dates set forth herein. Any payment in respect of the WIFIA Bond shall be treated as a payment in respect of the WIFIA Loan and any prepayment of principal in respect of the WIFIA Loan shall be treated as a redemption in respect of the WIFIA Bond.

(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 Payment Date in Dollars and in immediately available funds (without counterclaim, offset or deduction) in accordance with the payment instructions set forth in **Schedule IV** (*WIFIA Payment Instructions*), as may be modified in writing from time to time by the WIFIA Lender. The Borrower shall make any such payment with funds then on deposit in the WIFIA Debt Service Fund in accordance with the terms of the Resolution Documents and this Agreement.

(f) Adjustments to Loan Amortization Schedule.

(i) The Outstanding WIFIA Loan Balance will be (A) increased on each occasion on which the WIFIA Lender disburses WIFIA Loan proceeds hereunder, by the amount of such disbursement of loan proceeds; and (B) decreased upon each payment or prepayment of the Outstanding WIFIA Loan Balance, by the amount of

principal so paid. The WIFIA Lender may in its discretion at any time and from time to time, or when so requested by the Borrower, advise the Borrower by written notice of the amount of the Outstanding WIFIA Loan Balance as of the date of such notice. The WIFIA Lender's determination of such amount in any such notice shall be deemed conclusive absent manifest error. WIFIA Loan proceeds borrowed and repaid may not be reborrowed.

(ii) The WIFIA Lender is hereby authorized to modify the Loan Amortization Schedule included in **Exhibit F** (*WIFIA Debt Service*) from time to time, in accordance with the principles set forth below in this Section 8(f), to reflect (A) any change to the Outstanding WIFIA Loan Balance, (B) 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 (C) such other 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 adjustments or revisions to the Loan Amortization Schedule as a result of changes in the Outstanding WIFIA Loan Balance shall be applied to reduce future payments due with respect to the WIFIA Bond in inverse order of maturity. 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. The WIFIA Lender shall provide the Borrower with a copy of **Exhibit F** (*WIFIA Debt Service*) as revised pursuant to this Section 8(f)(ii), but no failure to provide or delay in providing the Borrower with such copy shall affect any of the obligations of the Borrower under this Agreement or the other WIFIA Loan Documents.

Section 9. Prepayment.

(a) Mandatory Prepayment. The Borrower shall prepay one hundred percent (100%) of the Outstanding WIFIA Loan Balance in full in immediately available funds upon the incurrence or existence of any Senior Project Obligations. Such prepayment shall be made prior to or concurrently with the incurrence, application or existence of such Senior Project Obligations and shall include all accrued and unpaid interest on the amount to be prepaid to the date of prepayment, without prepayment premium, and shall further include payment of all other payment obligations in respect of the WIFIA Loan, including fees and expenses, then due and payable. The Borrower shall provide written notice to the WIFIA Lender not less than thirty (30) days or more than sixty (60) days prior to the date on which the Borrower expects to incur Senior Project Obligations, and the anticipated date of the proposed mandatory prepayment; 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 mandatory prepayment as and when the circumstances requiring such mandatory prepayment have occurred.

(b) Optional Prepayments. The Borrower may prepay the WIFIA Loan in whole or in part (and, if in part, the amounts thereof to be prepaid shall be determined by the Borrower; provided that such prepayments shall be in principal amounts of \$1,000,000 or any integral multiple of \$1.00 in excess thereof), from time to time, but not more than annually, without

penalty or premium, by paying to the WIFIA Lender such principal amount of the WIFIA Loan to be prepaid, together with the unpaid interest accrued on the amount of principal so prepaid to the date of such prepayment, which shall be a Payment Date unless otherwise agreed by the WIFIA Lender. Each prepayment of the WIFIA Loan pursuant to this Section 9(b) shall be made on such Payment Date and in such principal amount as shall be specified by the Borrower in a written notice delivered to the WIFIA Lender not less than ten (10) days or 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 by further written notice to the WIFIA Lender. Anything in this Section 9(b) to the contrary notwithstanding, the failure by the Borrower to make any optional prepayment shall not constitute a breach or default under this Agreement.

(c) Borrower's Certificate. Each prepayment pursuant to this Section 9 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.

(d) General Prepayment Instructions. Upon the WIFIA Lender's receipt of confirmation that payment in full in immediately available funds of the entire Outstanding WIFIA Loan Balance and any unpaid interest, fees and expenses with respect thereto has occurred as a result of a prepayment, the WIFIA Lender shall surrender the WIFIA Bond to the Borrower or its representative at the principal office of the WIFIA Lender. If the Borrower prepays only part of the unpaid balance of principal of the WIFIA Loan, the WIFIA Lender may make a notation on **Exhibit F** (*WIFIA Debt Service*) indicating the amount of principal of and interest on the WIFIA Loan then being prepaid. 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. All partial prepayments of principal shall be applied to reduce future payments due on the WIFIA Bond in inverse order of maturity. If such funds have not been so paid on the prepayment date, such principal amount of the WIFIA Loan shall continue to bear interest until payment thereof at the rate provided for in Section 6 (*Interest Rate*).

Section 10. Fees and Expenses.

(a) Fees. The Borrower shall pay to the WIFIA Lender:

(i) a servicing set-up fee equal to \$[●] (the "**Servicing Set-Up Fee**"), which shall be due and payable within thirty (30) days after receipt by the Borrower of an invoice from the WIFIA Lender with respect thereto (or, if earlier, the Initial Disbursement Date);

(ii) an annual construction period servicing fee equal to \$[●] (the "**Construction Period Servicing Fee**"), which shall accrue on the first Business Day of the then-current Federal Fiscal Year and shall be due and payable on or prior to each November 15 during the Construction Period (including the Federal Fiscal Year during

which the Substantial Completion Date occurs); provided that the initial Construction Period Servicing Fee shall be due and payable within thirty (30) days after receipt by the Borrower of an invoice from the WIFIA Lender with respect thereto (or, if earlier, the Initial Disbursement Date), in a pro-rated amount equal to \$[●]; and

(iii) an annual operating period servicing fee equal to \$[●] (the “**Operating Period Servicing Fee**”), which shall accrue on the first Business Day of the then-current Federal Fiscal Year and shall be due and payable on or prior to each November 15, beginning with the first November 15 following the end of the Federal Fiscal Year during which the Substantial Completion Date occurs, until (and including) the Final Maturity Date; provided that 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-rata 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.

(b) The amount of each Construction Period Servicing Fee (other than the initial Construction Period Servicing Fee) and each Operating 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 fee at least thirty (30) days before payment is due, which determination shall be conclusive absent manifest error.

(c) 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 by the Borrower of any invoice from the WIFIA Lender, for any and all documented 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, or the protection or preservation of any right or claim under, the Liens on the Pledged Collateral or any provision of this Agreement or any of the other WIFIA Loan Documents or the rights of the WIFIA Lender thereunder; (ii) any amendment, modification, waiver, or consent with respect to this Agreement or any other Related Document; 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 any Event of Default.

(d) The obligations of the Borrower under this Section 10 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 Event of Default, and any such workout, restructuring, or similar arrangement.

ARTICLE III CONDITIONS PRECEDENT

Section 11. 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 has been satisfied or waived in writing by the WIFIA Lender in its sole discretion:

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

(ii) The Borrower shall have delivered to the WIFIA Lender complete and fully executed copies of each Resolution Document, together with any amendments, supplements, waivers or modifications thereto, that has been entered into on or prior to the Effective Date, along with a certification in the Closing Certificate that each such document is complete, fully executed and in full force and effect, and that all conditions contained in such documents that are necessary to the closing of the WIFIA transactions contemplated hereby have been fulfilled.

(iii) The Borrower shall have delivered to the WIFIA Lender complete and fully executed copies of each Existing Principal Project Contract requested by the WIFIA Lender, together with any amendments, waivers or modifications thereto, along with a certification in the Closing Certificate that each such document is complete, fully executed and in full force and effect.

(iv) The Borrower shall have delivered to the WIFIA Lender a copy of its Organizational Documents, as in effect on the Effective Date, along with a certification in the Closing Certificate that such Organizational Documents are in full force and effect.

(v) The Borrower shall have delivered to the WIFIA Lender all instruments and documents (including any resolutions, ordinances, and supplements) other than the Resolution Documents as are necessary for the Borrower to execute and deliver, and to perform its obligations under, the WIFIA Loan Documents and to consummate and implement the transactions contemplated by the WIFIA Loan Documents.

(vi) 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*)).

(vii) The Borrower shall have delivered to the WIFIA Lender the Non-Debarment Certificate.

(viii) The Borrower shall have delivered to the WIFIA Lender the Non-Lobbying Certificate.

(ix) The Borrower shall have delivered to the WIFIA Lender a certificate, signed by the Borrower's Authorized Representative, substantially in the form attached hereto as **Exhibit H** (*Form of Closing Certificate*) (the "**Closing Certificate**"), designating the Borrower's Authorized Representative, confirming such person's position and incumbency, and certifying as to the satisfaction of the following conditions precedent (and, if requested by the WIFIA Lender, has provided evidence satisfactory to the WIFIA Lender of such satisfaction):

(A) the aggregate of all funds committed to the development and construction of the Project as set forth in the Base Case Financial Model and in the Project Budget 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;

(B) the Borrower has obtained all Governmental Approvals necessary (x) as of the Effective Date in connection with the Project and (y) to execute and deliver, and perform its obligations under the WIFIA Loan Documents, and 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);

(C) as of the Effective Date, (x) the maximum principal amount of the WIFIA Loan, 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 (y) the total federal assistance provided to the Project, including the maximum principal amount of the WIFIA Loan, does not exceed eighty percent (80%) of Total Project Costs;

(D) the Borrower is in compliance with NEPA and any applicable federal, state or local environmental review and approval requirements with respect to the Project;

(E) the Borrower has developed, and identified adequate revenues to implement, a plan for operating, maintaining and repairing the Project during its useful life;

(F) the Borrower has (x) obtained a Federal Employer Identification Number (as evidenced by the delivery of a copy of the Borrower's W-9), (y) obtained a Data Universal Numbering System number, and (z) registered with, and obtained confirmation of active registration status from, the federal System for Award Management (www.SAM.gov);

(G) the Borrower has obtained a CUSIP number for the WIFIA Bond (the "**WIFIA CUSIP Number**") for purposes of monitoring through EMMA;

(H) 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

(I) except as set forth in **Schedule VI** (*MAE Disclosure*), no Material Adverse Effect, or any event or condition that would reasonably be expected to have a Material Adverse Effect, has occurred or arisen since July 13, 2020.

(x) The Borrower shall have delivered to the WIFIA Lender a Base Case Financial Model in form and substance acceptable to the WIFIA Lender, along with a certification in the Closing Certificate that such Base Case Financial Model (A) demonstrates that projected Revenues are sufficient to meet the Loan Amortization Schedule, (B) demonstrates compliance with the Rate Covenant for each Borrower Fiscal Year through the Final Maturity Date, (C) reflects principal amortization and interest payment schedules acceptable to the WIFIA Lender and (D) 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.

(xi) The Borrower shall have delivered to the WIFIA Lender (A) (1) certificates of insurance or (2) if the Borrower is self-insured, a certificate from the director of the Borrower's risk management department pertaining to the Borrower's self-insurance program in the form attached hereto as **Exhibit L** (*Form of Self-Insurance Certificate*), in each case along with a certification in the Closing Certificate that each insurance certificate is true and correct and demonstrates compliance with the requirements of Section 14(f) (*Affirmative Covenants – Insurance and Condemnation*) and (B) at the WIFIA Lender's request, copies of such insurance policies and/or, if applicable, documents pertaining to the Borrower's self-insurance program.

(xii) No later than thirty (30) days prior to the Effective Date, the Borrower shall have delivered to the WIFIA Lender the Public Benefits Report.

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

(xiv) 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.

(xv) The Borrower shall have provided evidence to the WIFIA Lender's satisfaction of the establishment by the Borrower of the WIFIA Debt Service Fund, which fund is numbered [●], and the WIFIA Construction Fund, which fund is numbered [●].

(xvi) The Borrower shall have delivered to the WIFIA Lender the Civil Rights Pre-Award Compliance Review Report: EPA Form 4700-4.

(xvii) 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.

(b) Conditions Precedent to Final Acceptance and Financing of the Project. Notwithstanding anything in this Agreement to the contrary, final acceptance and financing of the Project shall not occur, and no funds shall be disbursed under this Agreement, until the following condition precedent shall have been satisfied or waived in writing by the WIFIA Lender; provided that this Agreement shall terminate and the WIFIA Lender shall have no obligation hereunder in the event that such condition precedent shall not have been satisfied or waived on or before the date that is ninety (90) days after the Effective Date (or such later date consented to by the WIFIA Lender in its sole discretion):

(i) The Borrower shall have provided evidence to the WIFIA Lender's satisfaction of the assignment by at least two (2) Nationally Recognized Rating Agencies of a public Investment Grade Rating to the WIFIA Loan.

(c) Conditions Precedent to Disbursements. Notwithstanding anything in this Agreement to the contrary, the WIFIA Lender shall have no obligation to make any disbursement of WIFIA 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 in its sole discretion:

(i) The Borrower shall have certified to the WIFIA Lender that (A) the aggregate amount of all disbursements of the WIFIA Loan (including the requested disbursement) will not exceed (1) the maximum principal amount of the WIFIA Loan, (2) the amount of Eligible Project Costs paid or incurred by the Borrower or (3) the cumulative disbursements through the end of the current Federal Fiscal Year as set forth in the Anticipated WIFIA Loan Disbursement Schedule; (B) the Borrower has sufficient available funds, along with planned financing 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; and (C) the total federal assistance provided to the Project, including the maximum principal amount of the WIFIA Loan, does not exceed eighty percent (80%) of Total Project Costs.

(ii) The Borrower shall have provided an Updated Financial Model for the then current Borrower Fiscal Year in compliance with the requirements of Section 16(a) (*Reporting Requirements – Updated Financial Model*).

(iii) The Borrower shall have delivered to the WIFIA Lender a Requisition that complies with the provisions of Section 4 (*Disbursement Conditions; Quarterly Approval of Eligible Project Costs*) (including satisfactory Eligible Project Costs Documentation relating to such Requisition), and the WIFIA Lender shall have approved (or be deemed to have approved in accordance with Section 4(b) (*Disbursement*

Conditions; Quarterly Approval of Eligible Project Costs)) such Requisition. The Borrower's Authorized Representative shall also certify in such Requisition that:

(A) all Governmental Approvals necessary as of the time of such disbursement for the development, construction, operation and maintenance of the Project have been issued and are in full force and effect (and are not subject to any notice of violation, breach or revocation);

(B) each of the insurance policies obtained or self-insurance maintained by the Borrower and by any applicable Principal Project Party in satisfaction of the requirements of Section 14(f) (*Affirmative Covenants – Insurance and Condemnation*) is in full force and effect, and no notice of termination thereof has been issued by the applicable insurance provider;

(C) at the time of, and immediately after giving effect to, any disbursement of WIFIA Loan proceeds then currently requested, (1) no Default or Event of Default hereunder and no event of default under any other Resolution Document (excluding any non-payment event of default under any Credit Facility) shall have occurred and be continuing and (2) no event that, with the giving of notice or the passage of time or both, would constitute an event of default under any Resolution Document (excluding any non-payment event of default under any Credit Facility) shall have occurred and be continuing;

(D) except as set forth in **Schedule VI** (*MAE Disclosure*), no Material Adverse Effect, or any event or condition that would reasonably be expected to result in a Material Adverse Effect, shall have occurred since July 13, 2020;

(E) the Borrower, and each of its contractors and subcontractors at all tiers with respect to the Project, has complied with all applicable laws, rules, regulations and requirements, including 40 U.S.C. §§3141-3144, 3146, and 3147 (relating to Davis-Bacon Act requirements) (and regulations relating thereto) and 33 U.S.C. §3914 (relating to American iron and steel products). Supporting documentation, such as certified payroll records and certifications for all iron and steel products used for the Project, are being maintained and are available for review upon request by the WIFIA Lender; and

(F) the representations and warranties of the Borrower set forth in this Agreement (including Section 12 (*Representations and Warranties of Borrower*)) and in each other Related Document shall be true and correct 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).

(iv) To the extent necessary to make the corresponding representations and warranties true, correct and complete as of the date of the applicable disbursement,

the Borrower shall have delivered an updated version, in form and substance satisfactory to the WIFIA Lender, of **Schedule 12(p)** (*Environmental Matters*).

(v) To the extent not previously delivered to the WIFIA Lender, the Borrower shall have delivered to the WIFIA Lender copies of any Resolution Documents (including any amendment, waiver, modification or supplement thereto) entered into after the Effective Date, along with a certification in the Requisition that each such document is complete, fully executed and in full force and effect.

(vi) To the extent not previously delivered to the WIFIA Lender, the Borrower shall have provided copies of any Principal Project Contracts requested by the WIFIA Lender (including any amendment, waiver, modification or supplement thereto) along with a certification in the Requisition that each such document is complete, fully executed and in full force and effect.

(vii) The Borrower shall have paid in full (A) any outstanding Servicing Fees due and payable under Section 10 (*Fees and Expenses*) and (B) all invoices received from the WIFIA Lender as of the date of disbursement of the WIFIA Loan and delivered by the WIFIA Lender to the Borrower, 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.

(viii) The requirements set forth in Section 11(b) (*Conditions Precedent – Conditions Precedent to Final Acceptance and Financing of the Project*) shall have been satisfied.

ARTICLE IV REPRESENTATIONS AND WARRANTIES

Section 12. Representations and Warranties of Borrower. The Borrower hereby represents and warrants that, as of the Effective Date (other than with respect to Section 12(k) (*Representations and Warranties of Borrower – Credit Ratings*)) and, as to each of the representations and warranties below other than those contained in Section 12(b) (*Representations and Warranties of Borrower – Officers' Authorization*), the first sentence of Section 12(f) (*Representations and Warranties of Borrower – Litigation*), Section 12(k) (*Representations and Warranties of Borrower – Credit Ratings*), and the first sentence of Section 12(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 municipal corporation and charter city of the State duly organized and validly existing under its Organizational Documents 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 other 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 against the Borrower in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights generally and subject, as to enforceability, to the general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law), to the exercise of judicial discretion in appropriate cases.

(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 Lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower, other than Permitted Liens.

(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 Related 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. Except as set forth in **Schedule 12(f)** (*Litigation*), there is no action, suit, proceeding (with service of process having been given to or by the Borrower) 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, 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 (with service of process having been given to or by the Borrower) 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, 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 Revenues in amounts sufficient to meet the financial projections contained in the Base Case Financial Model (or any Updated Financial Model, to the extent any Updated Financial Model has been approved by the WIFIA Lender). 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. (i) The Resolution Documents and Section 5451 of the California Government Code establish, and (ii) the Borrower has taken all necessary action to pledge, assign, and grant, in each case in favor of the WIFIA Lender, legal, valid, binding and enforceable Liens on the Pledged Collateral purported to be created, pledged, assigned, and granted pursuant to and in accordance with the Resolution Documents, 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, are subordinate to the Liens on the Pledged Collateral in favor of the Senior Bonds and are *pari passu* with the Liens on the Pledged Collateral in favor of the Subordinate Bonds. The Borrower is not in breach of any covenant set forth in this Agreement, including Section 14(b) (*Affirmative Covenants – Securing Liens*), or in the Resolution Documents with respect to the matters described in Section 14(b) (*Affirmative Covenants – Securing Liens*). As of the Effective Date and as of each other date this representation and warranty is made, (x) no filing, recordation or other action is necessary to establish a legal, valid, binding, and enforceable Lien on the Pledged Collateral for the benefit of the WIFIA Lender, and (y) no taxes or filing fees are due and payable in connection with the execution or delivery of any Resolution Documents or any instruments, certificates or financing statements in connection with the foregoing. Neither the attachment, validity, enforceability or priority of the security interest in the Pledged Collateral granted pursuant to the Resolution 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 current principals (as defined in 2 C.F.R. § 180.995 and supplemented by 2 C.F.R. § 1532.995) 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 11(a)(vii) (*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 Laws.

(i) The Borrower, and each of its contractors and subcontractors at all tiers with respect to the Project, has complied with all applicable laws, rules, regulations and requirements, including 40 U.S.C. §§ 3141-3144, 3146, and 3147 (relating to Davis-Bacon Act requirements) (and regulations relating thereto) and 33 U.S.C. § 3914 (relating to American iron and steel products).

(ii) To ensure such compliance, the Borrower has included in all contracts with respect to the Project (A) the contract clauses relating to the Davis-Bacon Act requirements that are set forth in the Code of Federal Regulations, Title 29 Part 5.5 and (B) requirements that its contractors (1) shall comply with all applicable laws, rules, regulations, and requirements set forth in this Section 12(j) and follow applicable federal guidance and (2) 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 any applicable laws, rules, regulations and requirements set forth in this Section 12(j) (including with respect to the Davis-Bacon Act requirements).

(iii) 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.

(iv) None of the Borrower nor, to the knowledge of the Borrower, any Principal Project Party, is (A) a Sanctioned Person or (B) in violation of or, since the date that is five (5) years prior to the Effective Date, has violated: (1) any applicable Anti-Money Laundering Laws; (2) any applicable Sanctions; (3) any applicable Anti-Corruption Laws; or (4) any applicable anti-drug trafficking, anti-terrorism, or anti-corruption laws, civil or criminal. There are no pending or, to the knowledge of the Borrower, threatened claims or investigations by any Governmental Authority against, or any internal investigations conducted by, the Borrower or any Principal Project Party, with respect to any possible or alleged violations of any Sanctions, Anti-Money Laundering Laws, Anti-Corruption Laws, or any anti-drug trafficking or anti-terrorism laws. No use of proceeds of the WIFIA Loan or any other transaction contemplated by this Agreement or any other Related Document will violate any applicable Sanctions, Anti-Money Laundering Laws, or Anti-Corruption Laws, or any applicable anti-drug trafficking or anti-terrorism laws.

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

(l) No Defaults. No Default or Event of Default, and no default or event of default by the Borrower under any other Related Document (excluding Principal Project Contracts), has occurred and is continuing.

(m) Governmental Approvals. All Governmental Approvals required as of the Effective Date and 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 for the current stage of development, construction, operation and maintenance of the Project 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 12(n)** (*Principal Project Contracts*) is a list of the Existing Principal Project Contracts and all Additional Principal Project Contracts that are expected to be entered into. With respect to each Principal Project Contract that has been entered into on or prior to any date on which this representation and warranty is made, (x) it is in full force and effect, (y) all conditions precedent to the obligations of the respective parties under each such Principal Project Contract have been satisfied and (z) the Borrower has delivered to the WIFIA Lender a fully executed, complete and correct copy of each such Principal Project Contract requested by the WIFIA Lender, 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 Principal Project Contract, and to the knowledge of the Borrower no other party to any Principal Project Contract is in breach of any material term therein or in default thereunder.

(o) Information. The information furnished by, or on behalf of, the Borrower to the WIFIA Lender, when taken as a whole, is true and correct in all material respects (other than for projections and other forward-looking statements contained in the Base Case Financial Model and any Updated Financial Model which have been made in good faith and based on reasonable assumptions) and 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.

(p) Environmental Matters. [Except as set forth in **Schedule 12(p)** (*Environmental Matters*), e] [E]ach 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), and (vii) other environmental, health or safety matters, including all laws applicable to the System (including the Project) (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. [Except as set forth in **Schedule 12(p)** (*Environmental Matters*), t][T]he 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 that are required for the Project and relate to Environmental Laws.

(q) Sufficient Rights. 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 System (including the Project) and to perform its obligations under the Principal Project Contracts.

(r) 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, as confirmed by the director of the Borrower's risk management department.

(s) No Prohibited 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 Pledged Collateral, the System, the Project or the Borrower's respective rights in any of the foregoing.

(t) 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 16(b) (*Reporting Requirements – Annual Financial Statements*) has been prepared in accordance with GAAP and presents fairly, in all material respects, the financial condition of the Borrower with respect to the System as of the respective dates of the balance sheets included therein and the results of operations of the Borrower with respect to the System 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 with respect to the System of any nature whatsoever for the periods to which such Financial Statements relate that are required to be disclosed in accordance with GAAP.

(u) Securities Laws. Under existing law, the WIFIA Bond may be issued and sold without registration under the Securities Act of 1933, as amended, and any State blue sky laws, and the Subordinate Resolution is exempt from qualification pursuant to the Trust Indenture Act of 1939, as amended.

(v) Taxes. The Borrower is not required to file tax returns with, or pay taxes to, any Governmental Authority.

(w) 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 and the Project Budget 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.

(x) Sovereign Immunity. The Borrower 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.

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

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

(aa) Interim Financing. Any Interim Financing the proceeds of which were applied to pay Eligible Project Costs will be repaid in full within five (5) Business Days after the Initial Disbursement Date.

Section 13. 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.

ARTICLE V COVENANTS

Section 14. Affirmative Covenants. The Borrower covenants and agrees as follows until the date the WIFIA Bond and all of the obligations of the Borrower under this Agreement (other than contingent indemnity obligations) are irrevocably paid in full in immediately available funds and the WIFIA Lender no longer has any commitment to make disbursements to the Borrower, unless the WIFIA Lender waives compliance in writing:

(a) [Rate Covenant].

(i) The Borrower shall establish, fix, prescribe and collect rates, fees and charges in connection with the use of the System so that Revenues in each Borrower Fiscal Year will be at least sufficient to pay the following amounts:

(A) the interest on and principal of the Outstanding Obligations as they become due and payable;

(B) all other payments required for compliance with the terms of the General Resolutions and of any Supplemental Resolution, including the required deposits under Section 5.03 (*The SCM Fund*) of the Senior Resolution and to the Debt Service Funds (including the WIFIA Debt Service Fund) and Reserve Funds (including the WIFIA Reserve Fund (as applicable)), if any, created under Supplemental Resolutions;

(C) all other payments to meet any other obligations of the Borrower which are charges, liens or encumbrances upon, or payable from, the Revenues; and

(D) all current operation and maintenance costs of the System (but not including such operation and maintenance costs as are scheduled to be paid by the Borrower from moneys other than Revenues, such moneys to be clearly available for such purpose).

(ii) The Borrower further agrees that it will establish, fix, prescribe and collect rates, fees and charges in connection with the use of the System so that during each Borrower Fiscal Year the Net Revenues are equal to at least one hundred ten percent (110%) of the actual debt service becoming due on Outstanding Obligations in such year, provided that for such purposes, the principal amount of Obligations becoming due in such year which is paid from the proceeds of other borrowings shall not be included as debt service becoming due in such year.] [To be revised to reflect, upon the effectiveness of the contemplated Amended and Restated Subordinate General Resolution, the change to the rate covenant.]

(iii) If the Borrower fails to satisfy the Rate Covenant for the most recently ended Borrower Fiscal Year, the Borrower shall, immediately upon discovery of such failure, commence such action as is necessary to assure that the Rate Covenant is satisfied in the succeeding Borrower Fiscal Year.

(b) 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 Pledged Collateral (whether now existing or hereafter arising) granted to the WIFIA Lender for its benefit pursuant to the Resolution Documents, or intended so to be granted pursuant to the Resolution Documents, or which the Borrower may become bound to grant. The Borrower shall at all times maintain the Pledged Collateral 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 Resolution Documents, other than as permitted by this Agreement and the Resolution Documents, 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 Pledged Collateral granted pursuant to the Resolution Documents and for the benefit of the WIFIA Lender under the Resolution Documents against all claims and demands of all Persons whomsoever, subject to Permitted Liens.

(c) Use of Proceeds. The Borrower shall use the proceeds of the WIFIA Loan solely for purposes permitted by applicable law, 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 Construction Schedule, the Governmental Approvals in connection with the Project, and prudent public utility practice.

(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 Subpart C of 2 C.F.R. Part 180, as supplemented by Subpart C of 2 C.F.R. Part 1532 (relating to debarment), including the verification requirements set forth in 2 C.F.R. §§ 180.300 and 180.320, and shall include in its contracts with respect to the Project similar terms or requirements for compliance.

(e) Operations and Maintenance of the System. The Borrower shall comply with the requirements specified in Section 6.07 (*Operation and Maintenance of System*) of the Subordinate Resolution. 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 and the operation and maintenance of the Project.

(f) Insurance and Condemnation.

(i) The Borrower shall comply with the requirements specified in Section 6.11 (*Insurance and Condemnation*) of the Subordinate Resolution.

(ii) The Borrower shall cause all liability insurance policies that it maintains with respect to the System (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 to the extent of its insurable interest.

(iii) Promptly upon request by the WIFIA Lender, the Borrower shall deliver to the WIFIA Lender copies of any underlying insurance policies obtained by or on behalf of the Borrower in respect of the Project. All such policies shall be available at all reasonable times for inspection by the WIFIA Lender, its agents and representatives.

(g) Maintain Legal Structure. The Borrower shall maintain its existence as a municipal corporation and charter city organized and existing under its Organizational Documents and the laws of the State.

(h) System Funds; Permitted Investments.

(i) The Borrower shall maintain the SCM Fund in accordance with the terms hereof and the Resolution Documents. All Revenues (except (A) the earnings on the Debt Service Fund (as defined in the Senior Resolution) and the Reserve Fund (as defined in the Senior Resolution), in each case created and held under the Senior Resolution for which special provision is made in the Senior Resolution, and (B) the earnings on funds created and held under Supplemental Resolutions for which special provisions may be made thereunder) received shall be deposited into the SCM Fund when and as received in trust for the benefit of the Bondholders, subject to the application of Revenues to Expenses.

(ii) The Borrower shall comply with the requirements specified in Article VII (*Investments*) of the Subordinate Resolution and Section [●] of the WIFIA Supplemental Resolution.

(i) WIFIA Debt Service Fund. The Borrower shall (i) establish the WIFIA Debt Service Fund on or prior to the Effective Date and (ii) maintain the WIFIA Debt Service Fund in accordance with the Resolution Documents and this Agreement for the exclusive benefit of the WIFIA Lender. Amounts on deposit in the WIFIA Debt Service Fund shall be applied by the Borrower solely to pay WIFIA Debt Service and other amounts due with respect to the WIFIA Bond.

(j) WIFIA Reserve Fund.

(i) Upon the incurrence or existence of any Subordinate Bonds benefiting from a debt service reserve fund (a “**WIFIA Reserve Funding Trigger Event**”), the Borrower shall establish and maintain a WIFIA Reserve Fund in accordance with this Agreement for the exclusive benefit of the WIFIA Lender. Amounts on deposit in the WIFIA Reserve Fund shall be applied by the Borrower solely to pay WIFIA Debt Service and other amounts due with respect to the WIFIA Loan or the WIFIA Bond.

(ii) The Borrower shall cause the WIFIA Reserve Fund to be funded pursuant to the Flow of Funds following the occurrence of a WIFIA Reserve Funding Trigger Event; provided that no such funding shall be required on any transfer date under the Flow of Funds if the amount then on deposit in the WIFIA Reserve Fund is at least equal to the WIFIA Reserve Fund Requirement. All deposits shall be made directly by the Borrower to the WIFIA Reserve Fund for the benefit of the WIFIA Lender.

(k) Compliance with Laws.

(i) The Borrower shall, and shall require its contractors and subcontractors at all tiers with respect to the Project, to comply with all applicable laws, rules, regulations and requirements, including 40 U.S.C. §§3141-3144, 3146, and 3147 (relating to Davis-Bacon Act requirements) (and regulations relating thereto) and 33 U.S.C. §3914 (relating to American iron and steel products).

(ii) To ensure such compliance, the Borrower shall include in all contracts with respect to the Project (A) the contract clauses relating to the Davis-Bacon Act requirements that are set forth in the Code of Federal Regulations, Title 29 Part 5.5 and (B) requirements that its contractors (1) shall comply with all applicable laws, rules, regulations, and requirements set forth in this Section 14(k) and follow applicable federal guidance and (2) 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 any applicable laws, rules, regulations and requirements set forth in this Section 14(k) (including with respect to the Davis-Bacon Act requirements).

(iii) No use of proceeds of the WIFIA Loan or any other transaction contemplated by this Agreement or any other Related Document shall violate any applicable Sanctions, Anti-Money Laundering Laws, or Anti-Corruption Laws, or any applicable anti-drug trafficking or anti-terrorism laws.

(l) Material Obligations. The Borrower shall pay its material obligations payable from the Revenues 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 Pledged Collateral 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 the System or any part thereof or on the Pledged Collateral; provided 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.

(m) SAM Registration. The Borrower shall (i) obtain prior to the Effective Date (and provide such registration information to the WIFIA Lender) and maintain through the Final Disbursement Date an active registration status with the federal System for Award Management (www.SAM.gov) (or any successor system or registry) and (ii) within sixty (60) days prior to each anniversary of the Effective Date until the Final Disbursement Date, provide to the WIFIA Lender evidence of such active registration status with no active exclusions reflected in such registration.

(n) DUNS Number. The Borrower shall (i) obtain prior to the Effective Date (and provide such number to the WIFIA Lender) and maintain from Dun & Bradstreet (or a successor entity) a Data Universal Numbering System Number (a “**DUNS Number**”) 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 immediately available funds.

(o) Immunity. To the fullest extent permitted by applicable law, the Borrower agrees that it will not assert any 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.

(p) Accounting and Audit Procedures.

(i) The Borrower shall establish fiscal controls and accounting procedures sufficient to assure proper accounting for all (A) Revenues, operating expenses, capital expenses, depreciation, reserves, debt issued and outstanding and debt payments and (B) Project-related costs, WIFIA Loan requisitions submitted, WIFIA Loan proceeds received, payments made by the Borrower with regard to the Project, and 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) 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 for 2020 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 40 C.F.R. Part 35, 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 WIFIA Lender, or the designee thereof, for any such project or programmatic audit.

(q) Access; Records.

(i) 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 14(q) 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 14(q) at any time when an Event of Default shall have occurred and be continuing.

(ii) 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.

(r) Interim Financing. The Borrower shall repay in full all Interim Financing the proceeds of which were applied to pay Eligible Project Costs with the initial disbursement of WIFIA Loan proceeds within five (5) Business Days after the Initial Disbursement Date. The Borrower shall deliver to the WIFIA Lender within five (5) Business Days after the Initial Disbursement Date documentation evidencing such repayment in full.

Section 15. Negative Covenants. The Borrower covenants and agrees as follows until the date the WIFIA Bond and all of the obligations of the Borrower under this Agreement (other than contingent indemnity obligations) are irrevocably paid in full in immediately available funds and the WIFIA Lender no longer has any commitment to make disbursements to the Borrower, unless the WIFIA Lender waives compliance in writing:

(a) Project Obligations. The Borrower shall not create, incur or suffer to exist (i) any Senior Project Obligations or (ii) any obligations, all or a portion of the proceeds of which are or will be applied at any time to fund Total Project Costs, that are secured by a Lien on any assets or property of the Borrower other than the Pledged Collateral.

(b) Issuance of Additional Senior Bonds. The Borrower shall not issue or incur any Additional Senior Bonds except in accordance with all requirements and conditions set forth in Section 3.11 of the Senior Resolution as of the Effective Date, a copy of which Section is attached hereto as **Schedule 15(b)** (*Additional Senior Bonds*).

(c) Issuance of Additional Subordinate Bonds. The Borrower shall not issue or incur any Additional Subordinate Bonds except in accordance with all requirements and conditions set forth in Section 3.11 of the Subordinate Resolution as of the Effective Date, a copy of which Section is attached hereto as **Schedule 15(c)** (*Additional Subordinate Bonds*).

(d) 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, (i) extinguish or impair the Liens on the Pledged Collateral granted pursuant to the Subordinate Resolution, the WIFIA Supplemental Resolution and this Agreement, (ii) amend, modify, replace, supplement or terminate the WIFIA Authorization or the WIFIA Supplemental Resolution or permit a waiver of any provision in each case thereof, (iii) amend, modify or replace any WIFIA

Loan Document or General Resolution (excepting therefrom any amendment or modification of either General Resolution permitted by Section 11.02 thereof) or permit a waiver of any provision thereof, in each case, in a manner that (A) could adversely affect the WIFIA Lender in connection with the WIFIA Loan in a disproportionate manner compared to any other Bondholder or (B) could reasonably be expected to result in a Material Adverse Effect (in the case of clause (a) of the definition thereof, in respect of the WIFIA Loan in a disproportionate manner compared to any other Obligation), or (iv) terminate, assign or replace any Related Document (excluding any Credit Facility and other than the replacement of any Principal Project Contract permitted under Section 17(a)(xi) (*Events of Default and Remedies – Default Under Principal Project Contracts*)) in a manner that could adversely affect the WIFIA Lender or could reasonably be expected to have a Material Adverse Effect.

(e) 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, the Pledged Collateral or the Borrower's respective rights in any of the foregoing. The Borrower shall comply with the requirements specified in Section 6.08 (*Liens and Claims*) of the Subordinate Resolution.

(f) Restricted Payments and Transfers. The Borrower shall not permit Revenues, or any funds in any accounts held under the General Resolutions or in any other fund or account held by or on behalf of the Borrower with respect to the System, to be paid or transferred or otherwise applied for purposes other than ownership, operation or maintenance of the System; provided that amounts may be transferred from the SCM Fund to other funds or accounts held by or on behalf of the Borrower for any lawful purpose in any Borrower Fiscal Year following the transfers and set-asides required pursuant to the Flow of Funds if (i) equivalent amounts are transferred back into the SCM Fund prior to the end of such Borrower Fiscal Year in accordance with Section 340 of the Charter of the City of Los Angeles or (ii) the amounts to be transferred, in the aggregate with other amounts transferred and outstanding (excluding amounts transferred and transferred back in accordance with the preceding clause (i)), equal no more than five percent (5%) of the Net Revenues in such Borrower Fiscal Year, and reimbursement of such transferred amounts is required to be made.

(g) Ownership and Operation. The Borrower shall comply with the requirements specified in Section 6.10 (*Ownership and Operation*) of the Subordinate Resolution.

(h) 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.

(i) No Defeasance. Notwithstanding anything to the contrary in any document, the WIFIA Loan shall not be subject to defeasance and no amounts in respect of the WIFIA Loan 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 16. Reporting Requirements.

(a) Updated Financial Model.

(i) The Borrower shall provide to the WIFIA Lender not later than ninety (90) days after the beginning of each Borrower Fiscal Year an updated Base Case Financial Model reflecting the then-current and projected conditions demonstrating 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 Project over its useful life, including: (A) the Borrower's capital improvement plan, major maintenance plan, projected rates and charges, projected Revenues and Expenses and projected debt outstanding and annual debt service; (B) evidence of compliance with the Rate Covenant for the most recent Borrower Fiscal Year and the projected Rate Covenant coverages through the Final Maturity Date; (C) a written narrative identifying any material changes to the underlying assumptions from the previous Updated Financial Model; and (D) a certificate signed by the Borrower's Authorized Representative, certifying that (1) the Updated Financial Model, including the assumptions and supporting documentation, as of its date, is accurate and reasonable to the best of the Borrower's knowledge and belief, (2) the annual projected Net Revenues will be sufficient to meet the Loan Amortization Schedule and to satisfy the Rate Covenant through the Final Maturity Date, and (3) the Borrower is in compliance with its obligations in respect of the Rate Covenant pursuant to Section 14(a) (*Affirmative Covenants – Rate Covenant*).

(ii) The delivery by the Borrower of the Updated Financial Model to the WIFIA Lender pursuant to Section 16(a) (*Reporting Requirements – Updated Financial Model*) shall constitute a representation and warranty by the Borrower that the Updated Financial Model reflects the Borrower's reasonable expectations, using assumptions that the Borrower believes to be reasonable, of the System's expected operations, including capital costs, capital spending schedule, rates and charges, Revenues, Expenses, major maintenance costs, financing structure and other scheduling, cost and financing elements required to be included in the Base Case Financial Model. The Updated Financial Model shall independently model the Project (as well as the System) addressing each of the foregoing as it may apply to the Project.

(b) Annual Financial Statements. The Borrower shall deliver 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 (provided that the failure of the Borrower to furnish the documents required by this Section 16(b) within such one hundred eighty (180)-day period shall not constitute a Default or an Event of Default hereunder so long as the Borrower furnishes to the WIFIA Lender such documents within ninety (90) days after the end of such period):

(i) a copy of the audited income statement and balance sheet of the Borrower with respect to the System 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, (A) setting forth in each case in comparative form the figures for the previous fiscal year, (B) 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 (C) which 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); and

(ii) together with each delivery of such annual audited 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 Default or Event of Default and, if any such Default or Event of Default shall have occurred during such period, the nature of such Default or Event of Default and the actions that the Borrower has taken or intends to take in respect thereof.

(c) Construction Contracts and Specifications.

(i) If the progressive design-builder to be selected by the Borrower agrees to a guaranteed maximum price when the design of the Project is approximately seventy percent (70%) complete, the Borrower will amend the then-existing contract to include the construction phase and deliver to the WIFIA Lender no later than thirty (30) days prior to its issuance a copy of the notice to proceed and a copy of the executed construction contract relating to such notice.

(ii) If the progressive design-builder to be selected by the Borrower does not agree to a guaranteed maximum price when the design of the Project is approximately seventy percent (70%) complete, the Borrower will complete the design and the final specifications for the Project and, prior to bid advertisement for the Project, deliver to the WIFIA Lender the portions of the bid documents that demonstrate compliance with all federal requirements and including a summary of the scope of work thereunder relating to the development and construction of the Project.

(d) Construction Reporting. The WIFIA Lender shall have the right in its sole discretion to monitor (or direct its agents to monitor) the development of the Project, 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. 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, substantially in the form of **Exhibit J** (*Form of Quarterly Report*), as well as copies of any Additional Principal Project Contracts requested by the WIFIA Lender. The report shall be executed by the Borrower's Authorized Representative and, for any quarter, shall be delivered along with such Additional Principal Project Contracts to the WIFIA Lender within forty-five (45) days of the following quarter (or if such day is not a Business Day, on the next following Business Day). If the then-current projection for the Substantial Completion Date is a date later than the Projected Substantial

Completion Date, the Borrower shall provide in such report a description in reasonable detail to the reasonable satisfaction of the WIFIA Lender of the reasons for such projected delay, an estimate of the impact of such delay on the capital and operating costs of the System (if any), and a certification of the Borrower's Authorized Representative that the new date could not reasonably be expected to result in a Material Adverse Effect.

(e) Public Benefits Report. The Borrower shall deliver to the WIFIA Lender a report, in the form of **Exhibit K** (*Form of Public Benefits Report*) (the "**Public Benefits Report**"), (i) no later than thirty (30) days prior to the Effective Date, (ii) within ninety (90) days following the Substantial Completion Date and (iii) within ninety (90) days following the fifth (5th) anniversary of the Substantial Completion Date. The Borrower agrees that information described under this Section 16(e) may be made publicly available by the WIFIA Lender at its discretion.

(f) Modifications to Total Project Costs. 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 increase or decrease to the aggregate Total Project Costs in an amount equal to or greater than ten percent (10%), which notification shall set forth the nature of the proposed increase or decrease and an estimate of the impact of such increase or decrease on the capital costs and operating costs of the System. The Borrower's notice shall demonstrate that the proposed increase or decrease 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.

(g) Operations and Maintenance. The WIFIA Lender shall have the right, in its sole discretion, 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 16(g). On or prior to the Substantial Completion Date, the Borrower shall deliver to the WIFIA Lender an operations and maintenance manual with respect to the Project, in form and substance reasonably acceptable to the WIFIA Lender.

(h) Notices.

(i) The Borrower shall, within fifteen (15) days (or such other time as specified below) 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 I** (*Form of Certificate of Substantial Completion*);

(B) Defaults; Events of Default: any Default or Event of Default;

(C) Litigation: (1) the filing of any litigation, suit or action, or the commencement of any proceeding, by or 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 judgment against the Borrower that is payable from the Revenues that could reasonably be expected to have a Material Adverse Effect, either individually or in the aggregate, (x) in the case of clause (1), with the notice to be provided within sixty (60) days of the Borrower giving or being given service of process, as applicable and (y) in the case of clause (2), within sixty (60) days of the Borrower learning of such judgment;

(D) Delayed Governmental Approvals: any failure to receive or delay in receiving any Governmental Approval or making any required filing, notice, recordation or other demonstration to or with a Governmental Authority, in each case to the extent such failure or delay will or could reasonably be expected to result in a delay to any major milestone date (including the Projected Substantial Completion Date) set forth in the Construction Schedule, together with a written explanation of the reasons for such failure or delay and the Borrower's plans to remedy or mitigate the effects of such failure or delay;

(E) Environmental Notices: any material notice of violation or material change in finding under any Environmental Law related to the Project or any material changes to the NEPA Determination;

(F) Amendments: except as otherwise agreed by the WIFIA Lender in writing, copies of fully executed amendments, modifications, replacements or supplements to any Related Document within ten (10) days following execution thereof; provided that such notice can be accomplished through the posting of the relevant documents on EMMA under the WIFIA CUSIP Number;

(G) Related Document Defaults: any material breach or default or event of default on the part of the Borrower or any other party under any Related Document; provided that such notice can be accomplished through the posting of the relevant documents on EMMA under the WIFIA CUSIP Number;

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

(I) Ratings Changes: any change in the rating assigned to the WIFIA Bond or any other Obligations by any Nationally Recognized Rating

Agency that has provided a public rating on such indebtedness, and any notices, reports or other written materials (other than those that are ministerial in nature) received from any such rating agencies; provided that such notice can be accomplished through the posting of the relevant documents on EMMA under the WIFIA CUSIP Number;

(J) 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;

(K) Issuance of Obligations: copies of the final offering documents in respect of Additional Bonds (including applicable ordinances, cash flow projections or certifications and any continuing disclosure documents or descriptions thereof, in each case prepared in connection with such issuance); provided that such notice can be accomplished through the posting of the relevant documents on EMMA under the WIFIA CUSIP Number;

(L) Postings on EMMA: the posting of any document on EMMA in accordance with the requirements of any continuing disclosure agreement or similar document with respect to any Outstanding Obligations relating to annual financial information and operating data and the reporting of significant events; provided that such notice can be accomplished through the posting of the relevant document on EMMA under the WIFIA CUSIP Number;

(M) Draws on WIFIA Reserve Fund: the occurrence of any draw on the WIFIA Reserve Fund (to the extent such fund is established pursuant to the terms of this Agreement) to fund payments in respect of the WIFIA Bond;

(N) [USACE Lease Renewal: a copy of any renewal or new lease agreement with the Secretary of the Army (or any other representative of the United States Army Corps of Engineers) with respect to the property on which the Project is constructed;] and

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

(ii) Within thirty (30) days after the Borrower learns of the occurrence of an event specified in clause (i) above (other than sub-clauses (A) (*Substantial Completion*), (F) (*Amendments*), (I) (*Ratings Changes*) (in the case of a ratings upgrade), (K) (*Issuance of Obligations*), (L) (*Postings on EMMA*) or (N) (*USACE Lease Renewal*), the Borrower's Authorized Representative shall provide a statement to the WIFIA Lender setting forth the actions the Borrower proposes to take to rectify, mitigate or otherwise address the event in question. The Borrower shall also provide the WIFIA Lender with

any further information reasonably requested by the WIFIA Lender from time to time concerning the matters described in clause (i) above.

(i) 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 System, the Project or the Revenues as the WIFIA Lender may from time to time reasonably request.

ARTICLE VI EVENTS OF DEFAULT

Section 17. Events of Default and Remedies.

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

(i) Payment Default. The Borrower shall fail to (A) pay when due any part of the principal amount of or interest on the WIFIA Loan (including WIFIA Debt Service required to have been paid pursuant to the provisions of Section 8 (*Payment of Principal and Interest*)) or (B) make any mandatory prepayment required pursuant to the provisions of Section 9 (*Prepayment*), in each case 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 or any other WIFIA Loan Document (other than in the case of any Payment Default, any Development Default or any failure to comply with the Rate Covenant), 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 Event of Default shall be deemed to have occurred or be continuing under this Section 17(a)(ii), 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 or certification that is subject to a materiality qualifier shall prove to have been false or misleading in any respect); provided that no Event of Default shall be deemed to have occurred under this

Section 17(a)(iii) if and so long as (A) such misrepresentation is not intentional, (B) such misrepresentation is not a misrepresentation in respect of Section 12(h) (*Representations and Warranties of Borrower – No Debarment*), Section 12(j) (*Representations and Warranties of Borrower – Compliance with Laws*), or Section 12(y) (*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 and (E) the underlying issue giving rise to the misrepresentation is cured by the Borrower within thirty (30) days after the date on which the Borrower first became aware (or reasonably should have become aware) of such misrepresentation.

(iv) Acceleration of Obligations. Any acceleration shall occur of the maturity of any Obligation, or any such Obligation shall not be paid in full upon the final maturity thereof; provided that such Event of Default shall be deemed cured if such acceleration and its consequences have been rescinded or annulled in accordance with Section 9.02(b) of the Senior Resolution or Section 9.02(b) of the Subordinate Resolution, as applicable.

(v) Cross Default with Resolution Documents. Any event of default shall occur in respect of the performance of any covenant, agreement or obligation of the Borrower under any Resolution Document (other than the WIFIA Supplemental Resolution and any non-payment event of default under any Credit Facility), and such event of default shall be continuing after the giving of any applicable notice and the expiration of any applicable grace period specified in such Resolution Document (as the case may be) with respect to such event of default, and the Borrower shall have failed to cure such event of default or to obtain an effective written waiver thereof in accordance with the terms thereof.

(vi) Material Adverse Judgment. Any final non-appealable judgment or judgments that (A) are payable from the Revenues in an aggregate amount in excess of \$25,000,000 and are not covered in full by insurance or (B) would reasonably be expected to result in a Material Adverse Effect, in either case, shall be entered or filed against the Borrower (including, without limitation, the System) and remain unsatisfied, unvacated, unbonded or unstayed for a period of ninety (90) days.

(vii) Occurrence of Bankruptcy Related Event. A Bankruptcy Related Event shall occur.

(viii) 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; (B) the Subordinate Resolution 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 Pledged Collateral other than as a result of actions or a failure to act by, and within the control of, the WIFIA Lender, and with the priority purported to be created thereby; or (C) any event occurs that results in the material impairment in the priority of the WIFIA Lender's Lien on the Pledged Collateral or in the value of the Pledged Collateral.

(ix) Failure to Satisfy Rate Covenant. The Borrower fails to satisfy the Rate Covenant for two (2) consecutive Borrower Fiscal Years.

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

(xi) 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 Event of Default shall be deemed to have occurred or be continuing under this Section 17(a)(xi) 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 (including credit support), technical capability and relevant experience as the counterparty being replaced was at the time the applicable Principal Project Contract was originally executed (or is otherwise reasonably acceptable to the WIFIA Lender), (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, and (3) is not, at the time of such replacement, in violation of any applicable laws; (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.

(xii) Cessation of System Operations. Following the Substantial Completion Date, operation of the System shall cease for a continuous period of not less than one hundred eighty (180) days unless (A) 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) or (B) the Borrower shall either be self-insured in an amount sufficient to cover, or shall have in force an insurance policy or policies under which the Borrower is entitled to recover amounts sufficient to pay (and may use such amounts to pay), debt service for all Obligations (including WIFIA Debt Service) and costs and expenses of the Borrower during such cessation of operations.

(b) Upon the occurrence of any Bankruptcy Related Event, 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 Event of Default, the WIFIA Lender, by written notice to the Borrower, may exercise any or all of the following remedies:

(i) 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;

(ii) the WIFIA Lender may apply the Default Rate provisions of Section 6 (*Interest Rate*);

(iii) the WIFIA Lender may suspend or debar the Borrower from further participation in any Government program administered by the WIFIA Lender and notify other departments and agencies of such default;

(iv) subject to Section 9.02(c) (*Acceleration; Other Remedies*) of the Subordinate Resolution (but without limiting the remedies of each Bondholder set forth in Section 9.04 of the Subordinate Resolution), 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 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 applicable law with respect thereto, and may take such other actions at law or in equity as may appear necessary or desirable to collect all amounts payable by the Borrower under this Agreement 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 or the other WIFIA Loan Documents; provided that, notwithstanding anything to the contrary set forth in any WIFIA Loan Document, without the consent of any other Person, the WIFIA Lender shall be entitled to take such action, including a mandamus action against the Borrower and its officials, to enforce the performance by the Borrower of any provisions of this Agreement; and

(v) subject to Section 9.02(a) (*Acceleration; Other Remedies*) of the Subordinate Resolution, the WIFIA Lender may declare the Outstanding WIFIA Loan Balance to be, and the same shall thereupon forthwith become, immediately due and payable, together with the interest accrued thereon and all fees, costs, expenses, indemnities and other amounts payable under this Agreement and the other WIFIA Loan Documents, all without presentment, demand, notice, declaration, protest or other requirements of any kind, all of which are hereby expressly waived.

(d) No action taken pursuant to this Section 17 shall relieve the Borrower from its obligations pursuant to this Agreement or the other WIFIA Loan Documents, all of which shall survive any such action.

ARTICLE VII MISCELLANEOUS

Section 18. 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. In no event shall the WIFIA Lender be liable for any incidental, indirect, special or consequential damages incidental to or arising out of this Agreement or the System (including the Project) or the existence, furnishing, functioning or use of the Project or any item or products or services provided for in this Agreement.

Section 19. No Personal Recourse. No official, employee or agent of the WIFIA Lender or 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 20. 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 32 (*Indemnification*), from any lawsuit or claim arising in law or equity solely by reason of the WIFIA Loan, and that no third party creditor of the Borrower shall have any right against the WIFIA Lender with respect to the WIFIA Loan made pursuant to this Agreement.

Section 21. 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 22. WIFIA Lender's Authorized Representative. The WIFIA Lender hereby appoints the Director of the WIFIA Program, whose notice details are set forth below in Section 31 (*Notices*), to serve as the WIFIA Lender's Authorized Representative under this Agreement until such time as a successor or successors shall have been appointed. Thereafter, the successor in office shall serve as the WIFIA Lender's Authorized Representative. The WIFIA Lender shall provide notice to the Borrower within a reasonable time period following the succession.

Section 23. 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 24. Amendments and Waivers. No amendment, modification, termination, or waiver of any provision of this Agreement or the WIFIA Bond shall in any event be effective without the prior written consent of each of the parties hereto.

Section 25. 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 26. 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 27. 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 or under the WIFIA Bond nor any interest herein or therein may be assigned or delegated by the Borrower without the prior written consent of the WIFIA Lender.

Section 28. Remedies Not Exclusive. No remedy conferred herein or in the WIFIA Bond 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 under the WIFIA Bond or now or hereafter existing at law or in equity or by statute.

Section 29. Delay or Omission Not Waiver. No delay or omission of the WIFIA Lender to exercise any right or remedy provided hereunder or under the WIFIA Bond 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 the WIFIA Bond 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 30. 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 31 (*Notices*) shall be effective as delivery of an original executed counterpart of this Agreement or such other document or instrument, as applicable.

Section 31. Notices. 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
WJC-W 6201A
1200 Pennsylvania Avenue NW
Washington, D.C. 20460
Attention: WIFIA Director
Email: WIFIA_Portfolio@epa.gov

If to Borrower: City of Los Angeles/CAO
200 North Main Street, Room 1500
Los Angeles, California 90012
Attention: Debt Management Group
Email: cao.debt@lacity.org

with a copy to: LA Sanitation & Environmental Department
1149 South Broadway Street, 9th Floor
Los Angeles, California 90015
Attention: Parvati Proffitt
Email: parvati.proffitt@lacity.org

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. 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 31 (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 31 (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 32. Indemnification. The Borrower shall, to the extent permitted by law, indemnify the WIFIA Lender and any official, employee, agent, advisor or representative of the WIFIA Lender (each such Person being herein referred to as an "Indemnatee") against, and hold each Indemnatee 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 Indemnatee and the costs of environmental remediation), whether known, unknown, contingent or otherwise, incurred by or asserted against any Indemnatee 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 32 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 32. 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 32 shall be payable promptly upon demand therefor. The obligations of the Borrower under this Section 32 shall survive the payment or prepayment in full or transfer of the WIFIA Loan, 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 32) or consents in respect hereof or thereof, any Event of Default, and any workout, restructuring or similar arrangement of the obligations of the Borrower hereunder or thereunder.

Section 33. Sale of WIFIA Loan. The WIFIA Lender shall not sell the WIFIA Loan at any time prior to 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 33. Such sale or reoffering shall be on such terms as the WIFIA Lender shall deem advisable, 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 24 (*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 Event of Default. The provision of any notice pursuant to this Section 33 shall neither (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 34. Effectiveness. This Agreement shall be effective on the Effective Date; provided that final acceptance and financing of the Project shall not occur until the Borrower satisfies the conditions precedent in Section 11(b) (*Conditions Precedent – Conditions Precedent to Final Acceptance and Financing of the Project*).

Section 35. Termination. This Agreement shall terminate upon the irrevocable payment in full in immediately available funds by the Borrower of the Outstanding WIFIA Loan Balance, together with all accrued interest, fees and expenses with respect thereto; provided that the indemnification requirements of Section 32 (*Indemnification*), the reporting and record keeping requirements of Section 14(q) (*Affirmative Covenants – Access; Records*) and the payment requirements of Section 10 (*Fees and Expenses*) shall survive the termination of this Agreement as provided in such sections.

Section 36. Integration. This Agreement, together with the other WIFIA Loan Documents, 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.

[*The remainder of this page intentionally left blank; signature pages immediately follow.*]

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.

CITY OF LOS ANGELES,
by its authorized representative

By: _____
Name:
Title: Assistant City Administrative Officer

**BUREAU OF SANITATION OF
THE CITY OF LOS ANGELES**

By: _____
Name:
Title:

APPROVED AS TO FORM:

**MICHAEL N. FEUER,
CITY ATTORNEY**

By: _____
Name: Amy Pham
Title: Deputy City Attorney

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

By: _____
Name: Michael S. Regan
Title: Administrator

SCHEDULE I
PROJECT BUDGET

SOURCES OF FUNDS	AMOUNT (\$ USD)	PERCENTAGE (%)
[]		
Total Sources of Funds		
USES OF FUNDS	AMOUNT (\$ USD)	PERCENTAGE (%)
[]		
Total Uses of Funds		
Total Eligible Project Costs		
Total Project Costs		

SCHEDULE II

CONSTRUCTION SCHEDULE

Project Component	Design Completion	Bid Advertisement Date	Construction Start Date	Substantial Completion
Equalization Tank	Oct 2019	Mar 2021	Sept 2021	Sept 2024
Maintenance and Warehouse Facilities*	N/A	Jun 2021	Dec 2021	Jun 2026
Advanced Water Purification Facility	Aug 2023	Jun 2021	Oct 2023	Sept 2027

*Multiple construction contracts anticipated.

SCHEDULE III
EXISTING INDEBTEDNESS

A. Senior Bonds

Series	Amount Issued (\$000)	Amount Outstanding (\$000)	Final Maturity (6/1)	Fixed (F) / Variable (V)	Credit Facility Provider
2010-A	177,420	177,420	2039	F	n/a
2010-B	89,600	89,600	2040	F	n/a
2012-A (Refunding)	49,650	49,650	2024	F	n/a
2013-A	149,980	149,980	2043	F	n/a
2013-B (Refunding)	143,880	108,540	2035	F	n/a
2015-A	188,755	188,755	2045	F	n/a
2015-B (Refunding)	41,175	41,175	2035	F	n/a
2015-C	100,835	100,835	2045	F	n/a
2015-D (Refunding)	108,860	96,115	2034	F	n/a
Total Senior Bonds	1,050,155	1,002,070			

B. Subordinate Bonds

Series	Amount Issued (\$000)	Amount Outstanding (\$000)	Final Maturity (6/1)	Fixed (F) / Variable (V)	Credit Facility Provider
2010-A	199,790	38,870	2032	F	n/a
2012-A (Refunding)	157,055	24,885	2024	F	n/a
2012-B (Refunding)	253,880	234,965	2032	F	n/a
2012-C (Refunding)	133,715	114,105	2027	F	n/a
2013-A (Refunding)	349,505	259,785	2035	F	n/a
2015-A (Refunding)	21,650	21,650	2024	F	n/a
2017-A	227,540	227,540	2047	F	n/a
2017-B (Refunding)	107,155	103,245	2039	F	n/a
2017-C (Taxable Refunding)	115,455	109,170	2039	F	n/a

2018-A	219,790	218,595	2048	F	n/a
2018-B (Refunding)	139,880	139,880	2028	F	n/a
2018-C (Refunding)	129,925	129,925	2032	V	TD Bank LOC, exp. 11/12/21
Total Subordinate Bonds	2,055,340	1,622,615			

Commercial Paper Series	Amount Issued (\$000)	Principal Amount Outstanding (\$000)	Final Maturity	Fixed (F) / Variable (V)	Credit Facility Provider
Series A-2 Tax Exempt	5,000	5,000	11/3/2020	V	TD Bank LOC
Series B-2 Taxable	25,000	25,000	11/3/2020	V	TD Bank LOC
Total Commercial Paper	30,000	30,000			

C. Junior Indebtedness

	Amount Issued (\$000)	Principal Amount Outstanding (\$000)	Final Maturity	Fixed (F) / Variable (V)	Credit Facility Provider
State Revolving Fund Loan	219,081	64,377	8/24/2024	F	n/a

SCHEDULE IV

WIFIA PAYMENT INSTRUCTIONS

HOW TO MAKE A PAYMENT TO EPA WIFIA PROGRAM

Please select one of the acceptable payment methods and follow the instructions provided below for sending WIFIA payments to EPA.

For questions about payments to EPA please contact EPA's Office of the Controller:

Phone: 202-564-7593. Voicemails can be left when calling outside business hours

Email: OCFO-OC-ACAD-WIFIA@epa.gov

For questions about the WIFIA program:

Email: wifia@epa.gov

ACCEPTABLE METHODS FOR WIFIA PAYMENTS TO EPA

OPTION 1 PAY.GOV

Use of Pay.gov to make payments to EPA is the preferred electronic payment method. In Pay.gov, users can track their payments to EPA and schedule recurring or 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 all Pay.gov system functionality.

1. Remove Debit Block - Before submitting payments through Pay.gov, users should contact their financial institution to remove any debit blocks and add EPA to the list of payees. In addition, the financial institution will need to add EPA's company ID (6801123303) for WIFIA fees. Once the financial institution removes the debit block and sets up the company ID, users can set up Pay.gov to submit payments.
2. Access the Pay.gov system by going to <https://www.pay.gov> and search for WIFIA or click on the following hyperlink to directly launch the WIFIA Loan Collection & Fees Form.
3. Provide the following information on your payment to ensure proper credit:
 - Remitter's contact phone number
 - Company/Organization Name as it appears on EPA document
 - Complete address, including city, state, zip code
 - Project Name
 - Loan Number: this is EPA WIFIA Loan number, NOT the remitter's number
 - From the "Payment Type" drop down menu select the type from the Fee Notice letter
 - Other Description: please note the reference number from the Fee Notice letter
4. Follow the remaining on-screen instructions to successfully process the payment to EPA.
5. Send an email to OCFO-OC-ACAD-WIFIA@epa.gov and wifia_portfolio@epa.gov informing that a payment has been made.

OPTION 2 CREDIT GATEWAY: FEDWIRE AND ACH

Depending on preferences, Credit Gateway allows users to submit payment either via FedWire (electronic interbank transfers) or ACH (direct deposit). The primary differences are:

	FedWire	ACH (Automated Clearing House)
Fees	Charges fees	Less expensive than FedWire
Transaction Speed	Faster transfers	May take up to a few days
Security	Less secure	More secure
International Capabilities	Can be sent internationally	U.S.-only network
Processing time	Within 24 hours	A few hours to several days

Users must work within the processing guidelines established by their bank, which may include processing cutoffs, transaction fees, and other bank requirements. Banks that do not maintain an account at the Federal Reserve Bank (FRB) must use the services of correspondent banks that do have an FRB account.

FEDWIRE

To process a payment using FedWire please:

1. Send FedWire deposits as early as possible and no later than 5 p.m. ET on the desired EPA receipt date
2. Review the FedWire form Instructions provided in Attachment 1 and complete the form. It is very important that all relevant details identified in the instructions are accurate.
3. Send an email to OCFO-OC-ACAD-WIFIA@epa.gov and wifia_portfolio@epa.gov informing that a payment has been made.

AUTOMATED CLEARING HOUSE (ACH)

To process payments using ACH please:

1. Send ACH payments as early as possible and no later than 3 business days before the desired EPA receipt date.
2. Review the ACH form Instructions provided in Attachment 2 and complete the form. It is important that all relevant details identified in the instructions are accurate.
3. Send an email to OCFO-OC-ACAD-WIFIA@epa.gov and wifia_portfolio@epa.gov informing that the payment has been made.

OPTION 3 CHECK PAYMENTS

UNAVAILABLE DUE TO COVID 19 PANDEMIC. EPA CANNOT PROCESS CHECKS AT THIS TIME.

Attachment 1 – FedWire Payment Form and Instructions

		U.S. Environmental Protection Agency FUNDS TRANSFER DEPOSIT		
PC		INSTRUCTIONS: Explicit completion and routing instructions are located on the reverse of this form. It is requested that prudent care be taken to ensure that all information is provided in the requested format. Failure to provide the information in the requested format may cause a delay in the notification of the funds transfer to EPA.		
TO	TYPE			
021030004	10			
FROM	CL	REF	AMOUNT	
			\$	
SENDER				
RECEIVER				
TREAS NYC/(68010099)EPA				
THIRD PARTY INFORMATION				

The above FedWire form presented to your bank (*who will initiate and transmit the FedWire payment*) **MUST** contain all details below: *

TO (ABA)	021030004
TYPE	10
RECEIVER	TREAS NYC/(68010099)EPA
THIRD PARTY INFORMATION	To ensure proper credit please include the following information on your payment: <ul style="list-style-type: none"> • Company/remitter's name (borrower name as it appears on EPA document) • Complete address, including city, state, zip code • Remitter's point of contact person and phone number • EPA WIFIA Loan # (NOT the remitter's number) • Payment Type/Reason for payment from the Fee Notice letter • Reference number from the Fee Notice letter
Shaded Areas	Those items that are shaded on the Form are to be entered by the bank on the funds transfer message. (Depending on the Federal Reserve District, some items may not be required.)
<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>	

Attachment 2 - ACH Credit Gateway Form and Instructions

Please provide the following instructions to your Financial Institution for the remittance of Automated Clearing House (ACH) credits to the United States Environmental Protection Agency.

NACHA Record Type Code	NACHA Field	NACHA Data Element Name	Required Information
5	3	Company Name	
5	6	Standard Entry Class Code	CCD
5	9	Effective Entry Date	
6	2	Transaction Code*	22
6	3 & 4	Receiving DFI Identification (ABA routing #) @	051036706
6	5	DFI Account Number	868010099000
6	6	Amount	<i>(enter payment amount)</i>
6	8	Receiving Company Name	US EPA FEE TYPE – WIFIA (Loan Number-Fee Type)

@ Bank Name: Credit Gateway – ACH Receiver 33 Livingston Ave. St. Paul, MN 55107 1-877-815-1206

Agency Contact:

Laura Collier, Lead Accountant
 US Environmental Protection Agency Office of the Controller
 Fees and Collections Branch 202-564-7593
collier.laura@epa.gov

Request for Taxpayer Identification Number and Certification

Give Form to the
requester. Do not
send to the IRS.

▶ Go to www.irs.gov/FormW9 for instructions and the latest information.

Print or type. See Specific Instructions on page 3.	<p>1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. United States Environmental Protection Agency</p> <p>2 Business name/disregarded entity name, if different from above</p> <p>3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.</p> <p><input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate</p> <p><input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶</p> <p><input checked="" type="checkbox"/> Other (see instructions) ▶ Federal Agency</p> <p>4 Exempt oris (codes apply only to certain entities, not individuals, see instructions on page 3):</p> <p>Exempt payee code (if any) _____</p> <p>Exemption from FATCA reporting code (if any) _____</p>	
	<p>5 Address (number, street, and apt. or suite no.) See instructions. 1300 Pennsylvania Ave NW, Mail Code 2733R</p> <p>6 City, state, and ZIP code Washington, DC 20004-3002</p> <p>7 List account number(s) here (optional)</p>	<p>Requester's name and address (optional)</p>

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number	
[] [] [] - [] [] [] - [] [] [] []	
OR	
Employer identification number	
5 2 - 0 8 5 2 6 9 5	

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person ▶	Date ▶ 12/17/19
------------------	----------------------------	-----------------

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.

SCHEDULE V
FLOW OF FUNDS

Revenues in the SCM Fund shall be used on an ongoing basis to pay or provide for the ordinary and reasonable expenses of the operation and maintenance of the System, including refunds and the reasonable expenses of management, repair and other expenses necessary to maintain and preserve the System in good repair and working order when such amounts become due in the ordinary course of business.

On or before the twenty-fifth (25th) day of each month, the Borrower shall withdraw from the SCM Fund an amount in the aggregate sufficient to make the deposits described in clauses (1) through (3), inclusive, below and deposit such sum so withdrawn to the credit of the following funds and in the priority listed, and to the extent that in any month insufficient amounts are available to make all of such deposits, funds shall be deposited first to the Senior Debt Service Fund and thereafter, if funds remain, to the Senior Reserve Fund and thereafter, if funds remain, to the Senior Emergency Fund:

- (1) to the credit of the Senior Debt Service Fund, an amount equal to the amount set forth in clause (1) of Section 5.03 (*The SCM Fund*) of the Senior Resolution;
- (2) to the credit of the Senior Reserve Fund, an amount equal to the amount set forth in clause (2) of Section 5.03 (*The SCM Fund*) of the Senior Resolution; and
- (3) to the credit of the Senior Emergency Fund, an amount equal to the amount set forth in clause (3) of Section 5.03 (*The SCM Fund*) of the Senior Resolution.

So long as conditions in clauses (1) through (3) above are met, to the extent that following such transfers there remains in the SCM Fund an amount at least equal to the amount reasonably estimated by the Borrower to be needed to provide for the System's operation and maintenance expenses during the following forty-five (45) days, at any time prior to the immediately following principal or interest payment date with respect to any Subordinate Bond (including the WIFIA Bond), the Borrower shall withdraw from the SCM Fund an amount in the aggregate sufficient to make the deposits described in clauses (a) through (c), inclusive, below and deposit such sum so withdrawn to the credit of the following funds and in the priority listed, and to the extent that amounts available in the SCM Fund are not sufficient to make all of such deposits, funds shall be deposited first to the WIFIA Debt Service Fund and each other Debt Service Fund with respect to the other Subordinate Bonds and thereafter, if funds remain, to the WIFIA Reserve Fund (as applicable) and each other Reserve Fund with respect to the other Subordinate Bonds:

- (a) to the credit of the applicable Debt Service Funds with respect to Subordinate Bonds (including the WIFIA Debt Service Fund), an amount equal to all payments due and unpaid with respect to all Subordinate Bonds (including the WIFIA Bond);
- (b) to the credit of the WIFIA Debt Service Fund and each other Debt Service Fund with respect to the other Subordinate Bonds, an amount equal to the principal of and interest on such Subordinate Bonds due and payable on the immediately following principal or interest payment date with respect to each such Subordinate Bond (including amounts to pay the

principal of and interest on the WIFIA Bond due and payable on the immediately following Payment Date); and

(c) to the credit of the WIFIA Reserve Fund and each other Reserve Fund with respect to the other Subordinate Bonds, an amount equal to satisfy any deficiency in the WIFIA Reserve Fund (to the extent such fund is established pursuant to the terms of the WIFIA Loan Agreement) and any Reserve Fund for any other Subordinate Bonds.

If, on the date of any withdrawal or transfer from the SCM Fund pursuant to any of the clauses (a), (b) or (c) above, the amount required to be withdrawn and transferred from the SCM Fund pursuant to such clause exceeds the amount then on deposit in or credited to the SCM Fund after the withdrawals and transfers made pursuant to all applicable preceding clauses are completed, the amount on deposit in the SCM Fund at the time of application pursuant to such clause shall be transferred pro rata to each of the funds or accounts specified in such clause based on the respective amounts required to be transferred pursuant to such clause.

At the Borrower's option and to the extent that following the transfers set forth above there remains in the SCM Fund an amount at least equal to the amount reasonably estimated by the Borrower to be needed to provide for the System's operation and maintenance expenses during the following forty-five (45) days, the Borrower may deposit to the credit of any applicable fund or account in an amount satisfactory to pay capital expenses of the System or any other lawful purpose related to the System and transfers permitted pursuant to the proviso set forth in Section 15(f) (*Negative Covenants – Restricted Payments and Transfers*) of the WIFIA Loan Agreement.

SCHEDULE VI

MAE DISCLOSURE

Jessy Hernandez v. City of Los Angeles. The incident giving rise to the claim occurred on April 1, 2018, where Jesse Hernandez (sometimes spelled Jessy), who was 13 years old at the time, and some of his cousins were playing in an abandoned concrete maintenance shack near the Griffith Park's Travel Town area. While in the shack, Jesse fell about 25 feet into a sewer pipe containing toxic water. Jesse was subject to untreated sewer for approximately 13 hours until he was rescued. A claim on Jesse's behalf has been submitted to the City, seeking damages in the amount of \$5 million. The trial date is currently set for June 30, 2021. Based on plaintiff's medical record and a psychological report, the range of exposure in this case is \$125,000 to \$750,000. Evaluation of the potential exposure in this case may change as the City learns more through depositions, medical evaluations of the plaintiff and through other experts.

6th Street Bridge Sewage Overflow. On July 18, 2016, there was a sewer overflow of 2,630,754 gallons of untreated sewage by the 6th Street Bridge. The State Water Resources Control Board and Regional Water Quality Control Board proposed a penalty on the City in the amount of \$2,971,635. The City is engaged in settlement discussions with the State in an attempt to resolve this matter.

Hoffman v. City. The case is a putative class action lawsuit challenging the City's calculation of the Dry Winter Compensation Factor relating to sewer service charges. The City has utilized a "Winter Water Use" method since 1997. The method assumes that while most water delivered to a residence is returned to a sewer system, some is used for landscape irrigation (and therefore does not go down the sewer). A residential customer's sewage volume is calculated by multiplying the resident's lowest average daily water use in winter by a Dry Winter Compensation factor. The complaint alleges the City is charging too much for sewer service charges based on a miscalculation of the Dry Winter Compensation Factor and seeks a refund of those "overpayments."

There are presently four causes of action pending in lawsuit (accounting, monies had and received, declaratory relief, and violation of Proposition 218/Article 13D of the California Constitution). The City is defending against all causes of action.

Potential damages will be subject to discovery and expert opinion but could be as much as \$12.5 million per year (for the four years during which the statute of limitations might not bar claims), plus a revenue loss of 5 percent per year.

Miles v. City. The case is a class action (certified on February 28, 2019) by sewer maintenance workers seeking compensation for what they claim are missed meal and rest break penalties under the California wage order associated with the transportation industry under the California Labor Code.

The City filed a motion for summary judgment, which was granted by the Court. The Court entered summary judgment in favor of the City on June 10, 2019. Plaintiffs sought leave to file a fifth amended complaint, which the City opposed. The Court denied

the plaintiffs' motion, and entered final judgment in the City's favor on June 25, 2019. Plaintiffs filed an appeal. On October 28, 2020, the Court of Appeals published its opinion, affirming the trial court's rulings in favor of the City. On December 2, 2020, Plaintiffs filed a petition for review with the California Supreme Court. Potential exposure in this case is in the \$10 million to \$15 million range, but the City believes plaintiff's probability of success on appeal is low.

Nguyen v. City. The plaintiff alleges he suffered racial discrimination, retaliation, and a hostile workplace. The parties are conducting discovery and the City filed a motion for summary judgment, which is scheduled to be heard on March 2, 2021. Trial has been continued until May 7, 2021. The City's exposure could be \$1 million.

SCHEDULE 12(f)

LITIGATION

Jessy Hernandez v. City of Los Angeles. The incident giving rise to the claim occurred on April 1, 2018, where Jesse Hernandez (sometimes spelled Jessy), who was 13 years old at the time, and some of his cousins were playing in an abandoned concrete maintenance shack near the Griffith Park's Travel Town area. While in the shack, Jesse fell about 25 feet into a sewer pipe containing toxic water. Jesse was subject to untreated sewer for approximately 13 hours until he was rescued. A claim on Jesse's behalf has been submitted to the City, seeking damages in the amount of \$5 million. The trial date is currently set for June 30, 2021. Based on plaintiff's medical record and a psychological report, the range of exposure in this case is \$125,000 to \$750,000. Evaluation of the potential exposure in this case may change as the City learns more through depositions, medical evaluations of the plaintiff and through other experts.

6th Street Bridge Sewage Overflow. On July 18, 2016, there was a sewer overflow of 2,630,754 gallons of untreated sewage by the 6th Street Bridge. The State Water Resources Control Board and Regional Water Quality Control Board proposed a penalty on the City in the amount of \$2,971,635. The City is engaged in settlement discussions with the State in an attempt to resolve this matter.

Hoffman v. City. The case is a putative class action lawsuit challenging the City's calculation of the Dry Winter Compensation Factor relating to sewer service charges. The City has utilized a "Winter Water Use" method since 1997. The method assumes that while most water delivered to a residence is returned to a sewer system, some is used for landscape irrigation (and therefore does not go down the sewer). A residential customer's sewage volume is calculated by multiplying the resident's lowest average daily water use in winter by a Dry Winter Compensation factor. The complaint alleges the City is charging too much for sewer service charges based on a miscalculation of the Dry Winter Compensation Factor and seeks a refund of those "overpayments."

There are presently four causes of action pending in lawsuit (accounting, monies had and received, declaratory relief, and violation of Proposition 218/Article 13D of the California Constitution). The City is defending against all causes of action.

Potential damages will be subject to discovery and expert opinion but could be as much as \$12.5 million per year (for the four years during which the statute of limitations might not bar claims), plus a revenue loss of 5 percent per year.

Miles v. City. The case is a class action (certified on February 28, 2019) by sewer maintenance workers seeking compensation for what they claim are missed meal and rest break penalties under the California wage order associated with the transportation industry under the California Labor Code.

The City filed a motion for summary judgment, which was granted by the Court. The Court entered summary judgment in favor of the City on June 10, 2019. Plaintiffs

sought leave to file a fifth amended complaint, which the City opposed. The Court denied the plaintiffs' motion, and entered final judgment in the City's favor on June 25, 2019. Plaintiffs filed an appeal. On October 28, 2020, the Court of Appeals published its opinion, affirming the trial court's rulings in favor of the City. On December 2, 2020, Plaintiffs filed a petition for review with the California Supreme Court. Potential exposure in this case is in the \$10 million to \$15 million range, but the City believes plaintiff's probability of success on appeal is low.

Nguyen v. City. The plaintiff alleges he suffered racial discrimination, retaliation, and a hostile workplace. The parties are conducting discovery and the City filed a motion for summary judgment, which is scheduled to be heard on March 2, 2021. Trial has been continued until May 7, 2021. The City's exposure could be \$1 million.

SCHEDULE 12(n)

PRINCIPAL PROJECT CONTRACTS

A. Existing Principal Project Contracts

None.

B. Additional Principal Project Contracts

Contract Name	Expected Effective Date	Principal Project Party	Amount	Description	Copy to be Delivered to the WIFIA Lender (Yes/No)

**[SCHEDULE 12(p)
ENVIRONMENTAL MATTERS]**

SCHEDULE 15(b)

ADDITIONAL SENIOR BONDS

Reference is made to Section 3.11 of the Senior Resolution, and the requirements and conditions contained therein as of the Effective Date, which are set forth verbatim below. Capitalized terms used in this **Schedule 15(b)** shall have the respective meanings assigned to such terms in the Senior Resolution.

“Section 3.11 Tests for Issuance of Bonds. As a condition to the issuance of any Bonds subsequent to the issuance of the Initial Bonds, the City shall first be required to obtain a certificate or certificates prepared by a Consultant or by Consultants showing (i) that the Net Revenues for the immediately preceding Fiscal Year or for any 12 consecutive months out of the 18 consecutive months immediately preceding the issuance of the proposed Bonds were at least equal to 125% of the Maximum Annual Debt Service for all Bonds which will be Outstanding immediately after the issuance of the proposed Bonds and (ii) that the estimated Net Revenues for the Fiscal Year immediately following the date of issuance of such Series of Bonds will be at least equal to 125% of Maximum Annual Debt Service for all Bonds which will be Outstanding immediately after the issuance of the proposed Bonds. For purposes of preparing the certificate or certificates described above, the Consultant or Consultants may rely upon financial statements prepared by the City, which have not been subject to audit by an independent certified public accountant if audited financial statements for the Fiscal Year or period are not available.

For purposes of the computations to be made as described in subsection (i) and in subsection (ii) of the preceding paragraph, the determination of Net Revenues may take into account any increases in rates and charges which relate to the System and shall take into account any reductions in such rates and charges, which increases or decreases have been authorized by the City to be implemented and which will, for purposes of the test described in (i) of the preceding paragraph, be effective prior to or at the time of issuance of such proposed Bonds and for purposes of the test described in (ii) of the preceding paragraph will be effective during the Fiscal Year for which such estimate is made.

The certificate or certificates described above shall not be required if the Bonds being issued are for the purpose of refunding then Outstanding Bonds and at the time of the issuance of such Bonds a certificate of an Authorized City Representative shall be delivered showing that Maximum Annual Debt Service on all Bonds Outstanding after the issuance of the refunding Bonds will not exceed Maximum Annual Debt Service on all Bonds Outstanding prior to the issuance of such Bonds.”

SCHEDULE 15(c)

ADDITIONAL SUBORDINATE BONDS

[Reference is made to Section 3.11 of the Subordinate Resolution, and the requirements and conditions contained therein as of the Effective Date, which are set forth verbatim below. Capitalized terms used in this **Schedule 15(c)** shall have the respective meanings assigned to such terms in the Subordinate Resolution.

“Section 3.11 Tests for Issuance of Subordinate Bonds. As a condition to the issuance of any Series of Subordinate Bonds subsequent to the issuance of the Initial Series of Subordinate Bonds, the City shall first be required to obtain a certificate or certificates prepared by a Consultant or by Consultants showing that the Net Revenues for the immediately preceding Fiscal Year or for any 12 consecutive months out of the 18 consecutive months immediately preceding the issuance of the proposed Subordinate Bonds were at least equal to 110% of the Maximum Annual Debt Service for all Senior Lien Bonds and Subordinate Bonds which will be Outstanding immediately after the issuance of the proposed Subordinate Bonds. For purposes of preparing the certificate or certificates described above, the Consultant or Consultants may rely upon financial statements prepared by the City that have not been subject to audit by an independent certified public accountant if audited financial statements for the Fiscal Year or period are not available.

For purposes of the computations to be made as described in the preceding paragraph, the determination of Net Revenues may take into account any increases in rates and charges which relate to the System and shall take into account any reductions in such rates and charges, which increases or decreases have been authorized by the City to be implemented and which will be effective prior to or at the time of issuance of such proposed Subordinate Bonds.

Except as described in the last sentence of this paragraph, the certificate or certificates described above shall not be required if the Subordinate Bonds being issued are for the purpose of refunding then Outstanding Senior Lien Bonds or Subordinate Bonds, and if at the time of the issuance of such Subordinate Bonds, a certificate of an Authorized City Representative shall be delivered showing that Maximum Annual Debt Service on all Senior Lien Bonds and Subordinate Bonds Outstanding after the issuance of the refunding Subordinate Bonds will not exceed Maximum Annual Debt Service on all Senior Lien Bonds and Subordinate Bonds Outstanding prior to the issuance of such Subordinate Bonds. The exception provided by this paragraph shall not apply with respect to Subordinate Bonds not constituting part of a Commercial Paper Program issued to refund Subordinate Bonds constituting part of a Commercial Paper Program unless the authorized principal amount of the Commercial Paper Program is reduced by an amount equal to the Subordinate Bonds refunded.”]

[To be revised to reflect, upon the effectiveness of the contemplated Amended and Restated Subordinate General Resolution, the change from a MADS-based test to an “Average Annual Debt Service” formulation.]

EXHIBIT A
FORM OF WIFIA BOND
CITY OF LOS ANGELES
D.C. TILLMAN ADVANCED WATER PURIFICATION FACILITY PROJECT
(WIFIA – N18109CA)
WIFIA BOND

Maximum Principal Amount: \$223,921,010

Effective Date: [●]

Interest Rate Per Annum: [●]

Due: June 1, 2056

CITY OF LOS ANGELES, a municipal corporation and a charter city of the State of California, organized and operating under the terms of the Charter of the City of Los Angeles and the Constitution of the State of California (the “**Borrower**”), for value received, hereby promises to pay to the order of the **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**, acting by and through the Administrator of the United States Environmental Protection Agency, or its assigns (the “**WIFIA Lender**”), the lesser of (x) the Maximum Principal Amount set forth above and (y) the aggregate unpaid principal amount of all disbursements (the “**Disbursements**”) made by the WIFIA Lender (such lesser amount being hereinafter referred to as the “**Outstanding Principal Sum**”), together with accrued and unpaid interest (including, if applicable, interest at the Default Rate, as defined in the WIFIA Loan Agreement (as defined below)) on the Outstanding Principal Sum and all fees, costs and other amounts payable in connection therewith, as more fully described in the WIFIA Loan Agreement. The principal hereof shall be payable in the manner and at the place provided in the WIFIA Loan Agreement in accordance with **Exhibit F** (*WIFIA Debt Service*) to the WIFIA Loan Agreement, as revised from time to time in accordance with the WIFIA Loan Agreement, until paid in full (which **Exhibit F**, as modified from time to time in accordance with the terms of the WIFIA Loan Agreement, is incorporated in and is a part of this WIFIA Bond). The WIFIA Lender is hereby authorized to modify the Loan Amortization Schedule included in **Exhibit F** to the WIFIA Loan Agreement from time to time in accordance with the terms of the WIFIA Loan Agreement to reflect the amount of each disbursement made thereunder and the date and amount of principal or interest paid by the Borrower thereunder. Absent manifest error, the WIFIA Lender’s determination of such matters as set forth on **Exhibit F** to the WIFIA Loan Agreement 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.

Payments hereon are to be made in accordance with Section 8(e) (*Payment of Principal and Interest – Manner of Payment*) and Section 31 (*Notices*) of the WIFIA Loan Agreement as the same become due. Principal of and interest on this WIFIA Bond shall be paid in funds available

on or before the due date and in any lawful coin or currency of the United States of America that at the date of payment is legal tender for the payment of public and private debts.

This WIFIA Bond has been executed pursuant to that certain WIFIA Loan Agreement, dated as of [●], 2021, between the WIFIA Lender and the Borrower (the “**WIFIA Loan Agreement**”) and is issued to evidence the obligation of the Borrower under the WIFIA Loan Agreement to repay the loans made by the WIFIA Lender and any other payments of any kind required to be paid by the Borrower under the WIFIA Loan Agreement or the other WIFIA Loan Documents referred to therein. Reference is made to the WIFIA Loan Agreement for details relating to the Borrower’s obligations hereunder. All capitalized terms used in this WIFIA Bond and not defined herein shall have the meanings set forth in the WIFIA Loan Agreement.

This WIFIA Bond may be prepaid at the option of the Borrower in whole or in part (and, if in part, the principal installments and amounts thereof to be prepaid are to be determined in accordance with the WIFIA Loan Agreement; provided that such prepayments shall be in principal amounts of at least \$1,000,000 or any integral multiple of \$1 in excess thereof), from time to time, but not more than annually, without penalty or premium, by paying to the WIFIA Lender all or part of the principal amount of the WIFIA Bond in accordance with the WIFIA Loan Agreement.

This WIFIA Bond shall be subject to mandatory prepayment on the terms and conditions set forth in the WIFIA Loan Agreement.

Payment of the obligations of the Borrower under this WIFIA Bond is secured pursuant to the Subordinate Resolution and the WIFIA Supplemental Resolution.

To secure the payment of this WIFIA Bond and all Subordinate Bonds issued pursuant to the terms of the Subordinate Resolution, the Borrower has pledged, placed a second lien upon and assigned to the WIFIA Lender and Bondholders of the other Subordinate Bonds (1) the Revenues and (2) the Revenues held in the SCM Fund including the earnings on such Revenues. The Borrower has previously pledged and assigned the Revenues and granted a lien upon the Revenues to secure all Senior Bonds, whenever issued, including Senior Bonds issued subsequent to the execution and delivery of this WIFIA Bond. The pledge, assignment and lien on the Revenues granted to secure the Senior Bonds shall, in all respects, be prior to the pledge, assignment and lien granted by the Subordinate Resolution.

Any delay on the part of the WIFIA Lender in exercising any right hereunder shall not operate as a waiver of any such right, and any waiver granted with respect to one default shall not operate as a waiver in the event of any subsequent default.

All acts, conditions and things required by the Constitution and laws of the State to happen, exist, and be performed precedent to and in the issuance of this WIFIA Bond have happened, exist and have been performed as so required. This WIFIA Bond is issued with the intent that the federal laws of the United States of America shall govern its construction to the extent such federal laws are applicable and the internal laws of the State shall govern its construction to the extent such federal laws are not applicable.

IN WITNESS WHEREOF, CITY OF LOS ANGELES has caused this WIFIA Bond to be executed in its name and its seal to be affixed hereto and attested by its duly authorized officer, all as of the Effective Date of the WIFIA Bond set forth above.

CITY OF LOS ANGELES,
by its authorized representative

(SEAL)

By _____

Name: _____

Title: _____

ATTEST:

Secretary

CERTIFICATE OF AUTHENTICATION

This WIFIA Bond is the WIFIA Bond described in [●].

[NAME OF TRUSTEE]

By: _____
(Authorized Signer)

(FORM OF ASSIGNMENT)

FOR VALUE RECEIVED, the undersigned hereby unconditionally sells, assigns and transfers unto

(Please insert Social Security or other identifying number of assignee(s)):

the WIFIA Bond and all rights thereunder.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the WIFIA Bond in every particular, without alteration or enlargement or any change whatever.

EXHIBIT B

ANTICIPATED WIFIA LOAN DISBURSEMENT SCHEDULE

Federal Fiscal Year

Amount

Total

EXHIBIT C

FORM OF NON-DEBARMENT CERTIFICATE

The undersigned, on behalf of CITY OF LOS ANGELES (the “**Borrower**”), hereby certifies that CITY OF LOS ANGELES 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 current principals (as defined in 2 C.F.R. § 180.995 and supplemented by 2 C.F.R. 1532.995):

(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.

Capitalized terms used in this certificate and not defined shall have the respective meanings ascribed to such terms in the WIFIA Loan Agreement, dated as of [●], 2021, by and between the Borrower and the United States Environmental Protection Agency, acting by and through the Administrator of the Environmental Protection Agency.

Dated: [●], 2021

CITY OF LOS ANGELES,
by its authorized representative

By: _____
Name:
Title:

EXHIBIT D-1

REQUISITION PROCEDURES AND FORM OF REQUISITION

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 the WIFIA Loan 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 the WIFIA Loan 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 31 (*Notices*) of the WIFIA Loan 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. If 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, the Borrower shall deliver appropriate documentation, including invoices and records, evidencing such incurred or paid Eligible Project Costs (the "**Eligible Project Costs Documentation**"). The Eligible Project Costs Documentation must provide sufficient detail to enable the WIFIA Lender to verify that such costs are Eligible Project Costs paid by the Borrower, in connection with the reimbursement of such Eligible Project Costs or for the purpose of paying or redeeming, in whole or part, the portion of any Interim Financing in respect of which the proceeds were used to pay such documented Eligible Project Costs. Each time the Borrower delivers 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 Eligible Project Costs Documentation*) and duly executed by the Borrower's Authorized Representative. The WIFIA Lender shall review the Eligible Project Costs Documentation and the related certificate for compliance with WIFIA disbursement requirements, and any amounts approved by the WIFIA Lender as Eligible Project Costs will be disbursed at such time as the Borrower submits a Requisition in respect of such approved amounts.

The WIFIA Lender agrees to promptly send to the Borrower in accordance with Section 31 (*Notices*) of the WIFIA Loan 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 Eligible Project Costs Documentation, including (i) copies of invoices and records evidencing the Eligible Project Costs, (ii) 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 a certification that no change has occurred since the date of the latest quarterly report provided pursuant to Section 16(d) (*Reporting Requirements – Construction Reporting*), and (iii) a copy of the most recent update to the Borrower's risk register, if requested by the WIFIA Lender.

The WIFIA Lender will notify the Borrower of any Requisition so rejected, and the reasons therefor. Any Requisition rejected for the reasons specified above (other than Section 2(c)) 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 Default or an Event of Default shall have occurred and be continuing; (b) the Borrower (i) knowingly takes any action, or omits to take any action, amounting to fraud or violation of any applicable law, in connection with the transactions contemplated hereby; (ii) prevents or materially impairs the ability of the WIFIA Lender to monitor compliance by the Borrower with applicable law pertaining to the Project or with the terms and conditions of the WIFIA Loan Agreement; (iii) fails to observe or comply with any applicable law, or any term or condition of the WIFIA Loan Agreement; (iv) fails to satisfy the conditions set forth in Section 4 (*Disbursement Conditions; Quarterly Approval of Eligible Project Costs*) and Section 11(c) (*Conditions Precedent – Conditions Precedent to Disbursements*) of the WIFIA Loan Agreement; or (v) fails to deliver Eligible Project Costs Documentation satisfactory to the WIFIA Lender at the times and in the manner specified by the WIFIA Loan Agreement; provided that in such case of Section 4(v), the WIFIA Lender may, in its sole discretion, partially approve a disbursement request in respect of any amounts for which adequate Eligible Project Costs Documentation has been provided and may, in its sole discretion, disburse in respect of such properly documented amounts.

APPENDIX 1

FORM OF REQUISITION

United States Environmental Protection Agency
1200 Pennsylvania Avenue NW
WJC-W 6201A
Washington, D.C. 20460
Attention: WIFIA Director

Re: D.C. TILLMAN ADVANCED WATER PURIFICATION FACILITY PROJECT
(WIFIA Ref N18109CA)

Ladies and Gentlemen:

Pursuant to Section 4 (*Disbursement Conditions; Quarterly Approval of Eligible Project Costs*) of the WIFIA Loan Agreement, dated as of [●], 2021 (the “**WIFIA Loan Agreement**”), by and between CITY OF LOS ANGELES (the “**Borrower**”) and the UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, acting by and through the Administrator (the “**WIFIA Lender**”), the Borrower hereby requests disbursement in the amount set forth below in respect of Eligible Project Costs paid or incurred by 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, as the Borrower’s Authorized Representative, hereby represents and certifies the following:

1.	Project name	D.C. Tillman Advanced Water Purification Facility Project
2.	Borrower name	City of Los Angeles
3.	WIFIA reference number	18109CA
4.	Requisition number	[]
5.	Requested disbursement amount	\$()
6.	Requested disbursement date (the “Disbursement Date”)	[]
7.	Total amounts previously disbursed under the WIFIA Loan Agreement	\$()
8.	Wire instructions	[]

9. The amounts hereby requisitioned are being requested with respect to [Eligible Project Costs previously submitted to and approved by the WIFIA Lender in accordance with the WIFIA Loan Agreement] [Eligible Project Costs which have not and will not be otherwise submitted to the WIFIA Lender for approval].
10. The amounts hereby requisitioned have been paid or incurred and approved for payment 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. No portion of the amounts requisitioned will be applied to pay for Eligible Project Costs that have been

previously paid, or are expected to be paid, with proceeds of Interim Financing[.][], except as set forth below:

Source of Interim Financing	Amount of Interim Financing
[]	[\$]
Total Amount of Interim Financing	[\$]

The portion of the amount requisitioned equal to the total amount of the Interim Financing set forth above will be promptly, and in any case within five (5) Business Days after the Disbursement Date, applied by the Borrower to either (i) discharge a like principal amount of such Interim Financing or (ii) reimburse the applicable fund or account from which the proceeds of such Interim Financing were spent.]¹

11. The aggregate amount of all disbursements of the WIFIA Loan (including the amount requested under this Requisition) does not exceed (a) the maximum principal amount of the WIFIA Loan, (b) the amount of Eligible Project Costs paid or incurred by the Borrower, or (c) the cumulative disbursements through the end of the current Federal Fiscal Year as set forth in the Anticipated WIFIA Loan Disbursement Schedule.
12. The Borrower has sufficient available funds, along with planned financing 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.
13. The total federal assistance provided to the Project, including the maximum principal amount of the WIFIA Loan, does not exceed eighty percent (80%) of Total Project Costs.
14. 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 has been issued and is in full force and effect (and is not subject to any notice of violation, breach or revocation).
15. Each of the insurance policies or self-insurance maintained by the Borrower pursuant to Section 14(f) (*Affirmative Covenants – Insurance and Condemnation*) of the WIFIA Loan Agreement is in full force and effect, and no notice of termination thereof has been issued by the applicable insurance provider.
16. As of the date hereof and on the Disbursement Date (immediately after giving effect to the above-requested disbursement of WIFIA Loan proceeds), (a) no Default or Event of Default, and no event of default under any other Resolution Document (excluding any non-

¹ This alternative should be included when requisitioned amounts are for the purpose of paying or redeeming, in whole or in part, amounts owed by the Borrower under an Interim Financing the proceeds of which were applied to pay Eligible Project Costs.

payment event of default under any Credit Facility) and (b) no event that, with the giving of notice or the passage of time or both, would constitute an event of default under any Resolution Document (excluding any non-payment event of default under any Credit Facility), in each case, has occurred and is continuing. Except as set forth in **Schedule VI** (*MAE Disclosure*) to the WIFIA Loan Agreement, no Material Adverse Effect, or any event or condition that would reasonably be expected to have a Material Adverse Effect, has occurred or arisen since the Effective Date.

17. The Borrower, and each of its contractors and subcontractors at all tiers with respect to the Project, has complied with all applicable laws, rules, regulations and requirements, including 40 U.S.C. §§3141-3144, 3146, and 3147 (relating to Davis-Bacon Act requirements) (and regulations relating thereto) and 33 U.S.C. §3914 (relating to American iron and steel products). Supporting documentation, such as certified payroll records and certifications for all iron and steel products used for the Project, are being maintained and are available for review upon request by the WIFIA Lender.
18. 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 are true and correct as of such earlier date).
19. Each Resolution Document and Principal Project Contract that has been delivered by the Borrower to the WIFIA Lender pursuant to Section 11(c)(v) (*Conditions Precedent – Conditions Precedent to Disbursements*) and Section 11(c)(vi) (*Conditions Precedent – Conditions Precedent to Disbursements*) is complete, fully executed and in full force and effect.
20. The current estimated percentage of physical completion of the Project is [___]%. The Borrower is in compliance with Section 16(d) (*Reporting Requirements – Construction Reporting*) and no change has occurred since the date of the most recently delivered quarterly construction progress report that could reasonably be expected to cause a Material Adverse Effect.
21. 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 any Interim Financing] by the above-requested disbursement has been delivered by the Borrower to the WIFIA Lender at the times and in the manner specified by the WIFIA Loan Agreement, including the details set forth below:

WIFIA USE ONLY

Vendor or Contractor Name ²	Invoice Number ³	Invoice Date	Payment Date	Invoice Amount	WIFIA Requested Amount ⁴	Activity Type ⁵	Description of Activity ⁶	Approved Amount	Notes

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.

² If seeking reimbursement for internal costs, enter “Internally financed activities.”

³ Vendor’s number indicated on the invoice sent to the Borrower.

⁴ If the amount requested for reimbursement by the WIFIA Lender is less than the total amount of the invoice, include an explanation for the difference.

⁵ Specify whether activity is: (a) **Development phase activity**, which includes planning, preliminary engineering, design, environmental review, revenue forecasting and other pre-construction activities; (b) **Construction**, which includes construction, reconstruction, rehabilitation and replacement activities; (c) **Acquisition of real property**, which includes acquiring an interest in real property, environmental mitigation, construction contingencies and acquisition of equipment; (d) **Carrying costs**, including capitalized interest, as necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses and other carrying costs during construction; (e) **WIFIA fees**, including for application and credit processing; or (f) **Other**, with an explanation in the “Description of Activity” column.

⁶ Provide a brief description of the activities included in the invoice for which WIFIA funds are being requested and any other notes that will aid in the review of the disbursement request.

Date:

CITY OF LOS ANGELES,
by its authorized representative

By: _____
Name:
Title:

BUREAU OF SANITATION OF
THE CITY OF LOS ANGELES,
by its authorized representative

By: _____
Name:
Title:

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, for the reasons set forth in Annex A attached hereto,]⁷ by the WIFIA Lender (as defined herein) pursuant to Section 4 (*Disbursement Conditions; Quarterly Approval of Eligible Project Costs*) of the WIFIA Loan Agreement, dated as of [●], 2021, by and between City of Los Angeles (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:

⁷ If there is any partial or full denial of approval, the WIFIA Lender should provide a separate attachment setting forth the reasons for such partial or full denial of approval.

EXHIBIT D-2

**CERTIFICATION OF ELIGIBLE PROJECT
COSTS DOCUMENTATION**

[Date]

United States Environmental Protection Agency⁸
1200 Pennsylvania Avenue NW
WJC-W 6201A
Washington, D.C. 20460
Attention: WIFIA Director

Re: D.C. TILLMAN ADVANCED WATER PURIFICATION FACILITY PROJECT
(WIFIA Ref N18109CA)

Ladies and Gentlemen:

Pursuant to Section 4 (*Disbursement Conditions; Quarterly Approval of Eligible Project Costs*) of the WIFIA Loan Agreement, dated as of [●], 2021 (the “**WIFIA Loan Agreement**”), by and between CITY OF LOS ANGELES (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 Eligible Project Costs Documentation to the WIFIA Lender. 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 Eligible Project Costs Documentation and is applicable to the period between [_____] and [_____].
2. [The amount of 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 Eligible Project Costs are [listed below / set forth in Exhibit [__] to this certificate].

⁸ If there is a Servicer for the WIFIA Loan, provide a copy to the Servicer as well and include its notice details here.

Vendor or Contractor Name ⁹	Invoice Number ¹⁰	Invoice Date	Payment Date	Invoice Amount	Activity Type ¹¹	Description of Activity ¹²	WIFIA USE ONLY	
							Approved Amount	Notes

4. [The funds for which reimbursement will be sought were expended solely in connection with the payment or reimbursement of Eligible Project Costs.]

Date: CITY OF LOS ANGELES,
by its authorized representative

By: _____

Name:

Title:

⁹ If seeking reimbursement for internal costs, enter "Internally financed activities."

¹⁰ Vendor's number indicated on the invoice sent to the Borrower.

¹¹ Specify whether activity is: (a) **Development phase activity**, which includes planning, preliminary engineering, design, environmental review, revenue forecasting and other pre-construction activities; (b) **Construction**, which includes construction, reconstruction, rehabilitation and replacement activities; (c) **Acquisition of real property**, which includes acquiring an interest in real property, environmental mitigation, construction contingencies and acquisition of equipment; (d) **Carrying costs**, including capitalized interest, as necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses and other carrying costs during construction; (e) **WIFIA fees**, including for application and credit processing; or (f) **Other**, with an explanation in the "Description of Activity" column.

¹² Provide a brief description of the activities included in the invoice for which WIFIA funds are being requested and any other notes that will aid in the review of the documentation.

EXHIBIT E

FORM OF NON-LOBBYING CERTIFICATE

The undersigned, on behalf of CITY OF LOS ANGELES (the “**Borrower**”), hereby certifies, to the best of his or her knowledge and belief, that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Borrower, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of the WIFIA Loan.

(b) If any funds other than proceeds of the WIFIA Loan have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the WIFIA Loan, the Borrower shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

(c) The Borrower shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

Capitalized terms used in the certificate and not defined shall have the respective meanings ascribed to such terms in the WIFIA Loan Agreement, dated as of [●], 2021 (the “**WIFIA Loan Agreement**”), by and between the United States Environmental Protection Agency, acting by and through the Administrator (the “**WIFIA Lender**”), and the Borrower, as the same may be amended from time to time.

This certification is a material representation of fact upon which reliance was placed when the WIFIA Lender entered into the WIFIA Loan Agreement. Submission of this certification is a prerequisite to the effectiveness of the WIFIA Loan Agreement imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Dated: [●], 2021

CITY OF LOS ANGELES,
by its authorized representative

By: _____
Name:
Title:

EXHIBIT F
WIFIA DEBT SERVICE¹³

¹³ **NTD:** To be provided by the WIFIA Lender on the Effective Date.

EXHIBIT G-1

OPINIONS REQUIRED FROM COUNSEL TO BORROWER

An opinion of the counsel of the Borrower, dated as of the Effective Date, to the effect that:

1. The Borrower is a duly organized charter city and municipal corporation of the State of California duly organized and existing under the Constitution of the State of California and the Charter.

2. The Borrower has full legal right, power and authority to perform all of its obligations under the WIFIA Loan Agreement, the WIFIA Bond, the WIFIA Supplemental Resolution, the WIFIA Ordinance and the General Resolutions.

3. The WIFIA Supplemental Resolution, the WIFIA Ordinance and the WIFIA Authorization were each duly adopted by the Council at a meeting which was duly called and held pursuant to law and with all required notice, and at which a quorum was present at the time of their adoption. The WIFIA Supplemental Resolution, the WIFIA Ordinance and the WIFIA Authorization have not been modified, amended or rescinded and are in full force and effect on and as of the date hereof.

4. No authorization, approval, consent or other order of the United States of America or the State of California or any other governmental authority or agency within the State of California (other than those that have been obtained) is required for the valid authorization, execution and delivery by the Borrower of the WIFIA Loan Agreement, the WIFIA Bond and the WIFIA Supplemental Resolution, or the performance by the Borrower of its obligations under the WIFIA Loan Agreement, the WIFIA Bond, the WIFIA Supplemental Resolution and the General Resolutions.

5. The adoption by the Borrower of the WIFIA Supplemental Resolution, the WIFIA Authorization and the WIFIA Ordinance, and the execution and delivery by the Borrower of the WIFIA Loan Agreement and the WIFIA Bond, do not conflict with or constitute a breach of or default under any California constitutional provision, federal law, Charter provision, law or ordinance of the Borrower, administrative regulation, judgment or court decree that we have, in the exercise of customary professional diligence, recognized as applicable to the Borrower and the transactions contemplated by such documents, or, to our knowledge, any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Borrower is a party and related to the System, and with respect to which such conflict, breach or default would materially adversely affect the ability of the Borrower to pay the principal and interest on the WIFIA Bond. If any such loan agreement, indenture, bond, note, resolution, agreement or other instrument is governed by the laws of a jurisdiction other than California, we have assumed that such loan agreement, indenture, bond, note, resolution, agreement or other instrument is governed by the laws of the State of California. We express no opinion as to the effect of the Borrower's performance of its obligations under the WIFIA Loan Agreement and the WIFIA Bond on the Borrower's compliance with financial covenants in such other loan agreements, indentures, bonds, notes, resolutions, agreements or other instruments.

6. To the best of our knowledge after due inquiry, and except as otherwise set forth in the WIFIA Loan Agreement, 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 System (including the Project) that are pending.

EXHIBIT G-2

OPINIONS REQUIRED FROM BOND COUNSEL

[Effective Date]

City of Los Angeles
Los Angeles, California

United States Environmental Protection Agency, acting by and through the Administrator of the
Environmental Protection Agency

Ladies and Gentlemen:

We have acted as Bond Counsel to the City of Los Angeles, California (the “City”) in connection with the execution and delivery of its Wastewater System Subordinate Revenue Bond, 2021-A in the maximum principal amount of up to \$223,921,010 (the “WIFIA Bond”). The WIFIA Bond is executed pursuant to the Charter of the City of Los Angeles, Article 6.7 of Chapter 1 of Division 11 of the Administrative Code of the City[, and Articles 10 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5 (Section 53570 *et seq.* and Section 53580 *et seq.*, respectively) of the California Government Code] (collectively, the “Law”). The WIFIA Bond is also executed pursuant to the Wastewater System Subordinate Revenue Bonds General Resolution, adopted by the Council of the City (the “City Council”) on March 26, 1991, as amended and supplemented (the “Subordinate General Resolution”), including as amended and supplemented by the [Twenty-Sixth] Supplemental Resolution, adopted by the City Council on [Resolution Adoption Date], and the WIFIA Loan Agreement, dated as of [As of Date] (the “Loan Agreement”), by and between 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 “WIFIA Lender”), and the City. Capitalized terms used and not otherwise defined herein shall have the meanings ascribed thereto in the Subordinate General Resolution, and if not set forth therein, in the Loan Agreement.

The WIFIA Bond is being executed for the purpose of providing funds to finance or refinance a portion of the Eligible Project Costs (as defined in the Loan Agreement) relating to the D.C. Tillman Advanced Water Purification Facility Project. The Bond is structured in the form of a draw-down bond. Each disbursement or draw down of amounts under the Loan Agreement results in an issuance of a portion of the WIFIA Bond in an equal principal amount. The issuance of each portion of the WIFIA Bond must be legally authorized by law existing on the date of the corresponding disbursement or draw.

We have examined and relied on originals or copies, certified or otherwise identified to our satisfaction, of the Law, the Wastewater System Revenue Bonds General Resolution, adopted by the City Council of the City on November 10, 1987, as amended and supplemented from time to time (the “Senior General Resolution”), the Subordinate General Resolution, certifications of the City, and others, and such other documents, opinions, instruments, proceedings or records as we deemed necessary or appropriate to render the opinions set forth herein.

We have assumed the genuineness of all documents and signatures presented to us. We have not undertaken to verify independently, and have assumed, the accuracy of the factual matters represented, warranted or certified in such documents. Furthermore, we have assumed compliance with all covenants and agreements contained in the Subordinate General Resolution.

Based on and subject to the foregoing, and in reliance thereon, as of the date hereof, we are of the opinion that under existing law:

1. The WIFIA Bond (i) is secured by the Pledged Collateral, (ii) is a Subordinate Bond entitled to the benefits of a Subordinate Bond under the Subordinate Resolution, (iii) is enforceable under the laws of the State of California to the extent of the Outstanding Principal Sum (as defined in the WIFIA Bond) from time to time without any further action by the City or any other Person, and (iv) ranks *pari passu* in right of payment and right of security with all other Subordinate Bonds and is junior in right of payment and right of security to all Senior Bonds.

2. The WIFIA Bond is payable exclusively from and are secured by a pledge of and lien upon Revenues and certain amounts held under or pursuant to the Subordinate General Resolution. The WIFIA Bond is payable from Revenues on a parity basis with the Subordinate Bonds heretofore issued and which may from time to time hereafter be issued under the Subordinate General Resolution. The pledge, assignment and lien on the Revenues granted pursuant to the Senior General Resolution to secure Senior Lien Bonds is in all respects prior to the pledge, assignment and lien on the Revenues granted by the Subordinate General Resolution to secure the WIFIA Bond and all other Subordinate Bonds. 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.

3. The General Resolutions and the WIFIA Supplemental Resolution have been duly adopted by the City Council and the Loan Agreement and the WIFIA Bond have been duly executed and delivered and each such document constitutes the valid and binding obligation of the City, enforceable against the City in accordance with their respective terms and conditions. The Subordinate General Resolution creates a valid pledge, to secure the payment of the principal of and the interest on the WIFIA Bond, of the Revenues of the City and certain other amounts held by the City under the Subordinate General Resolution, subject to the provisions of the Subordinate General Resolution permitting the application thereof for the purposes and on the terms and conditions set forth therein and subject to the prior pledge and assignment thereof granted by the Senior General Resolution to secure the Senior Lien Bonds.

4. All actions by the City that are required for the application of Revenues as required under the Resolution Documents and under the WIFIA Loan Agreement have been duly and lawfully made.

5. The WIFIA Bond and other subordinate parity debt of the City have been and may from time to time hereafter be issued under the Subordinate General Resolution. Senior Lien Bonds have been and may from time to time be issued under the Senior General Resolution and are payable from Revenues in all respects prior to the pledge, assignment

and lien on the Revenues granted by the Subordinate General Resolution to secure the WIFIA Bond and all other Subordinate Bonds.

We render our opinion under existing statutes and court decisions as of the date hereof, and assume no obligation to update, revise or supplement our opinion to reflect any action hereafter taken or not taken, any fact or circumstance that may hereafter come to our attention, any change in law or interpretation thereof that may hereafter occur, or for any other reason. We express no opinion as to the consequence of any of the events described in the preceding sentence or the likelihood of their occurrence. In addition, we express no opinion on the effect of any action taken or not taken in reliance upon an opinion of other counsel regarding federal, state or local tax matters.

The foregoing opinions are qualified to the extent that the enforceability of the WIFIA Bond, the Senior General Resolution and the Subordinate General Resolution may be limited by bankruptcy, moratorium, insolvency or other laws affecting creditors' rights or remedies and are subject to general principles of equity (regardless of whether such enforceability is considered in equity or at law), and to the limitations on legal remedies against governmental entities in the State of California (including, but not limited to, rights of indemnification). In addition, the imposition of certain fees and charges by the City relating to the System is subject to the provisions of Articles XIII C and XIII D of the California Constitution.

We are furnishing this letter to the City solely for its benefit as the issuer of the WIFIA Bond and to the WIFIA Lender solely for its benefit as the holder of the WIFIA Bond. We have no attorney-client relationship with the WIFIA Lender with respect to this matter.

Respectfully submitted,

EXHIBIT H

FORM OF CLOSING CERTIFICATE

[●], 2021

Reference is made to that certain WIFIA Loan Agreement, dated as of [●], 2021 (the “WIFIA Loan Agreement”), by and among City of Los Angeles (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.

In connection with Section 11(a) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, the undersigned, [●], 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 11(a)(ix) of the WIFIA Loan Agreement, attached hereto as Annex A 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 as a Borrower’s Authorized Representative in accordance with Section 21 (*Borrower’s Authorized Representative*) of the WIFIA Loan Agreement;

(b) pursuant to Section 11(a)(ii) of the WIFIA Loan Agreement, attached hereto as Annex B are copies of each Resolution Document, together with any amendments, supplements, waivers or modifications thereto, that has been entered into on or prior to the Effective Date, and each such document is complete, fully executed, and in full force and effect, and all conditions contained in such documents that are necessary to the closing of the WIFIA transactions contemplated hereby have been fulfilled;

(c) pursuant to Section 11(a)(iii), attached hereto as Annex C are copies of each Existing Principal Project Contract requested by the WIFIA Lender, together with any amendments, waivers or modifications thereto, and each such document is complete, fully executed, and in full force and effect;

(d) pursuant to Section 11(a)(iv) of the WIFIA Loan Agreement, attached hereto as Annex D 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;

(e) pursuant to Section 11(a)(v) of the WIFIA Loan Agreement, [other than the Resolution Documents, there are no instruments or documents necessary for the Borrower to execute and deliver, or to perform its obligations under, the WIFIA Loan Documents to which it is a party and to consummate and implement the transactions contemplated by the WIFIA Loan Documents];

(f) pursuant to Section 11(a)(ix)(A) of the WIFIA Loan Agreement, the aggregate of all funds committed to the development and construction of the Project as set forth in

the Base Case Financial Model and in the Project Budget 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;

(g) pursuant to Section 11(a)(ix)(B) of the WIFIA Loan Agreement, the Borrower has obtained all Governmental Approvals necessary (i) as of the Effective Date in connection with the Project and (ii) to execute and deliver, and perform its obligations under the WIFIA Loan Documents, and each such Governmental Approval is final, non-appealable and in full force and effect (and is not subject to any notice of violation, breach or revocation);

(h) pursuant to Section 11(a)(ix)(C) of the WIFIA Loan Agreement, (i) the maximum principal amount of the WIFIA Loan, 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) the total federal assistance provided to the Project, including the maximum principal amount of the WIFIA Loan, does not exceed eighty percent (80%) of Total Project Costs;

(i) pursuant to Section 11(a)(ix)(D) of the WIFIA Loan Agreement, the Borrower is in compliance with NEPA and any applicable federal, state or local environmental review and approval requirements with respect to the Project;

(j) pursuant to Section 11(a)(ix)(E) of the WIFIA Loan Agreement, the Borrower has developed, and identified adequate revenues to implement, a plan for operating, maintaining and repairing the Project during its useful life;

(k) pursuant to Section 11(a)(ix)(F) of the WIFIA Loan Agreement, (i) the Borrower's Federal Employer Identification Number is 95-6000735, (ii) the Borrower's Data Universal Numbering System number is 101054885, and (iii) the Borrower has registered with, and obtained confirmation of active registration status from, the federal System for Award Management (www.SAM.gov), which confirmation in each case is attached hereto as Annex E;

(l) pursuant to Section 11(a)(ix)(G) of the WIFIA Loan Agreement, the WIFIA CUSIP Number for the WIFIA Bond is [●];

(m) pursuant to Section 11(a)(ix)(H) 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;

(n) pursuant to Section 11(a)(ix)(I) of the WIFIA Loan Agreement, except as set forth in **Schedule VI** (*MAE Disclosure*) to the WIFIA Loan Agreement, no Material Adverse Effect, or any event or condition that would reasonably be expected to have a Material Adverse Effect, has occurred or arisen since July 13, 2020;

(o) pursuant to Section 11(a)(x) of the WIFIA Loan Agreement, attached hereto as Annex F is the Base Case Financial Model, which (i) demonstrates that projected Revenues are

sufficient to meet the Loan Amortization Schedule, (ii) demonstrates compliance with the Rate Covenant for each Borrower Fiscal Year through the Final Maturity Date, (iii) reflects principal amortization and interest payment schedules acceptable to the WIFIA Lender, (iv) demonstrates that the Borrower has developed, and identified adequate revenues to implement, a plan for operating, maintaining and repairing the Project over its useful life and (v) otherwise meets the requirements of such Section 11(a)(x); and

(p) pursuant to Section 11(a)(xi), attached hereto as Annex G are certificates of insurance or a certificate from the director of the Borrower's risk management department pertaining to the Borrower's self-insurance program, and each insurance certificate is true and correct and demonstrates compliance with the requirements of Section 14(f) (*Affirmative Covenants – Insurance and Condemnation*) of the WIFIA Loan Agreement.

IN WITNESS WHEREOF, the undersigned has executed this certificate as of the date first mentioned above.

CITY OF LOS ANGELES,
by its authorized representative

By: _____
Name:
Title:

ANNEX A TO EXHIBIT H
INCUMBENCY CERTIFICATE

The undersigned certifies that he/she is the [Secretary] of City of Los Angeles, a municipal corporation and charter city 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 on behalf of the Borrower 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 [●], 2021.

CITY OF LOS ANGELES,
by its authorized representative

By: _____
Name:
Title:

EXHIBIT I

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: D.C. Tillman Advanced Water Purification Facility Project (WIFIA – N18109CA)

Dear Director:

This certificate is provided pursuant to Section 16(h)(i)(A) (*Reporting Requirements – Notices – Substantial Completion*) of that certain WIFIA Loan Agreement (the “**WIFIA Loan Agreement**”), dated as of [●], 2021 by and between City of Los Angeles (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 certificate 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 the design-build or similar agreements for the Project]*;
- (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.

CITY OF LOS ANGELES,
by its authorized representative

By: _____
Name:
Title:

EXHIBIT J

FORM OF QUARTERLY REPORT

United States Environmental Protection Agency
WIFIA Director
WJC-W 6201A
1200 Pennsylvania Avenue NW
Washington, DC 20460
WIFIA_Portfolio@epa.gov

Re: D.C. Tillman Advanced Water Purification Facility Project (WIFIA – N18109CA)

This Quarterly Report for the period of [*insert relevant quarterly reporting period*] is provided pursuant to Section 16(d) (*Reporting Requirements – Construction Reporting*) of the WIFIA Loan Agreement, dated as of [●], 2021 (the “**WIFIA Loan Agreement**”), by and between City of Los Angeles (the “**Borrower**”) and the United States Environmental Protection Agency, acting by and through the Administrator of the Environmental Protection Agency (the “**WIFIA Lender**”). Unless otherwise defined herein, all capitalized terms in this Quarterly Report have the meanings assigned to those terms in the WIFIA Loan Agreement.

- (i) **Project Status.** Provide a narrative summary of the Project’s construction progress since the last quarterly reporting period, including project components where appropriate. Complete the table in **Appendix A** to update the Project scope, schedule, and costs with the latest information.

--

Current projection of Substantial Completion Date: _____

If the current projection for the Substantial Completion Date is later than previously reported in the prior Quarterly Report, provide a description in reasonable detail for such projected delay:

--

- (ii) **Material Problems (if any)**

Note any problems encountered or anticipated during the construction of the Project during the preceding quarter that (1) impedes project completion within the scope, costs, and schedule outlined in the WIFIA Loan Agreement or (2) relates to unforeseen complications in connection with the construction of the Project. This may include commissioning/start-up issues, constructability issues for the Project as planned, adverse impacts to project surroundings, change in or issues with meeting environmental compliance requirements, and unanticipated or abnormal permit approval timelines. Include an assessment of the impact and any current plans to address the problems.

[Empty rectangular box]

(iii) Other matters related to the Project

[Empty rectangular box]

Date: _____

CITY OF LOS ANGELES,
by its authorized representative or agent

By: _____

Name: _____

Title: _____

APPENDIX A TO SCHEDULE J¹⁴

Project Scope		Project Schedule						Project Costs		
Project Component	Completed (Y/N)	Contract/Vendor	Bid Advertisement Date	Contract Award Date	NTP Effective Date	Original Substantial Completion Date	Estimated Substantial Completion Date	Original Contract Amount	Estimated Costs to Complete	Costs Earned or Paid to Date
Total										

Table Definitions:

Project Component – project name or ID as tracked by the borrower

Complete (Y/N) – indication that project is complete, and no additional updates will be provided

Contract/Vendor – the contract identifier and contractor that is/will be completing the project construction.

Bid Advertisement Date – the date the bid was advertised

Contract Award Date – the date the contract was awarded

NTP Effective Date – the effective date to proceed with the construction in the Notice to Proceed

Original Substantial Completion Date – the substantial completion date for the given project as noted in the original contract award

Estimated Substantial Completion Date – the latest date estimate for substantial completion for the given project component

Original Contract Amount – the original contract award amount

Estimated Costs to Complete – the latest cost estimates to complete the given project component

Costs Earned or Paid to Date – the latest incurred contract costs for the given project component

Total – Total the cost amounts across all project components and contracts

¹⁴ Appendix A summarizes all project components that will be bid in the next quarter, are currently under construction, or have completed construction. It should be a cumulative list of projects that is updated each quarter. A Microsoft Excel spreadsheet with similar table format is acceptable.

EXHIBIT K

FORM OF PUBLIC BENEFITS REPORT

Pursuant to Section 11(a)(xi) and Section 16(e) of the WIFIA Loan Agreement, City of Los Angeles (the “**Borrower**”) is providing this Public Benefits Report in connection with the D.C. Tillman Advanced Water Purification Facility Project (WIFIA – N18109CA):

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

The estimated interest savings from use of the WIFIA Loan compared to a comparable market rate financing is \$[] million on a gross savings basis and \$[] million on a present value basis.

(ii) With respect to the report delivered [prior to the Effective Date][within ninety (90) days following the Substantial Completion Date][within ninety (90) following the fifth (5th) anniversary of the Substantial Completion Date], the number of jobs projected to be created by the Project during each period described below:

The Borrower projects [] jobs to be created by the Project during the period between [[(1)] the Effective Date and the Substantial Completion Date]¹⁵ [and] [[(2)] the Substantial Completion Date and the fifth (5th) anniversary of the Substantial Completion Date]¹⁶.

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

[].

(iv) The amount by which the Project will increase the volume of water recycled, recharged or redirected (measured in MGD annually):

[]

¹⁵ Include for both the reports delivered (i) prior to the Effective Date and (ii) 90 days following the Substantial Completion Date.

¹⁶ Include for both the reports delivered (i) prior to the Effective Date and (ii) 90 days following the fifth anniversary of the Substantial Completion Date.

EXHIBIT L

FORM OF SELF-INSURANCE CERTIFICATE

[Borrower's Letterhead]

[Date]

To Whom It May Concern:

RE: Proof of Insurance for the City of Los Angeles

This is to certify that the City of Los Angeles self-administers, defends, settles and pays third-party claims for bodily injury, personal injury, death and/or property damage. Protection under this program is warranted to meet or exceed \$5 million, combined single limit, per occurrence.

Additionally, the City is permissively self-insured for Workers' Compensation under California law. The City of Los Angeles will provide 30 days' written notice of any modification or cancellation of the program.

If you need any further information regarding this risk retention program, please contact the Risk Management staff at (213) 978-RISK (7475) located at City Hall East, 200 N. Main St., Room 1240, Los Angeles, CA 90012.

Very truly yours,

Victor T. Parker
Director of Risk Management