



MOTION SHEET

CITY COUNCIL *of* SALT LAKE CITY

TO: City Council Members

FROM: City Council Staff

DATE: September 1, 2020

RE: Resolution: Salt Lake City, Utah Public Utilities Revenue Bond (WIFIA Loan), Series 2020B

MOTION 1 (close)

I move that the Council close the public hearing (the Council took action on this item on August 18, 2020).

MOTION 2 (continue)

I move that the Council continue the public hearing.



ERIN MENDENHALL
Mayor



LAURA BRIEFER, DIRECTOR
Department of Public Utilities

CITY COUNCIL TRANSMITTAL


Aug 14, 2020 13:37 MDT

Lisa Shaffer, Chief of Staff

Date Received: August 14, 2020

Date sent to Council: August 14, 2020

TO: Salt Lake City Council
Chris Wharton, Chair

DATE: August 13, 2020

FROM: Laura Briefer, Public Utilities Director



SUBJECT: Salt Lake City, Utah Public Utilities Revenue Bond (WIFIA Loan), Series 2020B

STAFF CONTACT: Lisa M. Tarufelli, Finance Administrator, 801-483-6755

lisa.tarufelli@slcgov.com

Laura Briefer, Director, 801-483-6741

laura.briefer@slcgov.com

DOCUMENT TYPE: Briefing/Bond Parameters Resolution

RECOMMENDATION: That the City Council consider adopting a Bond Parameters Resolution for the issuance and sale of up to \$348,635,000 principal amount of Salt Lake City Public Utilities Revenue Bond (WIFIA Loan) Series 2020B. This includes a recommendation to 1) brief the Council on August 18, 2020 in anticipation of adopting a Bond Parameters Resolution for the aforementioned bond issue; 2) adopt a Bond Parameters Resolution on August 18, 2020 approving the issuance of up to \$348,635,000 principal amount of Salt Lake City Public Utilities Revenue Bond (WIFIA Loan), Series 2020B and give authority to certain officers to approve the final terms and provisions of and confirm the issuance of the Bond within certain parameters set forth in the attached Bond Parameters Resolution; and 3) hold a public hearing on September 1, 2020. The timing of the adoption of the resolution on August 18th and a public hearing on September 1st allows the City to hold a 30-day contest period for the resolution prior to the close of the federal fiscal year. This is important as the loan closing must occur prior to the close of the federal fiscal year (September 30).

BUDGET IMPACT: None. The FY21 budget anticipated the bond issuance (WIFIA Loan Proceeds). No budget opening will be required.

BACKGROUND/DISCUSSION: In accordance with provisions of the Local Government Bonding Act, the City is required to hold a public hearing to receive input from the public for all bond issues with respect to: a) the issuance of the Series 2020B revenue bonds and b) the potential economic impact that the sewer infrastructure improvements will have on the private sector. The financing team is requesting that the City Council approve the Bond Parameters Resolution on August 18, 2020 setting Tuesday, September 1, 2020 as the date to hold the public hearing. The City Council approve the public hearing date at their August 11, 2020 meeting. A Notice of Public Hearing is required to be published once a week for two consecutive weeks, with the first publication on August 15, 2020 and the second on August 22, 2020.

The Bond Parameters Resolution for the above-referenced bond issue contemplates the issuance of up to a \$348.635 million principal amount bond bearing interest at an interest rate not to exceed 4% per annum with a bond period not to exceed 39 years.

The Water Infrastructure Finance and Innovation Act (WIFIA) loan will finance 49% of the construction costs of the Water Reclamation Facility to meet regulatory requirements. The Series 2020 revenue bonds will finance a portion of the required 51% match on the project.

A final copy of the Bond Parameters Resolution and a summary of the updates to the draft resolution are attached. The draft Tenth Supplemental Trust Indenture, WIFIA Loan Agreement, and draft amortization schedule are included for your review. These documents are subject to change.

Attachments: Bond Parameters Resolution
WIFIA Resolution Updates
Tenth Supplemental Trust Indenture
WIFIA Loan Agreement
Draft Loan Amortization Schedule

cc: Lisa Tarufelli, Boyd Ferguson, Rusty Vetter, Marina Scott






Public Utilities WIFIA Transmittal 8-13-2020

Final Audit Report

2020-08-14

Created:	2020-08-14
By:	Garrett A. Danielson (Garrett.Danielson@slcgov.com)
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"Public Utilities WIFIA Transmittal 8-13-2020" History

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WIFIA Parameters Resolution – Updates

- Dates corrected from August 11 to August 18 to correspond to Council action date
- Language regarding the public hearing was revised to reflect the City Council Action of August 11 to declare the public hearing and set the date as September 1
- The designation “Tenth” was inserted before the words “Supplemental Indenture” to clarify the version of the indenture that is applicable to the loan
- Clarifying language was added regarding the “Notice of Bonds to be Issued” and the associated publication
- The certifications were updated to reflect the public meetings are being held electronically
- Exhibit D-1 was updated to include the appropriate meeting information.

Salt Lake City, Utah

August 18, 2020

The City Council (the “Council”) of Salt Lake City, Utah (the “City”), met in regular session at the regular meeting place of the Council in Salt Lake City, Utah, at 7:00 p.m. on Tuesday, August 18, 2020, with the following members present:

Present:

Chris Wharton	Chair
Andrew Johnston	Vice Chair
Dan Dugan	Council Member
Amy Fowler	Council Member
Darin Mano	Council Member
James Rogers	Council Member
Ana Valdemoros	Council Member

There were also present:

Erin Mendenhall	Mayor
Katherine N. Lewis	City Attorney

Absent:

After the meeting had been duly called to order and after other matters not pertinent to this Resolution had been discussed, a Certificate of Compliance with Open Meeting Law with respect to this August 18, 2020 meeting was presented to the Council, a copy of which is attached hereto.

The following resolution was then introduced in written form, was fully discussed, and pursuant to motion duly made by Council Member _____ and seconded by Council Member _____, was adopted by the following vote:

AYE:

NAY:

The resolution is as follows:

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF SALT LAKE CITY, UTAH (THE “ISSUER”), AUTHORIZING THE ISSUANCE AND SALE OF NOT MORE THAN \$348,635,000 AGGREGATE PRINCIPAL AMOUNT OF PUBLIC UTILITIES REVENUE BOND (WIFIA LOAN), SERIES 2020B; FIXING THE MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF THE BONDS, THE MAXIMUM NUMBER OF YEARS OVER WHICH THE BONDS MAY MATURE, THE MAXIMUM INTEREST RATE WHICH THE BONDS MAY BEAR, AND THE MAXIMUM DISCOUNT FROM PAR AT WHICH THE BONDS MAY BE SOLD; PROVIDING FOR THE PUBLICATION OF A NOTICE OF BONDS TO BE ISSUED; PROVIDING FOR THE RUNNING OF A CONTEST PERIOD; AUTHORIZING THE EXECUTION BY THE ISSUER OF A SUPPLEMENTAL INDENTURE, A WIFIA LOAN AGREEMENT, AND OTHER DOCUMENTS REQUIRED IN CONNECTION THEREWITH; AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION; AND RELATED MATTERS.

WHEREAS, pursuant to the provisions of the Local Government Bonding Act, Title 11, Chapter 14, Utah Code Annotated 1953, as amended (the “Bond Act”), the City Council (the “Council”) of Salt Lake City, Utah (the “Issuer”), is authorized to issue Public Utilities Revenue Bonds (to be issued in one or more series and with such other series or title designation(s) as may be determined by the Issuer) payable from the net revenues of its existing water, sewer, storm drain and street lighting systems (collectively, the “System”) for the municipal purposes set forth therein; and

WHEREAS, subject to the limitations set forth herein, the Issuer desires to issue its Public Utilities Revenue Bond (WIFIA Loan), Series 2020B (the “WIFIA Bond”) to (a) finance the reconstruction of the Issuer’s Water Reclamation Facility (the “Project”) and (b) pay costs of issuance of the WIFIA Bond, pursuant to this Resolution, the Bond Act, the WIFIA Loan Agreement (defined hereinbelow), a Master Trust Indenture, dated as of January 1, 2004, as heretofore amended and supplemented (the “Master Indenture”), between the Issuer and U.S. Bank National Association, as trustee (the “Trustee”), and a Tenth Supplemental Indenture to be entered into between the Issuer and the Trustee (the “Tenth Supplemental Indenture” and collectively with the Master Indenture, the “Indenture”), in substantially the form presented to the meeting at which this Resolution was adopted and which is attached hereto as Exhibit B; and

WHEREAS, in order to obtain funding for a portion of the costs of the Project, the Issuer has submitted an application for participation in the programs enabled by the federal Water Infrastructure Finance and Innovation Act, as amended (“WIFIA”), administered by the United States Environmental Protection Agency (the “WIFIA Credit Provider”) pursuant to WIFIA, 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, which is codified as 33 U.S.C. §§ 3901-3914 (the "Federal Act"); and

WHEREAS, the WIFIA Credit Provider has agreed to provide financing for the Project in a principal amount not to exceed \$348,635,000 (excluding capitalized interest thereon) subject to the terms of the WIFIA Loan Agreement (the "WIFIA Loan Agreement") between the Issuer and the WIFIA Credit Provider, in substantially the form presented to the meeting at which this Resolution was adopted and which is attached hereto as Exhibit C; and

WHEREAS, to enable the Issuer's participation in the WIFIA program and the execution and delivery of the WIFIA Loan Agreement and to evidence the borrowing from the WIFIA Credit Provider contemplated by the WIFIA Loan Agreement, the Issuer proposes to issue and deliver to the WIFIA Credit Provider the WIFIA Bond in the principal amount not to exceed \$348,635,000, such not to exceed principal amount representing the not to exceed principal amount of the WIFIA Loan Agreement; and

WHEREAS, the Council hereby finds and determines that each and all of the conditions precedent to the issuance of the WIFIA Bond on a parity with and co-equal in priority and lien to the existing revenue bond indebtedness of all bonds issued under the Master Indenture have, or can and will be satisfied prior to or upon the issuance of the WIFIA Bond; and

WHEREAS, the Bond Act provides that prior to issuing bonds, an issuing entity must (a) give notice of its intent to issue such bonds and (b) hold a public hearing to receive input from the public with respect to (i) the issuance of the bonds and (ii) the potential economic impact that the improvement, facility or property for which the bonds pay all or part of the cost will have on the private sector; and

WHEREAS, the Council has called for and will hold a public hearing on September 1, 2020 for the purpose set forth in the preceding recital and desires to ratify the publication of a notice of such hearing with respect to the WIFIA Bond, in compliance with the Act; and

WHEREAS, in order to allow the Issuer, in consultation with the Issuer's Municipal Advisor, Stifel, Nicolaus & Company, Incorporated (the "Municipal Advisor") flexibility in finalizing the issuance of the WIFIA Bond, the Council desires to grant to (a) the Mayor or, in the event of the absence or incapacity of the Mayor, the Mayor's Chief of Staff, or in the event of the absence or incapacity of both the Mayor and the Mayor's Chief of Staff, the City Treasurer and (b) the Chair of the City Council or, in the event of the absence or incapacity of the Chair of the City Council, the Vice Chair of the City Council, or in the event of the absence or incapacity of both the Chair and the Vice Chair of the City Council, the most senior member of the City Council then available (collectively, the "Designated Officers"), the authority to determine whether the WIFIA Bond should be issued, to finalize the terms and conditions of the WIFIA Loan Agreement, and to make any changes with respect thereto from those terms which were before the Council at the time of adoption of

this Resolution, provided such terms do not exceed the parameters set forth for such terms in this Resolution (the “Parameters”);

NOW, THEREFORE, it is hereby resolved by the City Council of Salt Lake City, Utah, as follows:

Section 1. For the purpose of financing the Project and paying costs of issuance of the WIFIA Bond, the Issuer hereby authorizes the issuance of the WIFIA Bond which shall be designated “Salt Lake City, Utah Public Utilities Revenue Bond (WIFIA Loan), Series 2020B” (to be issued from time to time as one or more series and with such other series or title designation(s) as may be determined by the Issuer) in the initial aggregate principal amount of not to exceed \$348,635,000. The WIFIA Bond shall mature in not more than thirty-nine (39) years from its date or dates, shall be sold at a price not less than ninety-nine percent (99%) of the total principal amount thereof, shall bear interest at a rate or rates not to exceed four percent (4.0%) per annum, and may be non-callable or subject to redemption, all as shall be approved by the Designated Officers in consultation with the Issuer’s Municipal Advisor, all within the Parameters.

Section 2. The Tenth Supplemental Indenture and the WIFIA Loan Agreement, in substantially the forms presented at this meeting and attached hereto as Exhibits B and C, respectively, are hereby authorized, approved, and confirmed. The Mayor or the Mayor’s Chief of Staff as the Mayor’s designee (collectively referred to herein as the “Mayor”) are hereby authorized to execute and deliver and the City Recorder or Deputy City Recorder (the “City Recorder”) to attest or countersign, the Tenth Supplemental Indenture and the WIFIA Loan Agreement in substantially the forms and with substantially the content as the forms presented at this meeting for and on behalf of the Issuer, with final terms as may be established by the Designated Officers, in consultation with the Municipal Advisor, within the Parameters, and with such alterations, changes or additions as may be necessary or as may be authorized by Section 3 hereof. The Designated Officers are each hereby authorized to specify and agree as to the final principal amounts, terms, discounts, maturities, interest rates, and redemption features with respect to the WIFIA Bond for and on behalf of the Issuer, provided that such terms are within the Parameters.

Section 3. The appropriate officials of the Issuer are authorized to make any alterations, changes, deletions or additions to the Indenture, the WIFIA Loan Agreement, the WIFIA Bond, or any other document herein authorized and approved which may be necessary to conform the same to the final terms of the WIFIA Bond (within the Parameters), to conform to any applicable insurance or to remove the same, to correct errors or omissions therein, to complete the same, to remove ambiguities therefrom, or to conform the same to other provisions of said instruments, to the provisions of this Resolution or any resolution adopted by the Council or the provisions of the laws of the State of Utah or the United States. The execution thereof by the Mayor on behalf of the Issuer shall conclusively establish such necessity, appropriateness, and approval with respect to all such additions, modifications, deletions, and changes incorporated therein.

Section 4. The form, terms, and provisions of the WIFIA Bond and the provisions for the signatures, authentication, payment, registration, transfer, exchange, redemption, and number shall be as set forth in the Indenture. The Mayor and City Recorder are hereby authorized and directed to execute and seal the WIFIA Bond and to deliver said WIFIA Bond to the Trustee for authentication. The signatures of the Mayor and the City Recorder may be by electronic, facsimile or manual execution.

Section 5. The appropriate officials of the Issuer are hereby authorized and directed to execute and deliver to the Trustee the written order of the Issuer for authentication and delivery of the WIFIA Bond in accordance with the provisions of the Indenture.

Section 6. Upon its issuance, the WIFIA Bond will constitute a special limited obligation of the Issuer payable solely from and to the extent of the sources set forth in the WIFIA Bond, the WIFIA Loan Agreement and the Indenture. No provision of this Resolution, the Indenture, the WIFIA Bond, the WIFIA Loan Agreement, or any other instrument, shall be construed as creating a general obligation of the Issuer, or of creating a general obligation of the State of Utah or any political subdivision thereof, or as incurring or creating a charge upon the general credit of the Issuer or its taxing powers.

Section 7. The appropriate officials of the Issuer, and each of them, are hereby authorized and directed to execute and deliver for and on behalf of the Issuer any or all additional certificates, documents and other papers (including, without limitation, any reserve instrument guaranty agreements permitted by the Indenture) and to perform all other acts they may deem necessary or appropriate in order to implement and carry out the matters authorized in this Resolution and the documents authorized and approved herein.

Section 8. The Issuer shall hold a public hearing on September 1, 2020, to receive input from the public with respect to (a) the issuance of the WIFIA Bond, and (b) the potential economic impact that the improvements to be financed with the proceeds of the WIFIA Bond will have on the private sector, which hearing date shall not be less than fourteen (14) days after notice of the public hearing is first published (i) once a week for two consecutive weeks in The Salt Lake Tribune and the Deseret News, newspapers of general circulation in the Issuer, (ii) on the Utah Public Notice Website created under Section 63F-1-701, Utah Code Annotated 1953, as amended, and (iii) on the Utah Legal Notices website (www.utahlegals.com) created under Section 45-1-101, Utah Code Annotated 1953, as amended. The Issuer hereby ratifies the publication of a “Notice of Public Hearing Regarding Bonds to be Issued” in substantially the form attached hereto as Exhibit D-1.

The Issuer will cause a “Notice of Bonds to be Issued” to be published (i) one time in The Salt Lake Tribune and the Deseret News, newspapers of general circulation in the Issuer, (ii) on the Utah Public Notice Website created under Section 63F-1-701, Utah Code Annotated 1953, as amended, and (iii) on the Utah Legal Notices website (www.utahlegals.com) created under Section 45-1-101, Utah Code Annotated 1953, as amended, in substantially the form attached hereto as Exhibit D-2. The City Recorder shall cause a copy of this Resolution (together with all exhibits hereto) to be kept on file

electronically and at 349 South 200 East, Salt Lake City, Utah, for public examination during the regular business hours of the Issuer until at least thirty (30) days from and after the date of publication thereof.

Section 9. The Issuer hereby reserves the right to opt not to issue the WIFIA Bond for any reason, including without limitation, consideration of the opinions expressed at the public hearing.

Section 10. All resolutions or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed and this Resolution shall be in full force and effect immediately upon its approval and adoption.

Section 11. Upon the issuance of the WIFIA Bond, this Resolution shall be and remain irrevocable until the principal of, premium, if any, and interest on the WIFIA Bond is deemed to have been duly discharged in accordance with the terms and provisions of the Indenture.

ADOPTED this August 18, 2020.

Chair

(SEAL)

Attest and Countersign:

City Recorder

PRESENTATION TO THE MAYOR

The foregoing resolution was presented to the Mayor for her approval or disapproval on August 18, 2020.

By: _____
Chair

MAYOR'S APPROVAL OR DISAPPROVAL

The foregoing resolution is hereby approved on this August 18, 2020.

By: _____
Mayor

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

I, Cindy Lou Trishman, the duly appointed and qualified City Recorder of Salt Lake City, Utah (the "City"), do hereby certify according to the records of the City Council of the City (the "City Council") in my official possession that the foregoing constitutes a true and correct excerpt of the minutes of the meeting of the City Council held on August 18, 2020, including a resolution (the "Resolution") adopted at said meeting as said minutes and Resolution are officially of record in my possession.

I further certify that:

(a) the Resolution, with all exhibits attached, was deposited in my office on August 18, 2020 by electronic means;

(b) a Notice of Public Hearing Regarding Bonds to be Issued was (i) published one time each week for two consecutive weeks in The Salt Lake Tribune and the Deseret News, newspapers having general circulation within the City, with the first publication no less than fourteen (14) days before September 1, 2020 (the "Public Hearing Date"), (ii) posted on the Utah Public Notice Website created under Section 63F-1-701, Utah Code Annotated 1953, as amended, no less than fourteen (14) days before the Public Hearing Date and (iii) posted on the Utah Legal Notices website (www.utahlegals.com) created under Section 45-1-101, Utah Code Annotated 1953, as amended, no less than fourteen (14) days before the Public Hearing Date; and

(c) a Notice of Bonds to be Issued will be (i) published one time in The Salt Lake Tribune and the Deseret News, newspapers having general circulation within the City, (ii) posted on the Utah Public Notice Website created under Section 63F-1-701, Utah Code Annotated 1953, as amended and (iii) posted on the Utah Legal Notices website (www.utahlegals.com) created under Section 45-1-101, Utah Code Annotated 1953, as amended.

IN WITNESS WHEREOF, I have hereunto subscribed my signature and impressed hereon the official seal of said City, this August 18, 2020.

(SEAL)

By: _____
City Recorder

EXHIBIT A

CERTIFICATE OF COMPLIANCE WITH
OPEN MEETING LAW

I, Cindy Lou Trishman, the undersigned City Recorder of Salt Lake City, Utah (the “City”), do hereby certify, according to the records of the City in my official possession, and upon my own knowledge and belief, that in accordance with the requirements of Section 52-4-202, Utah Code Annotated, 1953, as amended, I gave not less than twenty-four (24) hours public notice of the agenda, date, time and place of the August 18, 2020, public meeting held by the City Council of the City (the “City Council”) as follows:

(a) By causing a copy of such Notice, in the form attached hereto as Schedule 1, to be delivered to a newspaper of general circulation within the City at least twenty-four (24) hours prior to the convening of the meeting; and

(b) By causing a copy of such Notice, in the form attached hereto as Schedule 1, to be posted on the Utah Public Notice Website (<http://pmn.utah.gov>) at least twenty-four (24) hours prior to the convening of the meeting.

Due to Infectious Disease COVID-19 Novel Coronavirus, this public meeting will be held electronically in accordance with Executive Order 2020-5 Suspending the Enforcement of Provisions of Utah Code 52-4-202 and 52-4-207 issued by Governor Herbert on March 18, 2020, and negating the requirement for an anchor location and subsequent posting of the Notice at the anchor location. The public may monitor or listen to open portions of the meeting electronically by following the instructions in the Notice. No physical meeting location will be available.

In addition, the Notice of 2020 Annual Meeting Schedule for the City Council (attached hereto as Schedule 2) was given specifying the date, time, and place of the regular meetings of the City Council to be held during the year, by causing said Notice to be (a) posted on December 30, 2019 at the principal office of the City Council, (b) provided to at least one newspaper of general circulation within the City on January 2, 2020 and (c) published on the Utah Public Notice Website (<http://pmn.utah.gov>) during the current calendar year.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature this August 18, 2020.

(SEAL)

By: _____
City Recorder

SCHEDULE 1

NOTICE OF MEETING

SCHEDULE 2
ANNUAL MEETING SCHEDULE

EXHIBIT B

INDENTURE

(See Transcript Document Nos. ____ and ____)

EXHIBIT C

FORM OF WIFIA LOAN AGREEMENT

(See Transcript Document No. ____)

EXHIBIT D-1

NOTICE OF PUBLIC HEARING REGARDING BONDS TO BE ISSUED

NOTICE IS HEREBY GIVEN pursuant to the provisions of the Local Government Bonding Act, Title 11, Chapter 14, Utah Code Annotated 1953, as amended (the “Bond Act”), that on August 18, 2020, the City Council (the “Council”) of Salt Lake City, Utah (the “Issuer”), expects to consider for adoption a resolution (the “Resolution”) in which it will authorize the issuance of the Issuer’s Public Utilities Revenue Bond (WIFIA Loan), Series 2020B (the “WIFIA Bond”).

PURPOSE, TIME, PLACE AND LOCATION OF PUBLIC HEARING

The Issuer shall hold a public hearing on September 1, 2020, at the hour of 7:00 p.m. via electronic means pursuant to the Council Chair determination that conducting a City Council meeting at a physical location presents a substantial risk to the health and safety of those who may attend in person. Moreover, the City & County Building, which is the anchor location for Salt Lake City Council meetings is presently closed for regular occupation due to damages sustained during the March 2020 earthquakes. This hearing will **not** have a physical location at the City and County Building. All attendees will connect remotely. The purpose of the hearing is to receive input from the public with respect to (a) the issuance of the WIFIA Bond and (b) any potential economic impact that the hereinafter defined Project may have on the private sector. Members of the public are encouraged to participate in the hearing and may visit www.slc.gov/council/ or call 801-535-7654 to learn how to participate by phone or on the Webex platform. The public may also watch the meeting using the following platforms:

Facebook Live: www.facebook.com/slcCouncil/

YouTube: www.youtube.com/slclivemeetings

Web Agenda: www.slc.gov/council/agendas/

SLCtv Channel 17 Live: www.slctv.com/livestream/SLCtv-Live/2

PURPOSE FOR ISSUING THE WIFIA BOND

The WIFIA Bond will be issued for the purpose of financing the reconstruction of the Issuer’s Water Reclamation Facility (the “Project”) and paying costs of issuance of the WIFIA Bond.

DATED this August 14, 2020.

/s/ Cindy Lou Trishman

City Recorder

EXHIBIT D-2

NOTICE OF BONDS TO BE ISSUED

NOTICE IS HEREBY GIVEN pursuant to the provisions of the Local Government Bonding Act, Title 11, Chapter 14, Utah Code Annotated 1953, as amended (the “Bond Act”), that on August 18, 2020, the City Council (the “Council”) of Salt Lake City, Utah (the “Issuer”), adopted a resolution (the “Resolution”) in which it authorized the issuance of the Issuer’s Public Utilities Revenue Bond (WIFIA Loan), Series 2020B (the “WIFIA Bond”) (to be issued in one or more series and with such other name, series or title designation(s) as may be determined by the Issuer).

PURPOSE FOR ISSUING THE WIFIA BOND

The WIFIA Bond will be issued for the purpose of financing the reconstruction of the Issuer’s Water Reclamation Facility and paying costs of issuance of the WIFIA Bond.

REVENUES TO BE PLEDGED

The WIFIA Bond is a special limited obligation of the Issuer payable from the revenues of the Issuer’s water, sewer, stormwater and street lighting systems (the “Revenues”).

PARAMETERS OF THE WIFIA BOND

The Issuer intends to issue the WIFIA Bond in the aggregate principal amount of not more than Three Hundred Forty-Eight Million Six Hundred Thirty-Five Thousand Dollars (\$348,635,000), to mature in not more than thirty-nine (39) years from its date or dates, to be sold at a price not less than ninety-nine percent (99%) of the total principal amount thereof, and bearing interest at a rate or rates not to exceed four percent (4.0%) per annum. The WIFIA Bond is to be issued and sold by the Issuer pursuant to the Resolution, including as part of said Resolution, a WIFIA Loan Agreement (the “WIFIA Loan Agreement”), a Master Trust Indenture (the “Master Indenture”), and a Supplemental Indenture of Trust (the “Supplemental Indenture” and collectively with the Master Indenture, the “Indenture”) which WIFIA Loan Agreement and Indenture were before the Council in substantially final forms at the time of the adoption of the Resolution and said WIFIA Loan Agreement and Supplemental Indenture are to be executed by the Issuer in such forms and with such changes thereto as shall be approved by the Issuer; provided that the principal amount, interest rate or rates, maturity, and discount of the WIFIA Bond will not exceed the maximums set forth above.

OUTSTANDING BONDS SECURED BY REVENUES

Other than the proposed WIFIA Bond, the Issuer currently has \$252,630,000 of bonds outstanding (the “Outstanding Bonds”) secured by the Revenues (as more fully described in the Indenture).

OTHER OUTSTANDING BONDS OF THE ISSUER

Additional information regarding the Issuer's Outstanding Bonds may be found in the Issuer's financial report (the "Financial Report") at: <https://reporting.auditor.utah.gov/searchreport>. For additional information, including any information more recent than as of the date of the Financial Report, please contact Marina Scott, City Treasurer, at (801) 535-6565.

TOTAL ESTIMATED COST

Based on the Issuer's current plan of finance and a current estimate of interest rates, the total principal and interest cost of the WIFIA Bond if held until maturity is \$452,137,365.

A copy of the Resolution, the WIFIA Loan Agreement and the Indenture are on file in the office of the Salt Lake City Recorder, electronically, and at 349 South 200 East, Salt Lake City, Utah, where they may be examined by appointment at the office of the City Recorder during regular business hours of the City Recorder from 8:00 a.m. to 5:00 p.m. for a period of at least thirty (30) days from and after the date of publication of this notice. To schedule an appointment, please call (801) 535-7671. Additionally, a protected, pdf copy of the Resolution, the WIFIA Loan Agreement and the Indenture may be requested by sending an email to the City Recorder at SLCRecorder@slcgov.com.

NOTICE IS FURTHER GIVEN that a period of thirty (30) days from and after the date of the publication of this notice is provided by law during which any person in interest shall have the right to contest the legality of the Resolution, the WIFIA Loan Agreement, the Indenture (only as it pertains to the WIFIA Bond), or the WIFIA Bond, or any provision made for the security and payment of the WIFIA Bond, and that after such time, no one shall have any cause of action to contest the regularity, formality, or legality thereof for any cause whatsoever.

DATED this August 18, 2020.

/s/ Cindy Lou Trishman
City Recorder

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

WIFIA LOAN AGREEMENT

For Up to \$[348,635,000]

With

SALT LAKE CITY CORPORATION

For the

**SALT LAKE CITY WATER RECLAMATION FACILITY
NUTRIENT PROJECT
(WIFIA – N19109UT)**

Dated as of [____], 2020

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WIFIA LOAN AGREEMENT

THIS WIFIA LOAN AGREEMENT (this “**Agreement**”), dated as of [____], 2020, is by and between **SALT LAKE CITY CORPORATION**, a municipal corporation and political subdivision created under the laws of the State of Utah (the “**State**”), with an address at 451 South State Street, Salt Lake City, Utah 84111 (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 secured 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 \$[348,635,000] (excluding interest that is capitalized in accordance with the terms hereof) to be used to pay a portion of the Eligible Project Costs (as defined herein) related to the Project (as defined herein) pursuant to the application for WIFIA financial assistance dated [February 26, 2020] (the “**Application**”);

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

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

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

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

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

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.

“Acceptable Credit Rating” means, with respect to any Person, the rating of its unsecured, senior long-term indebtedness (or, if such Person has no such rating, then its issuer rating or corporate credit rating) is no lower than (a) at the time such Person executes, delivers or issues a Qualified Hedge, ‘A+’, ‘A1’ or the equivalent rating from each Nationally Recognized Rating Agency that provides a rating on such Person’s unsecured, senior long-term indebtedness or that provides an issuer rating or corporate credit rating for such Person, as applicable; and (b) at any time thereafter, ‘A’, ‘A2’ or the equivalent rating from each Nationally Recognized Rating Agency that provides a rating on such Person’s unsecured, senior long-term indebtedness or that provides an issuer rating or corporate credit rating for such Person, as applicable.

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

“Additional Principal Project Contracts” 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), (i) pursuant to which the Borrower has payment obligations in excess of \$[] in the aggregate or (ii) 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 Permitted Indebtedness and any related Permitted Lien for such Permitted Indebtedness or (2) entered into to consummate any Permitted Investment.

“Additional Bonds” means any Bonds permitted under Section 15(a) (*Negative Covenants – Indebtedness*) and under the Indenture, which Bonds are issued or incurred after the Effective Date.

“Additional Subordinate Obligations” means any Subordinate Obligations permitted under Section 15(a) (*Negative Covenants – Indebtedness*) and under the Indenture, which Subordinate Obligations are issued or incurred after the Effective Date.

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

“**Aggregate Debt Service**” has the meaning set forth in the Indenture.

“**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(c) (*Disbursement Conditions*).

“**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, including seeking approval or legislative enactment by any Governmental Authority to authorize commencement of a voluntary proceeding under any Insolvency Law; (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 Bonds, 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 Accounts upon the occurrence and during the continuation of an Event of Default under this Agreement or an event of default under the Indenture for application to the prepayment or repayment of any principal amount of the Bonds other than in accordance with the provisions of the Indenture.

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

“Bond Act” means the Local Government Bonding Act, Chapter 14 of Title 11, Utah Code Annotated 1953, as amended, and, to the extent applicable, the Registered Public Obligations Act, Chapter 7 of Title 15, Utah Code Annotated 1953, as amended, and the Utah Refunding Bond Act, Chapter 27 of Title 11, Utah Code Annotated 1953, as amended, and all laws amendatory thereof or supplemental thereto.

“Bond Service Account” means the Bond Service Account in the Principal and Interest Fund established in Section 5.02 of the Indenture.

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

“Bonds” means bonds, notes, commercial paper or other obligations (other than Repayment Obligations) authorized by and at any time Outstanding pursuant to the Indenture, in each case, that rank senior in right of payment and right of security to the Subordinate Obligations, including (a) the Existing Indebtedness, (b) the WIFIA Bond and (c) any Additional Bonds.

“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(f) (*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 Salt Lake City, Utah.

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

“Capitalized Interest Period” means the period from (and including) the Effective Date to (but excluding) the first day of the initial Payment Period, subject to earlier termination as set forth in Section 8(b) (*Payment of Principal and Interest – Capitalized Interest Period*).

“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.

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

“Construction Fund” means the fund by that name established in Section 5.02 of the Indenture.

“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 City, or any other governing body of the City hereafter provided for pursuant to law.

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

“Debt Service” has the meaning set forth in the Indenture.

“Debt Service Payment Commencement Date” means the earliest to occur of either (a) [fixed date]¹; (b) if the Capitalized Interest Period ends pursuant to Section 8(b) (*Payment of Principal and Interest – Capitalized Interest Period*) due to the occurrence of an Event of Default, the first Payment Date immediately following the end of the Capitalized Interest Period; or (c) the Payment Date falling closest to, but not later than, the fifth anniversary of the Substantial Completion Date.

“Debt Service Reserve Account” means the Debt Service Reserve Account in the Principal and Interest Fund established in Section 5.02 of the Indenture.

“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 sum of (a) the WIFIA Interest Rate plus (b) []² basis points.

“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 [].

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

“Effective Date” means the date of this Agreement.

“Eligible Project Costs” means amounts in the Project Budget 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;

¹ In no event later than five (5) years after the Projected Substantial Completion Date as of the Effective Date.

² To be determined by EPA.

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

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

“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*).

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

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

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

“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) [fixed date]³ (or such earlier date as is set forth in an updated **Exhibit F** (*WIFIA Debt Service*) pursuant to Section 8(e) (*Payment of Principal*

³ In no event later than the earlier to occur of (i) the 35th anniversary of the Projected Substantial Completion Date and (ii) the estimated expiration of the useful life of the Project, in each case as of the Effective Date, consistent with 33 U.S.C. § 3908(b)(5).

and Interest – Adjustments to Loan Amortization Schedule)); and (b) the 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*).

“Fund” means one of the funds confirmed or established pursuant to Section 5.02, including the Construction Fund, the Principal and Interest Fund, the Renewal and Replacement Fund and the Revenue Fund.

“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.

“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.

“Hedging Agreement” means (a) the ISDA Master Agreement(s) and any related credit support annex, schedules and confirmations, to be entered into by the Borrower and a Hedging Bank, (b) any other agreement entered into, or to be entered into, by the Borrower and a Hedging Bank for a Hedging Transaction, and (c) any other documentation directly relating to the foregoing.

“Hedging Bank” means any Qualified Hedge Provider that becomes a party to a Hedging Agreement and its permitted successors (to the extent such successors are also Qualified Hedge Providers).

“Hedging Obligations” means, collectively, the payment of (a) all scheduled amounts payable to the Hedging Banks by the Borrower under the Hedging Agreements (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), net of all scheduled amounts payable to the Borrower by such Hedging Banks, and (b) all other indebtedness, fees, indemnities and other amounts payable by the Borrower to the Hedging Banks under such Hedging Agreements, net of all other indebtedness, fees, indemnities and other amounts payable by the Hedging Banks to the Borrower under such Hedging

Agreements; provided, that Hedging Obligations shall not include Hedging Termination Obligations. For the avoidance of doubt, all calculations of such amounts payable under the Hedging Agreements shall be made in accordance with the terms of the applicable Hedging Agreements.

“Hedging Termination Obligations” means the aggregate amount payable to the Hedging Banks by the Borrower upon the early termination of all or a portion of the Hedging Agreements, net of all amounts payable to the Borrower by such Hedging Banks upon such early termination. For the avoidance of doubt, all calculations of such amounts payable under the Hedging Agreements shall be made in accordance with the terms of the applicable Hedging Agreements.

“Hedging Transaction” means any interest rate protection agreement, interest rate swap transaction, interest rate “cap” transaction, interest rate future, interest rate option or other similar interest rate hedging arrangement commonly used in loan transactions to hedge against interest rate increases (and not for any speculative purpose).

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

“Indenture” means that certain Master Trust Indenture, dated as of January 1, 2004, between the Borrower and the Trustee, providing for the issuance of Public Utility Revenue Bonds, as from time to time amended or supplemented by Supplemental Indentures.

“Indenture Documents” means the Indenture, each Supplemental Indenture, each resolution adopted by the Council for the purpose of authorizing Bonds or other Obligations and each other agreement, instrument and document executed and delivered pursuant to or in connection with any of the foregoing.

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

“Interest Payment Date” means each February 1 and August 1, commencing on the Debt Service Payment Commencement Date.

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

“Investment Securities” has the meaning set forth in the Indenture.

“ISDA Master Agreement” means a master agreement, entered into by the Borrower and a Hedging Bank, in the form published by the International Swaps and Derivatives Association, Inc.

“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(e) (*Payment of Principal and Interest – Adjustments to Loan Amortization Schedule*).

“Loss Proceeds” means any proceeds of builders’ risk or casualty insurance (other than any proceeds from any policy of business interruption insurance insuring against loss of revenues upon the occurrence of certain casualties or events covered by such policy of insurance) or proceeds of eminent domain proceedings resulting from any Event of Loss.

“Material Adverse Effect” means a material adverse effect on (a) the System, the Project or the Revenues, (b) the business, operations, properties, condition (financial or otherwise) or prospects of the Borrower, (c) the legality, validity or enforceability of any material provision of the Indenture or any WIFIA Loan Document, (d) the ability of the Borrower to enter into, perform or comply with any of its material obligations under the Indenture or any WIFIA Loan Document, (e) the validity, enforceability or priority of the Liens provided under the Indenture on the Pledged Collateral in favor of the Secured Parties or (f) the WIFIA Lender’s rights or remedies available under the Indenture or 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][Categorical Exclusion][Record of Decision] for the Project issued by EPA on [____], 20[] in accordance with NEPA.

“Net Loss Proceeds” means Loss Proceeds after excluding any proceeds of delay-in-start-up insurance and proceeds covering liability of the Borrower to third parties.

“Net Revenues” means, for any period, the Revenues for such period, less Operation and Maintenance Costs for such period.

“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 debt of the Borrower that is secured by a pledge and lien on all or a portion of the Revenues, including the Bonds and Subordinate Obligations.

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

“Operating Period Servicing Fee” has the meaning set forth in Section 10(a)(iii) (*Fees and Expenses – Fees*).

“Operation and Maintenance Costs” means, subject to Section 14(h)(ii) (*Affirmative Covenants – System Accounts; Investment Securities*), all actual operation and maintenance costs related to the System incurred by the Borrower in any particular Borrower Fiscal Year or period to which said term is applicable or charges made therefor during such Borrower Fiscal Year or period. Such Operation and Maintenance Costs include, but are not limited to, amounts paid by the Borrower for improvement, repair, replacement or for the acquisition of any item of equipment related to the System; salaries and wages; employees’ health, hospitalization, pension and retirement expenses; fees for services, materials and supplies; rents; administrative and general expenses; insurance expenses; Trustee, Paying Agent, legal, engineering, accounting and financial advisory fees and expenses and costs of other consulting and technical services; training of personnel; taxes, payments in lieu of taxes and other governmental charges (including franchise fees imposed by the Borrower for the use of public streets and rights-of-way); fuel and electricity costs; payments for the purchase of water or the treatment or transmission of water for distribution in the System; payments for the treatment, transmission or disposal of sewage; payments pursuant to any Resource Purchase Agreement; and any other current expenses or obligations required to be paid by the Borrower under the provisions of the Indenture or by law, all to the extent properly allocable to the System. Operation and Maintenance Costs do not include depreciation or obsolescence charges or reserves therefor; amortization of intangibles or other bookkeeping entries of a similar nature; interest charges and charges for the payment of principal, or amortization, of bonded or other indebtedness of the Borrower, or costs or charges made therefor; and losses from the sale, abandonment, reclassification, revaluation or other disposition of any properties.

“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 (a) with respect to Bonds (other than the WIFIA Bond) or Subordinate Obligations, Bonds or Subordinate Obligations that have not been cancelled or legally defeased or discharged within the meaning of the applicable issuing document or resolutions and (b) with respect to the WIFIA Bond, the (i) entire amount available to be drawn under this Agreement (including amounts drawn and amounts that remain available to be drawn), less (ii)

any amount that has been irrevocably determined will not be drawn under this Agreement, less (iii) the aggregate principal amount of the WIFIA Bond that has been repaid.

“Outstanding WIFIA Loan Balance” means the sum of (i) the aggregate principal amount of the WIFIA Loan drawn by the Borrower plus (ii) capitalized interest added to the principal balance of the WIFIA Loan minus (iii) the aggregate principal amount of the WIFIA Loan repaid by the Borrower, as determined in accordance with Section 8(e) (*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.

“Paying Agent” means any bank or trust company designated as paying agent for the Bonds of any Series, and its successor or successors hereinafter appointed in the manner provided in Section 7.02 of the Indenture.

“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*).

“Payment Period” means the six (6) month period beginning on [] and ending on [], and each succeeding six (6) month period thereafter; provided, that, that if the Debt Service Payment Commencement Date begins earlier than [], the first Payment Period shall be the six (6) month period ending on the date immediately prior to the Debt Service Payment Commencement Date.

“Permitted Hedging Termination” means the early termination, in whole or in part, of any Qualified Hedge (a) at the request of the Borrower as a result of a determination by the Borrower that such (or any part of such) Qualified Hedge is no longer necessary or required under the terms of this Agreement, (b) pursuant to the terms of any Hedging Agreement evidencing such Qualified Hedge that provides for the notional amount of such Qualified Hedge to amortize or otherwise be reduced from time to time or (c) as may be required pursuant to Section 14(k)(iii) (*Affirmative Covenants – Variable Rate Bonds*).

“Permitted Indebtedness” means:

- (a) Existing Indebtedness;
- (b) the WIFIA Loan;
- (c) Additional Bonds that satisfy the requirements of Section 15(a)(ii) (*Negative Covenants – Indebtedness*) and the Indenture;
- (d) Repayment Obligations in respect of Additional Bonds that satisfy the requirements of Section 15(a)(ii) (*Negative Covenants – Indebtedness*) and the Indenture;

(e) Additional Subordinate Obligations that satisfy the requirements of Section 15(a)(iv) (*Negative Covenants – Indebtedness*) and the Indenture; and

(f) indebtedness incurred in respect of Qualified Hedges.

“Permitted Liens” means:

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

(b) Liens imposed pursuant to the Indenture Documents in respect of Permitted Indebtedness;

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

(d) 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(j) (*Affirmative Covenants – Material Obligations*);

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

(f) 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;

(g) 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

(h) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that, in any case, do not secure any monetary obligations and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of the Borrower.

“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 all of the interests of the Borrower in (a) the proceeds of sale of the Bonds, (b) the Net Revenues, and (c) the Construction Fund, Principal and Interest Fund, Renewal and Replacement Fund, Revenue Fund and any other Funds established or confirmed by the Indenture (except for any Rebate Fund) and pledged for the payment of Principal, Redemption Price and interest on the Bonds and of Repayment Obligations, including the investments, if any,

thereof, subject to any required rebate of all or a portion of the earnings on such investments to the United States of America pursuant to the requirements of Section 148(f) of the Code.

“Prior Lien Resolution” means Resolution No. 100 of 1981 adopted by the Council of the City on November 3, 1981, as supplemented and amended from time to time.

“Principal” has the meaning set forth in the Indenture.

“Principal and Interest Fund” means the Principal and Interest Fund established in Section 5.02 of the Indenture.

“Principal Payment Date” means each August 1, commencing August 1, 20[].

“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 [Salt Lake City Water Reclamation Facility Nutrient Project].⁴

“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 [*insert date*], 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*).

“Qualified Hedge” means, to the extent from time to time permitted by law, with respect to Permitted Indebtedness any Hedging Transaction entered into with a Qualified Hedge Provider and meeting the requirements of Section 14(k) (*Affirmative Covenants – Variable Rate Bonds*).

“Qualified Hedge Provider” means any bank or trust company, or an affiliate thereof, authorized to engage in the banking business that is organized under or licensed as a branch or agency under the laws of the United States of America or any state thereof, that has an Acceptable Credit Rating.

“Rate Covenant Requirement” shall mean an amount equal to at least (1) 125% of the Aggregate Debt Service excluding amounts payable on Repayment Obligations for the Fiscal Year, (2) 100% of the Repayment Obligations, if any, which will be due and payable during the forthcoming Borrower Fiscal Year and (3) 100% of the amounts, if any, then required by the

⁴ Further description to be provided.

Indenture to be deposited into the Debt Service Reserve Account during the forthcoming Borrower Fiscal Year.

“Redemption Price” has the meaning set forth in the Indenture.

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

“Renewal and Replacement Fund” means the Renewal and Replacement Fund established in Section 5.02 of the Indenture.

“Repayment Obligations” has the meaning set forth in the Indenture.

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

“Reserve Instrument Issuer” has the meaning set forth in the Indenture.

“Resource Purchase Agreement” has the meaning set forth in the Indenture.

“Revenue Fund” means the Revenue Fund established in Section 5.02 of the Indenture.

“Revenues” means all revenues, connection fees, income, rents and receipts derived by the Borrower from or attributable to the System, including the proceeds of any insurance covering business interruption loss. “Revenues” also includes all interest, profits or other income derived from the investment of any moneys held pursuant to the Indenture and required to be paid into the Revenue Fund and the proceeds of any interest subsidy with respect to the Bonds paid for or for the account of the Borrower by any governmental body or agency. Revenues shall not include: (a) proceeds received on insurance resulting from casualty damage to assets of the System; or (b) the proceeds of sale of Bonds, notes or other obligations issued for System purposes.

“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.

“Secured Parties” means the WIFIA Lender, any other Bondholders, any Reserve Instrument Issuers and any Security Instrument Issuers.

“Security Instrument Issuer” has the meaning set forth in the Indenture.

“**Series**” means all of the Bonds designated as being of the same Series authenticated and delivered on original issuance in a simultaneous transaction, and any Bonds thereafter authenticated and delivered in lieu thereof or in substitution therefor pursuant to Article III or Section 4.04 or Section 8.06 of the Indenture.

“**Series Subaccount**” has the meaning set forth in the Indenture.

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

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

“**Servicing Set-Up Fee**” has the meaning set forth in Section 10(a)(i) (*Fees and Expenses – Fees*).

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

“**State Cooperative Agreement**” means the State Cooperative Agreement, dated as of [____], by and between the Borrower and the State of Utah Division of Facilities Construction and Management, and the related note payable due no later than February 1, 2021, outstanding in the aggregate principal amount of \$2,125,000 as of the Effective Date.

“**Subordinate Obligations**” means any Obligation that is fully subordinated to the WIFIA Loan and the WIFIA Bond in priority of payment (as to both principal and interest), voting and priority of security interest in the Pledged Collateral, including with respect to payment from revenues and reserves and payment upon default or acceleration of any such Obligations.

“**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 Indenture**” means any indenture supplemental to the Indenture or amendatory thereof that is in full force and effect and has been duly executed and delivered by the Borrower and the Trustee in accordance with the provisions of the Indenture, including, without limitation, the WIFIA Supplemental Indenture.

“**System**” means the complete combined waterworks plant and system, sewerage collection, treatment and disposal plant and system, stormwater system and street lighting system of the Borrower, including all improvements, extensions, and additions thereto which may be made while any of the Bonds remain Outstanding, and including all property, real, personal and mixed, of every nature now or hereafter owned by the Borrower and used or useful in the operation of its waterworks, sewerage, stormwater or street lighting properties. The Borrower may, without the

consent of Bond Holders, further amend the definition of System by adding additional systems, properties and improvements and the revenues therefrom by Supplemental Indenture.⁵

“System Accounts” means all funds, accounts or subaccounts established pursuant to the Indenture or holding Revenues, including the Revenue Fund, the Renewal and Replacement Fund, the Principal and Interest Fund (and within the Principal and Interest Fund, the Bond Service Account, and the subaccounts therein including the WIFIA Debt Service Account, and the Debt Service Reserve Account, and the subaccounts therein) and such additional funds, accounts or subaccounts that may be established in connection with the System for Revenues.

“Technical and Rate Consultant” means a single individual or firm, or a combination of one or more individuals or firms, not related to the Borrower and considered independent with respect to the Borrower (i.e. not an employee of the Borrower or any affiliate of the Borrower) authorized to do business in and qualified to practice in the areas required to provide the services required of the Technical and Rate Consultant, that together have expertise in the technical requirements for operation and maintenance of systems similar in size and scope to the System and delivering the services provided by the System, and establishing rates and charges for governmental water, wastewater, stormwater, and streetlighting systems similar in size and scope to the System, selected by the Borrower and reasonably acceptable to the WIFIA Lender.

“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 the Indenture Documents or the WIFIA Loan Documents to be paid into any fund or account upon the incurrence of the WIFIA Loan, any Bonds or any Subordinate Obligations, 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) during the Construction Period in respect of any indebtedness of the Borrower, in each case in connection with the Project (other than the WIFIA Loan); and (d) costs of equipment and supplies and initial working capital and reserves required by the Borrower for the commencement of operation of the Project, including general administrative expenses and overhead of the Borrower.

“Trustee” means U.S. Bank National Association appointed by the Borrower pursuant to Section 7.01 of the Indenture, its successors and assigns, and any other corporation or association which may at any time be substituted in its place as provided in the Indenture.

“Uncontrollable Force” means any cause beyond the control of the Borrower, including: (a) a hurricane, tornado, flood or similar occurrence, landslide, earthquake, fire or other casualty, strike or labor disturbance, freight embargo, act of a public enemy, explosion, war, blockade, terrorist act, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, sabotage, 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

⁵ Note: The last sentence of the definition of “System” is still under review by EPA and, at a minimum, EPA would like to ensure continued compliance with the Rate Covenant Requirement at the time of and taking into consideration such proposed additions to the System.

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*).


“Variable Interest Rate” means a rate of interest on Bonds for any future period of time which is expressed to be calculated at a rate which is not susceptible of a precise determination.

“Variable Rate Bonds” means, as of any date of calculation, Bonds the terms of which on such date of calculation are such that interest thereon for any future period of time is expressed to be calculated at a rate which is not susceptible of a precise determination.

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

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

“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 Account”** means the Series Subaccount in the Bond Service Account established for the benefit of the WIFIA Lender in accordance with the terms of the WIFIA Supplemental Indenture.

“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

\$[348,635,000] (excluding capitalized interest), to be used in respect of Eligible Project Costs paid or incurred by the Borrower.

“WIFIA Loan Documents” means this Agreement, the WIFIA Bond, the WIFIA Supplemental Indenture and the WIFIA Loan Authorizing Proceedings.

“WIFIA Loan Authorizing Proceedings” means, collectively, (i) Resolution No. [____], adopted by the Council of the City on [____], 2020, (ii) Resolution No. [____], adopted by the Council of the City on [____], 2020 and (iii) the public hearing held by the Council of the City on [____], 2020.

“WIFIA Supplemental Indenture” means the [Ninth] Supplemental Indenture, dated as of [____], 2020, by and between the Borrower and the Trustee, relating to the WIFIA Loan.

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 **mandatory** or optional 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 \$[348,635,000] (excluding any interest that is capitalized in accordance with the terms hereof). WIFIA Loan proceeds available to be drawn shall be disbursed from time to time in accordance with Section 4 (*Disbursement Conditions*) and Section 11(b) (*Conditions Precedent – Conditions Precedent to Disbursements*).

Section 4. Disbursement Conditions.

(a) WIFIA Loan proceeds shall be disbursed solely in respect of Eligible Project Costs paid or incurred and approved for payment by or on behalf of the Borrower in connection with the Project. If the Borrower intends to utilize the WIFIA Loan proceeds to make progress payments for Project construction work performed under the Principal Project Contracts, the Borrower shall demonstrate to the satisfaction of the WIFIA Lender that such progress payments are commensurate with the value of the work that has been completed. Each disbursement of the WIFIA Loan shall be made pursuant to a requisition and certification (a “**Requisition**”) in the form set forth in **Appendix One** (*Form of Requisition*) to **Exhibit D** (*Requisition Procedures*), along with all documentation and other information required thereby, submitted by the Borrower to, and approved by, the WIFIA Lender, all in accordance with the procedures of **Exhibit D** (*Requisition Procedures*) and subject to the requirements of this Section 4 and the conditions set forth in Section 11(b) (*Conditions Precedent – Conditions Precedent to Disbursements*); provided, that no disbursements of WIFIA Loan proceeds shall be made after the Final Disbursement Date.

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

(c) 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 succeeding Federal Fiscal Year, 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 or withheld in the WIFIA Lender's sole discretion.

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 [] percent ([]%) per annum. Interest will accrue and be computed on the Outstanding WIFIA Loan Balance (as well as on any past due interest) 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 (if applicable) in accordance with the terms of this Agreement or (ii) the **Outstanding WIFIA Loan Balance** has been irrevocably paid in full in immediately available funds. For the avoidance of doubt, 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 WIFIA Lender) have been made available to the Borrower for use on the Project in accordance with Section 4 (*Disbursement Conditions*).

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 shall pledge, assign and grant to the WIFIA Lender for its benefit, Liens on the Pledged Collateral in accordance with the provisions of the Indenture and shall deliver to the WIFIA Lender, as the registered owner, the WIFIA Bond. The WIFIA Loan

shall be secured by the Liens on the Pledged Collateral on a parity with the Bonds and any Repayment Obligations and senior to all Subordinate Obligations. The WIFIA Bond shall be a Bond under the Indenture, entitled to all of the benefits of a Bond under the Indenture.

(b) Except (i) for Permitted Liens, or (ii) to the extent otherwise provided in Section 7(a), the Pledged Collateral will be free and clear of any pledge, Lien, charge or encumbrance thereon or with respect thereto, of equal rank with or senior to the pledge of the Borrower created under the Indenture, 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 Revenues to make any payments or satisfy any obligations other than in accordance with the provisions of this Section 7 and the Indenture and shall not apply any portion of the Revenues in contravention of this Agreement or the Indenture.

(d) ~~The~~ Indenture provides that all Revenues shall be deposited into the Revenue Fund and applied in accordance with the requirements specified in Section 5.05, Section 5.06, Section 5.07 and Section 5.08 of the Indenture, which requirements are hereby incorporated herein and a copy of such section, as of the Effective Date, is attached hereto as **Schedule V (Flow of Funds)**. For avoidance of doubt, amounts remaining in the Revenue Fund at the end of each month after payment of the amounts required by Section 5.05(a) of the Indenture may be applied by the Borrower, free and clear of the lien of the Indenture, to any one or more of the following, to the extent permitted by law, ~~to any~~ other lawful purpose of the Borrower relating to the System. Further, for avoidance of doubt, amounts remaining in the Revenue Fund at the end of each month not required to make any of the payments required by Section 5.05(a) of the Indenture or expended by the Borrower at any time as permitted by Section 5.05(b) shall remain in the Revenue Fund and remain subject to the pledge and lien provided in Section 7(a).

(e) Pursuant to the WIFIA Supplemental Indenture, the Borrower shall establish the WIFIA ~~Debt~~ Service Account as a Series Subaccount of the Bond Service Account for the payment of all WIFIA Debt Service. The Borrower shall maintain the WIFIA Debt Service Account throughout the term of the WIFIA Loan.

Section 8. Payment of Principal and Interest.

(a) Payment of WIFIA Debt Service.

(i) 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 the 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(e) (*Payment of Principal and*

Interest – Adjustments to Loan Amortization Schedule), and shall be calculated by the WIFIA Lender in such manner that [each of such payments shall be approximately equal in amount], in order for the Outstanding WIFIA Loan Balance to be reduced to \$0 on the Final Maturity Date.

(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 WIFIA Loan and corresponding WIFIA Bond are subject to [mandatory redemption or prepayment prior to maturity thereof]).

(b) Capitalized Interest Period. No payment of the principal of or interest on the WIFIA Loan is required to be made during the Capitalized Interest Period. Interest on amounts capitalized pursuant to this Section 8(b) shall commence on the date such interest is added to the principal balance of the WIFIA Loan (and corresponding WIFIA Bond) during the Capitalized Interest Period. On each February 1 and August 1 occurring during the Capitalized Interest Period, interest accrued on the WIFIA Loan in the six (6) month period ending immediately prior to such date shall be capitalized and added to the Outstanding WIFIA Loan Balance. Within thirty (30) days after the end of the Capitalized Interest Period, the WIFIA Lender shall give written notice to the Borrower stating the Outstanding WIFIA Loan Balance as of the close of business on the last day of the Capitalized Interest Period, which statement thereof shall be deemed conclusive absent manifest error; provided, however, that no failure to give or delay in giving such notice shall affect any of the obligations of the Borrower hereunder or under any of the other WIFIA Loan Documents. Notwithstanding the foregoing, the Capitalized Interest Period shall end immediately upon written notification to the Borrower by the WIFIA Lender that an Event of Default has occurred, in which case the provisions of this Section 8(b) shall no longer apply and payments of principal and interest shall be currently due and payable in accordance with the terms hereof and interest shall no longer be capitalized. For purposes of this subsection, an Event of Default under Section 17(a)(v) (*Events of Default and Remedies – Cross Default with Other Financing Documents*) shall be deemed to have occurred upon the occurrence of any nonpayment of principal of, interest on or redemption price of Obligations when due, regardless of whether the holders of the applicable Obligations or the Trustee for the applicable obligations, or any legal order, has waived, permitted deferral of, or forgiven any such payment.

(c) 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 (excluding capitalized interest) of \$[348,635,000], 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.

(d) 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 may make any such payment or portion thereof (or direct the Trustee to make such payment) with funds then on deposit in the WIFIA Debt Service Account.

(e) Adjustments to Loan Amortization Schedule. (i) The Outstanding WIFIA Loan Balance will be (A) increased on each occasion on which the WIFIA Lender disburses loan proceeds hereunder, by the amount of such disbursement of loan proceeds; (B) increased on each occasion on which interest on the WIFIA Loan is capitalized pursuant to the provisions of Section 8(b) (*Payment of Principal and Interest – Capitalized Interest Period*), by the amount of interest so capitalized; and (C) 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, and its determination of such amount in any such notice shall be deemed conclusive absent manifest error.

(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(e), 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 the WIFIA Bond in inverse order of maturity, other than prepayments which shall be applied in accordance with Section 9(d) (*Prepayment – General Prepayment Instructions*). 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, however, 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, 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 Upon a Bankruptcy Related Event. The Borrower shall prepay one hundred percent (100%) of the Outstanding WIFIA Loan Balance in full in immediately available funds upon the occurrence of a Bankruptcy Related Event. Such mandatory prepayment 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 Obligations in respect of the WIFIA Loan, including fees and expenses, then due and payable. Upon the occurrence of a Bankruptcy Related Event, the Borrower shall promptly deliver to the WIFIA Lender a notice of such Bankruptcy Related Event; 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, however, 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, and shall further include payment of all other Obligations in respect of the WIFIA Loan, including fees and expenses, then due and payable. 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 effected pursuant to the WIFIA Bond and 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 mandatory or optional 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, however, 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 such partial prepayments of principal shall be applied to the WIFIA Loan 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 \$[20,820] (the “**Servicing Set-Up Fee**”), which shall be due and payable within thirty (30) days after receipt of an invoice from the WIFIA Lender with respect thereto (or, if earlier, the first disbursement date of the WIFIA Loan);

(ii) an annual construction period servicing fee equal to \$[20,820] (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 of an invoice from the WIFIA Lender with respect thereto (or, if earlier, the first disbursement date of the WIFIA Loan), in a pro-rated amount equal to \$[1,730]; and

(iii) an annual operating period servicing fee equal to \$[7,810] (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 of any invoice from the WIFIA Lender, for any and all fees, costs, charges, and expenses incurred by it (including the fees, costs, and expenses of its legal counsel, financial advisors, auditors and other consultants and advisors) in connection with the negotiation, preparation, execution, delivery, and performance of this Agreement and the other WIFIA Loan Documents and the transactions hereby and thereby contemplated, including attorneys’ and engineers’ fees and professional costs, including all such fees, costs, and expenses incurred as a result of or in connection with (i) the enforcement of or attempt to enforce, or the protection or preservation of any right or claim under, 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, the WIFIA Bond, and the WIFIA Supplemental Indenture, 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 the Indenture, each Supplemental Indenture (including the WIFIA Supplemental Indenture) and any other Indenture Document authorizing Obligations in respect of the Project that has been entered into on or prior to the Effective Date, 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, 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, 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) a copy of its Organizational Documents, as in effect on the Effective Date (and certified by the Secretary of State of the State, to the extent applicable), along with a certification in the Closing Certificate that such Organizational Documents are in full force and effect, and (B) other than the WIFIA Supplemental Indenture, all further instruments and documents (including any resolutions, ordinances, and supplements) as are necessary for the Borrower to execute and deliver, and 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.

(v) 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*)).

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

(vii) The Borrower shall have delivered to the WIFIA Lender the Non-Lobbying Certificate and the Preaward Compliance Review Report for All Applicants and Recipients Requesting EPA Financial Assistance on EPA FORM 4700-4.

(viii) 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 I** (*Form of Closing Certificate*) (the "**Closing Certificate**") (A) designating the Borrower's Authorized Representative, (B) confirming such person's position and incumbency, and (C) certifying as to the satisfaction of the following conditions precedent:

(1) 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;

(2) 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);

(3) as of the Effective Date, (x) the maximum principal amount of the WIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), together with the amount of any other credit assistance provided under the Act to the Borrower, does not exceed forty-nine percent (49%) of reasonably anticipated Eligible Project Costs and (y) the total federal assistance provided to the Project, including the maximum principal amount of the WIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), does not exceed eighty percent (80%) of Total Project Costs;

(4) the Borrower is in compliance with NEPA and any applicable federal, state or local environmental review and approval requirements with respect to the Project, and, if requested by the WIFIA Lender, has provided evidence satisfactory to the WIFIA Lender of such compliance;

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

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

(7) the Borrower has obtained a CUSIP number for the WIFIA Loan for purposes of monitoring through EMMA;

(8) 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


(9) no Material Adverse Effect, or any event or condition that could reasonably be expected to have a Material Adverse Effect, has occurred or arisen since [February 26, 2020].

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

(x) The Borrower shall have provided evidence to the WIFIA Lender's satisfaction, no more than thirty (30) days prior to the Effective Date, of the assignment by at least two (2) Nationally Recognized Rating Agencies of a public Investment Grade Rating to the Bonds then Outstanding and any Bonds proposed to be issued for the Project (including the WIFIA Loan), along with a certification in the Closing Certificate that no such rating has been reduced, withdrawn or suspended as of the Effective Date.

(xi) 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 Net Revenues are sufficient to meet the Loan Amortization Schedule, (B) demonstrates compliance with the Rate Covenant Requirement 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.

(xii) The Borrower shall have delivered to the WIFIA Lender (A) (1) certificates of insurance or (2) if the Borrower is self-insured, a certificate of the Borrower's risk management department pertaining to the Borrower's self-insurance

program,  in each case reflecting the WIFIA Lender as an additional insured to the extent of its insurable interest, along with a certification in the Closing Certificate that such insurance certificate is true and correct and demonstrates compliance with the requirements of Section 14(f) (*Affirmative Covenants – Insurance*) 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 and documents pertaining to the Borrower's self-insurance program.

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


(xiv) 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.

(xv) 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.

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

(i) The Borrower shall have provided to the WIFIA Lender evidence satisfactory to the WIFIA Lender that (A) the aggregate amount of all disbursements of the WIFIA Loan (including the requested disbursement but excluding any interest that is capitalized in accordance with the terms hereof) shall not exceed (1) \$[348,635,000], (2) the amount of Eligible Project Costs paid or incurred by the Borrower, and (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 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 (excluding any interest that is capitalized in accordance with the terms hereof), does not exceed eighty percent (80%) of Total Project Costs.

(ii) The Borrower shall have provided an Updated Financial Model 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*) (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*)) 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 by the Borrower and by any applicable Principal Project Party in satisfaction of the conditions in Section 14(f) (*Affirmative Covenants – Insurance*) 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 shall have occurred and be continuing; (2) no event of default or default that, with the giving of notice or the passage of time or both, would constitute an event of default, in each case, under any other Related Document, shall have occurred and be continuing; and (3) no Material Adverse Effect, or any event or condition that could reasonably be expected to result in a Material Adverse Effect, shall have occurred since [February 26, 2020];

(D) (1) 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 without limitation 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); and (2) 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

(E) 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) No Material Adverse Effect, or any event or condition that could reasonably be expected to result in a Material Adverse Effect, shall have occurred since [February 26, 2020].

(v) To the extent not previously delivered to the WIFIA Lender, the Borrower shall have delivered to the WIFIA Lender copies of any Indenture Document (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 (including any amendment, 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.

(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.

ARTICLE IV REPRESENTATIONS AND WARRANTIES

Section 12. Representations and Warranties of Borrower. The Borrower hereby represents and warrants that, as of the Effective Date and, as to each of the representations and warranties below other than those contained in Section 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 political subdivision 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 all 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 (i) may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally and (ii) is subject to general principles of equity (regardless of whether enforceability is considered in equity or at law).

(d) Non-Contravention. The execution and delivery of the Related Documents to which the Borrower is a party, the consummation of the transactions contemplated by the Related Documents, and the fulfillment of or compliance with the terms and conditions of all of the Related Documents, will not (i) conflict with the Borrower's Organizational Documents, (ii) conflict in any material respect with, or constitute a material violation, breach or default (whether immediately or after notice or the passage of time or both) by the Borrower of or under, any applicable law, administrative rule or regulation, any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which the Borrower is a party or by which it or its properties or assets are otherwise subject or bound, or (iii) result in the creation or imposition of any prohibited Lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower.

(e) Consents and Approvals. No consent or approval of any trustee, holder of any indebtedness of the Borrower or any other Person, and no consent, permission, authorization, order or license of, or filing or registration with, any Governmental Authority is necessary in connection with (i) the execution and delivery by the Borrower of the Related Documents, except as have been obtained or made and as are in full force and effect, or (ii) (A) the consummation of any transaction contemplated by any 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)**, a][A]s of the Effective Date, there is no action suit, proceeding or, to the knowledge of the Borrower, any inquiry or investigation, in any case before or by any court or other Governmental Authority pending or, to the knowledge of the Borrower, threatened against or affecting the System (including the Project) or the ability of the Borrower to execute, deliver and perform its obligations under the Related Documents. As of the Effective Date and as of each other date on which the representations and warranties herein are made or confirmed, there is no action, suit, proceeding or, to the knowledge of the Borrower, any inquiry or investigation before or by any court or other Governmental Authority pending, or to the knowledge of the Borrower, threatened against or affecting the System (including the Project), the Borrower or the assets, properties or operations of the Borrower, that in any case could reasonably be expected to result in a Material Adverse Effect. To the Borrower's knowledge, there are no actions of the type described above pending or, threatened against or affecting any of the Principal Project Parties, except for matters arising after the Effective Date that could not reasonably be expected to (i) result in a Material Adverse Effect or (ii) adversely affect the Borrower's ability to receive 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 Indenture and the Bond Act establish, and (ii) the Borrower has taken all necessary action to pledge, assign, and grant, in each case to secure the Bonds (including the WIFIA Bond), 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 Indenture, irrespective of whether any Person has notice of the pledge and without the need for any physical delivery, recordation, filing, or further act, and the security interests created in the Pledged Collateral have been duly perfected under applicable State law. Such Liens are in full force and effect and are not subordinate or junior to any other Liens in respect of the Pledged Collateral except for the Permitted Liens arising by operation of law, and not *pari passu* with any obligations other than Bonds. There are no Obligations Outstanding under the Prior Lien Resolution, and the Prior Lien Resolution is closed. The Borrower is not in breach of any covenants set forth in Section 14(b) (*Affirmative Covenants – Securing Liens*) or in the Indenture 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, (A) all documents and instruments have been recorded or filed for record in such manner and in such places as are required and all other action as is necessary or desirable has been taken to establish a legal, valid, binding, and enforceable and perfected Lien on the Pledged Collateral in favor of the Trustee (for the benefit of the Secured Parties) to the extent contemplated by the Indenture and the WIFIA Loan Documents, and (B) all taxes and filing fees that are due and payable in connection with the execution, delivery or recordation of any documents related to the Indenture or any instruments, certificates or financing statements in connection with the foregoing, have been paid. Neither the attachment, perfection, validity, enforceability nor priority of the security interest in the Pledged Collateral granted pursuant to the Indenture is governed by Article 9 of the UCC. The State Cooperative Agreement is not secured by any Lien on or security interest in any portion of the Pledged Collateral and is an unsecured obligation of the Borrower.

(h) No Debarment. The Borrower has fully complied with its verification obligations under 2 C.F.R. § 180.320 and confirms, based on such verification, that, to its knowledge, neither the Borrower nor any of its principals (as defined in 2 C.F.R. § 180.995 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)(vi) (*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 all 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 without limitation 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 contractor(s) (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 without limitation 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. The WIFIA Bond and the Bonds then Outstanding have received a public Investment Grade Rating from at least two (2) Nationally Recognized Rating Agencies, written evidence of such ratings has been provided to the WIFIA Lender prior to the Effective Date, and no such rating has been reduced, withdrawn or suspended as of the Effective Date.

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

(m) Governmental Approvals. All Governmental Approvals required as of the Effective Date and any subsequent date on which this representation is made (or deemed made) for the undertaking and completion by the Borrower of the Project, and for the operation and management thereof, have been obtained or effected and are in full force and effect and there is no

basis for, nor proceeding that is pending or threatened that could reasonably be expected to result in, the revocation of any such Governmental Approval.

(n) Principal Project Contracts. Attached as **Schedule 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 executed as of 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, including any amendments or modifications thereto and any related credit support instruments or side letters. No event has occurred that gives the Borrower or, to the Borrower's knowledge, any Principal Project Party, the right to terminate any such Principal Project Contract. The Borrower is not in breach of any material term in or in default under any of such Principal Project Contracts, and to the knowledge of the Borrower no party to any of such agreements or contracts is in breach of any material term therein or in default thereunder.

(o) Information. The information furnished by, 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 to which it is a party.

(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 and the Borrower has received an opinion from an accredited actuary within the last twelve (12) months, which opinion confirms that the Borrower's self-insurance program is actuarially sound.

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

(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 as of the respective dates of the balance sheets included therein and the results of operations of the Borrower for the respective periods covered by the statements of income included therein. Except as reflected in such Financial Statements, there are no liabilities or obligations of the Borrower of any nature whatsoever for the period to which such Financial Statements relate that are required to be disclosed in accordance with GAAP.

(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 Indenture 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 any Governmental Authority.⁶

(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

⁶ Borrower to confirm.

construction of the Project and achieve Substantial Completion by the Projected Substantial Completion Date.

(x) Sovereign Immunity. The Borrower either has no immunity from the jurisdiction of any court of competent jurisdiction or from any legal process therein which could be asserted in any action to enforce the obligations of the Borrower under any of the Related Documents to which it is a party or the transactions contemplated hereby or thereby, including the obligations of the Borrower hereunder and thereunder, or, to the extent that the Borrower has such immunity, the Borrower has waived such immunity pursuant to Section 14(o) (*Affirmative Covenants – Immunity*).

(y) Patriot Act. The Borrower is not required to establish an anti-money laundering compliance program pursuant to the Patriot Act.⁷

(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).

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.

⁷ Borrower to confirm.

ARTICLE V COVENANTS

Section 14. Affirmative Covenants. The Borrower covenants and agrees as follows until the date the WIFIA Bond and the obligations of the Borrower under this Agreement (other than contingent indemnity obligations) are irrevocably paid in full in immediately available funds, unless the WIFIA Lender waives compliance in writing:

(a) Rate Covenant.

(i) The Borrower shall fix, establish, maintain and collect rates, fees, rents and charges for services of the System during each Borrower Fiscal Year which comply with the requirements specified in Section 6.13 of the Indenture, which requirements are hereby incorporated herein and a copy of such section, as of the Effective Date, is attached hereto as **Schedule VI** (*Rate Covenant*).

(ii) If the forecast furnished by the Borrower in the most recent Updated Financial Model delivered by the Borrower pursuant to Section 16(a) (*Reporting Requirements – Updated Financial Model*) demonstrates that projected Net Revenues may be inadequate to satisfy the Rate Covenant Requirement for any Borrower Fiscal Year covered by the Updated Financial Model, or if the Borrower fails to satisfy the Rate Covenant Requirement for the most recently ended Borrower Fiscal Year, the Borrower shall (A) within thirty (30) days after request by the WIFIA Lender, engage the Technical and Rate Consultant to review and analyze the operations of the System and recommend actions regarding revising the rates or changing the methods of operations, or any other actions to increase the Net Revenues so as to satisfy the Rate Covenant Requirement, (B) cause the Technical and Rate Consultant to issue its report, including any such recommended actions, no later than ninety (90) days following such engagement, and (C) either, within thirty (30) days, (1) implement the Technical and Rate Consultant's recommendation or (2) undertake an alternative course of action after demonstrating to the WIFIA Lender's satisfaction that an alternative plan will generate an equivalent or greater increase to the Net Revenues so as to satisfy the Rate Covenant Requirement.

(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 Indenture, or intended so to be granted pursuant to the Indenture, or which the Borrower may become bound to grant, and 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 Indenture, other than as permitted by this Agreement, and all organizational, regulatory or other necessary action on the part of the Borrower to that end shall be duly and validly taken at all times. The Borrower shall at all times, to the extent permitted by law, defend, preserve and protect the Liens on the Pledged Collateral granted pursuant to the Indenture and for the benefit of the WIFIA

Lender under the Indenture 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 for purposes permitted by applicable law and as otherwise permitted under this Agreement and the other Related Documents.

(d) Prosecution of Work; Verification Requirements.

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

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

(iii) The Borrower shall comply with 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. The Borrower shall (i) operate and maintain the System (including, but not limited to, the Project) (A) in a reasonable and prudent manner and (B) substantially in accordance with the Updated Financial Model most recently approved by the WIFIA Lender (except as necessary to prevent or mitigate immediate threats to human health and safety or to prevent or mitigate physical damage to material portions of the System (including the Project) and (ii) maintain the System (including the Project) in good repair, working order and condition and in accordance with the requirements of all applicable laws and each applicable Related Document. The Borrower shall at all times do or cause to be done all things necessary to obtain, preserve, renew, extend and keep in full force and effect the Governmental Approvals and any other rights, licenses, franchises, and authorizations material to the conduct of its business.

(f) Insurance.

(i) The Borrower shall at all times procure and maintain or cause to be maintained insurance on the System and the construction of the Project, with responsible insurers, or as part of a reasonable system of self-insurance that is adequately funded, in such amounts and against such risks (including damage to or destruction of the System) as are customarily maintained with respect to works and properties of like character against accident to, loss of, or damage to such works or properties. All policies of insurance required to be maintained herein shall, to the extent reasonably obtainable, provide that the WIFIA Lender shall be given thirty (30) days written notice of any intended cancellation thereof or reduction of coverage provided thereby. The Borrower shall cause each Principal

Project Party to obtain and maintain builders risk and casualty and liability insurance in accordance with the requirements of the applicable Principal Project Contract.

(ii) The Borrower shall (by self-insuring or maintaining with responsible insurers or by a combination thereof) provide for workers' compensation insurance for Borrower's workers and insurance against public liability and property damage to the System (including the Project) to the extent reasonably necessary to protect the Borrower and the WIFIA Lender.

(iii) The Borrower shall cause all liability insurance policies that it maintains (and, during the Construction Period, that are maintained by any Principal Project Party), other than workers' compensation insurance and other than self-insurance, to reflect the WIFIA Lender as an additional insured to the extent of its insurable interest.

(iv) 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.

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

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

(h) System Accounts; Investment Securities.

(i) The Borrower shall maintain the Revenue Fund and all other System Accounts in accordance with the terms hereof and the Indenture. All Revenues received shall be deposited into the Revenue Fund when and as received in trust for the benefit of the holders of the Obligations, subject to the application of Revenues to Operation and Maintenance Costs of the System.

(ii) The Borrower shall use Revenues to pay for Capital Expenditures, including any costs of capital improvements to the System, solely following deposit in the Renewal and Replacement Fund in accordance with Section 5.08 of the Indenture or as otherwise specified in Section 5.05(b) of the Indenture. The Borrower shall not otherwise pay or treat any Capital Expenditure as an Operation and Maintenance Cost.

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

(i) 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 without limitation 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 contractor(s) (1) shall comply with all applicable laws, rules, regulations, and requirements set forth in this Section 14(i) 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(i) (including without limitation with respect to the Davis-Bacon Act requirements).

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

(k) Variable Rate Bonds.

(i) As a condition to the issuance of any Bonds that are to bear interest at a Variable Interest Rate, to the extent that such issuance would cause the principal amount of all Outstanding Variable Rate Bonds to exceed twenty-five percent (25%) of the principal amount of all Outstanding Bonds, the Borrower shall enter into a Qualified Hedge with respect to such Bonds, with an aggregate stated notional amount of at least ninety-eight percent (98%) and not more than one hundred two percent (102%) of the aggregate principal amount of such Bonds projected to be Outstanding, and shall maintain such Qualified Hedge in place until (and such Qualified Hedge shall not have a stated maturity or termination date earlier than) the earliest to occur of (i) the date on which such Bonds no longer bear interest at a Variable Interest Rate, (ii) the date on which the aggregate principal amount of all Outstanding Variable Rate Bonds no longer exceeds twenty-five percent (25%) of the aggregate principal amount of all Outstanding Bonds, (iii) the date such Bonds have been repaid in full in cash and (iv) the Final Maturity Date. Each such

Qualified Hedge shall have a payment profile that is reasonably consistent with the expected draw and repayment schedule of such Bonds.

(ii) Each Qualified Hedge required under this Section 14(k) shall provide for a fixed interest rate resulting in fixed payment amounts payable by the Borrower to the Qualified Hedge Provider. The Borrower's obligations to pay any Hedging Obligations shall be payable pursuant to Section 5.05 of the Indenture with the priority specified for, or on a basis subordinate to the priority specified for, the Obligations with respect to which such Hedging Transaction is entered into. The Borrower's obligations to pay any Hedging Termination Obligations shall be payable pursuant to Section 5.05 of the Indenture at the payment priority specified in Section 5.05(b) of the Indenture. The Borrower shall ensure that, as of the date following the termination date of any Qualified Hedge required under this Section 14(k) that for any reason terminates before the earliest to occur of (i) the maturity date of the Variable Rate Bonds subject to such Qualified Hedge, (ii) the date on which the aggregate principal amount of all Outstanding Variable Rate Bonds no longer exceeds twenty-five percent (25%) of the aggregate principal amount of all Outstanding Bonds and (iii) the Final Maturity Date, then (A) a new Qualified Hedge is in full force and effect commencing no later than the termination date of the Qualified Hedge that is terminating or (B) the Variable Rate Bonds have been converted to a fixed rate, in each case in accordance with this Agreement and the Indenture.

(iii) The Borrower shall neither terminate (other than Permitted Hedging Terminations), transfer, nor consent to any transfer (other than to a Qualified Hedge Provider) of any existing Qualified Hedge without the WIFIA Lender's prior written consent as long as the Borrower is required to maintain a Qualified Hedge pursuant to this Agreement.

(iv) With respect to any Qualified Hedge required under this Section 14(k), if at any time a Hedging Bank no longer satisfies the requirements for a Qualified Hedge Provider, the Borrower shall, within ten (10) days (or such lesser number of days required by the applicable Hedging Agreement, including any credit support annex thereto) of the date on which such Hedging Bank failed to qualify as a Qualified Hedge Provider, either (A) cash collateralize the mark-to-market value of the Hedging Termination Obligations (in accordance with the credit support annex or similar requirements of the applicable Hedging Agreement) or provide a guarantee for such amount from an entity with an Acceptable Credit Rating, or (B) cause such disqualified Hedging Bank to be replaced by a Qualified Hedge Provider, whether by means of a transfer of the disqualified Hedging Bank's Hedging Agreement to a Qualified Hedge Provider or by means of a termination of such disqualified Hedging Bank's Hedging Agreement and replacement thereof by a Hedging Agreement with a Qualified Hedge Provider on terms and conditions that satisfy the requirements of this Section 14(k); provided, that if the disqualified Hedging Bank's highest credit rating from any Nationally Recognized Rating Agency is less than 'A-', 'A3' or the equivalent, clause (A) shall not apply and the Borrower shall be required to cause such disqualified Hedging Bank to be replaced by a Qualified Hedge Provider pursuant to clause (B).]

(l) SAM Registration. The Borrower shall (i) obtain 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) prior to the Effective Date and provide such registration information to the WIFIA Lender and (ii) within sixty (60) days prior to each anniversary of the Effective Date until the Final Disbursement Date, provide to the WIFIA Lender evidence of such active registration status with no active exclusions reflected in such registration.

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

(n) Events of Loss; Loss Proceeds. If an Event of Loss shall occur with respect to the System (including the Project) or any part thereof, the Borrower shall (i) diligently pursue all of its rights to compensation against all relevant insurers, reinsurers and Governmental Authorities, as applicable, in respect of such Event of Loss and (ii) apply all Net Loss Proceeds in respect of such Event of Loss to repair, reconstruct, and/or replace the portion of the System in respect of which the applicable Loss Proceeds were received. The Borrower shall begin such repair, reconstruction or replacement promptly after such damage or destruction shall occur, and shall continue and properly complete such repair, reconstruction or replacement as expeditiously as possible, and shall pay out of such Loss Proceeds all costs and expenses in connection with such repair, reconstruction or replacement so that the same shall be completed and the System shall be free and clear of all claims and Liens. If such Net Loss Proceeds exceed the costs of such repair, reconstruction or replacement, then the excess Net Loss Proceeds shall be deposited in the Revenue Fund and be available for other proper uses of funds deposited in the Revenue Fund. If such Net Loss Proceeds are insufficient to enable the Borrower to restore or replace the damaged portions of the System, the Borrower shall provide additional funds for that purpose.

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

(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, 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 (i) 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 (ii) 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.

Section 15. Negative Covenants. The Borrower covenants and agrees as follows until the date the WIFIA Bond and the obligations of the Borrower under this Agreement (other than contingent indemnity obligations) are irrevocably paid in full in immediately available funds, unless the WIFIA Lender waives compliance in writing:

(a) Indebtedness.

(i) Except for Permitted Indebtedness, the Borrower shall not without the prior written consent of the WIFIA Lender issue or incur any Obligation or indebtedness of any kind payable from, secured or supported by the Pledged Collateral; provided, that the Borrower shall not incur any Obligation or indebtedness of any kind payable from, secured or supported by the Pledged Collateral, including Permitted Indebtedness, without the prior written consent of the WIFIA Lender, while an Event of Default has occurred and is continuing.

(ii) The Borrower may not create, incur or suffer to exist (A) any Obligations the payments of which are senior or prior in right to the payment by the Borrower of the Bonds, (B) any Obligations the payments of which are *pari passu* in right of payment by the Borrower of the Bonds or (C) any indebtedness of any kind incurred in respect of the Project that are secured by a Lien on any assets or property of the Borrower other than the Pledged Collateral.

(iii) The Borrower shall not issue or incur any Additional Bonds except in accordance with all requirements and conditions set forth in Section 2.02, Section 2.03, Section 2.04, Section 2.05 and Section 2.06 of the Indenture, which requirements and conditions are hereby incorporated herein and a copy of each such section, as of the Effective Date, is attached hereto as **Schedule VII** (*Additional Bonds Test*). Notwithstanding the foregoing or the provisions of Section 2.03(d)(2) of the Indenture, the Borrower shall not issue or incur any Additional Bonds pursuant to or in reliance on Section 2.03(d)(2) of the Indenture without satisfaction of the provisions of Section 2.03(c)(3) of the Indenture except with the prior written consent of the WIFIA Lender.

(iv) The Borrower shall not create, incur or suffer to exist any Obligation that is subordinate to the WIFIA Bond or other Bonds without the prior written consent of the WIFIA Lender, unless such indebtedness satisfies the requirements under the definition of “Subordinate Obligations” hereunder; provided that no issuing document or resolution pursuant to which such Subordinate Obligation is issued or incurred shall contain a right to accelerate without the consent of all of the Bondholders of the Bonds.

(v) Upon the incurrence of any Additional Bonds or Subordinate Obligations, the Borrower shall provide to the WIFIA Lender a certificate signed by the Borrower’s Authorized Representative, (A) specifying the closing date with respect to such proposed Additional Bonds or Subordinate Obligations, as applicable, and (B) confirming that the incurrence of such proposed Additional Bonds or Subordinate Obligations, as applicable, is authorized pursuant to, and satisfies the conditions in, this Section 15(a) and satisfies the applicable requirements under the Indenture Documents.

(b) No Lien Extinguishment or Adverse Amendments. The Borrower shall not, and shall not permit any Person to, without the prior written consent of the WIFIA Lender, (i) extinguish or lower the Rate Covenant Requirement; (ii) extinguish or impair the Liens on the Pledged Collateral or any dedicated source of repayment of the WIFIA Loan or any other Obligations (the proceeds of which are applied to fund Total Project Costs), in each case granted pursuant to the Indenture, (iii) amend, modify, replace or supplement any Related Document or permit a waiver of any provision thereof in a manner that could adversely affect the WIFIA Lender or could reasonably be expected to result in a Material Adverse Effect, or (iv) terminate, assign or replace any Related Document (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.

(c) No Prohibited Liens. Except for Permitted Liens, the Borrower shall not create, incur, assume or permit to exist any Lien on the Project, the Pledged Collateral, the Revenues, or the Borrower's respective rights therein.

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

(e) No Prohibited Sale, Lease or Assignment. The Borrower shall not sell, lease or assign its rights in and to the System, a substantial portion of the assets included in the System, or its rights and obligations under any Principal Project Contract, in each case unless such sale, lease or assignment (i) could not reasonably be expected to have a Material Adverse Effect and (ii) is made by the Borrower in the ordinary course of business.

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

(g) Mergers and Acquisitions. The Borrower shall not, and shall not agree to, reorganize, consolidate with or merge into another Person unless (i) such reorganization, merger or consolidation is with or into another entity established by State law and such reorganization, merger or consolidation is mandated by State law, and in each case, does not adversely affect or impair to any extent or in any manner (A) the Revenues or other elements of the Pledged Collateral or (B) the availability of the Revenues for the payment and security of the obligations of the Borrower under this Agreement; and (ii) the Borrower provides to the WIFIA Lender, no later than sixty (60) days prior to the date of reorganization, consolidation or merger, prior written notice of such reorganization, consolidation or merger and the agreements and documents authorizing the reorganization, consolidation or merger, satisfactory in form and substance to the WIFIA Lender. In addition, the Borrower shall provide all information concerning such reorganization, consolidation or merger as shall have been reasonably requested by the WIFIA Lender.

(h) No Defeasance. Notwithstanding anything to the contrary in the Indenture or document related thereto, 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.

(i) Hedging. The Borrower shall not enter into any Hedging Transaction with respect to or payable from the Revenues for any speculative purpose. The Borrower shall not create, incur, assume or permit to exist any Lien on the Pledged Collateral securing payment of any Hedging Obligations except a Lien on the Revenues on a parity with or on a basis subordinate in all respects to the pledge of and lien thereon securing the Obligations with respect to which such Hedging Transaction is entered into. The Borrower shall not create, incur, assume or permit to exist any Lien on the Pledged Collateral securing payment of any Hedging Termination Obligations except a Lien on the Revenues on a basis subordinate in all respects to all other Obligations and payable at the payment priority specified in Section 5.05(b) of the Indenture.

Section 16. Reporting Requirements.

(a) Updated Financial Model.

(i) The Borrower shall provide to the WIFIA Lender as soon as available, but no later than thirty (30) days after delivery of the annual audited financial statements required under Section 16(b) (*Reporting Requirements — Annual Financial Statements*), an updated Base Case Financial Model reflecting the then-current and projected conditions for a period not less than the lesser of (A) the duration of the Borrower's then-current adopted five-year capital improvement plan period for the System and (B) the remaining term of the WIFIA Loan.

(ii) The Updated Financial Model shall demonstrate to the satisfaction of the WIFIA Lender that the Borrower has developed and identified adequate revenues to implement a plan for operating, maintaining and repairing the Project over its useful life, and shall include: (A) the Borrower's capital improvement plan, major maintenance plan, projected rates and charges, projected debt outstanding and annual debt service, projected operation and maintenance costs of the System; (B) evidence of compliance with the Rate Covenant Requirement for the most recent Borrower Fiscal Year and the projected Rate Covenant Requirement coverages through the period covered by the Updated Financial Model in accordance with this Section 16(a); (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 Requirement through the period covered by the Updated Financial Model in accordance with this Section 16(a), and (3) the Borrower is in compliance with its obligations in respect of the Rate Covenant Requirement pursuant to Section 14(a) (*Affirmative Covenants — Rate Covenant*).

(iii) The Borrower represents and warrants 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 revenues or charges (if applicable), Revenues, operating and maintenance 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:

(i) a copy of the audited income statement and balance sheet of the Borrower as of the end of such Borrower Fiscal Year and the related audited statements of operations and of cash flow of the Borrower for such Borrower Fiscal Year, (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 chief executive officer or chief financial officer of the Borrower or 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;

provided, that the failure of the Borrower to deliver to the WIFIA Lender the annual audited financial statements required under this Section 16(b) during the period that is one hundred eighty (180) days after the end of the applicable Borrower Fiscal Year shall not constitute a Default or an Event of Default, so long as the Borrower provides such annual audited financial statements within thirty (30) days after the end of such period.

(c) Final Design Specifications. The Borrower shall deliver to the WIFIA Lender, no later than thirty (30) days prior to (i) any bid advertisement related to the Project, a copy of the final specifications relating to the development and construction of the Project, and (ii) any notice to proceed for the Project, a copy of the executed construction contract related to such notice to proceed and the final Project specifications.

(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 K** (*Form of Quarterly Report*). The report shall be executed by the Borrower's Authorized Representative and, for any quarter, shall be delivered to the WIFIA Lender within thirty (30) 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 that the new date could not reasonably be expected to result in a Material Adverse Effect. The Projected Substantial Completion Date shall automatically be adjusted to the date specified by the Borrower in its report unless the WIFIA Lender objects to the adjustment in writing to the Borrower within sixty (60) days following receipt of the Borrower's report on the basis that the Borrower's report does not demonstrate the matters specified in this Section 16(d).

(e) Public Benefits Report. The Borrower shall deliver to the WIFIA Lender a report, in the form of **Exhibit L** (*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 [five percent (5%)], 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 after the Borrower learns of the occurrence, give the WIFIA Lender notice of any of the following events or receipt of any of the following notices, as applicable, setting forth details of such event:

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

(B) 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, against the Borrower before any arbitrator, Governmental Authority, alternative dispute resolution body, or other neutral third-party, or the receipt by the Borrower in writing of any threat of litigation, suit, action, or proceeding, or of any written claim against the Borrower that, in each case, could reasonably be expected to have a Material Adverse Effect, and any material changes in the status of such litigation, suit, action or claim, and (2) any judgments against the Borrower with award amounts in excess of \$[____], either individually or in the aggregate;

(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: any material amendment of any Related Document, subject to Section 16(j) (*Reporting Requirements – Amendments*); provided, that such notice can be accomplished through an email to the WIFIA Lender that includes a link to the posting of the relevant documents on EMMA;

(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 an email to the WIFIA Lender that includes a link to the posting of the relevant documents on EMMA;

(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 Bonds, the WIFIA Loan or any Subordinate Obligations, in each case 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 an email to the WIFIA Lender that includes a link to the posting of the relevant documents on EMMA;

(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) Additional Principal Project Contracts: the execution of any Additional Principal Project Contract, which notice shall include copies of any such contracts (together with any related contracts, side letters or other understandings);

(L) Issuance of Obligations: the issuance or incurrence of any Obligation, which notice shall include copies of any final issuing instrument (together with any continuing disclosure documents, ordinances, official statement, certifications or cash flow projections in connection therewith), prepared in connection with the issuance or incurrence of any such Obligation; provided that such notice can be accomplished through an email to the WIFIA Lender that includes a link to the posting of the relevant documents on EMMA;

(M) Postings on EMMA: the posting of any document on EMMA in accordance with the requirements of any Continuing Disclosure Agreement 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 an email to the WIFIA Lender that includes a link to the posting of the relevant document on EMMA;

(N) Other Adverse Events: the occurrence of any other event or condition, including without limitation 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;

(O) Draws on Debt Service Reserve Account: the occurrence of any draws on the Debt Service Reserve Account to fund payments of interest on or principal of any Bonds or Repayment Obligations when due; and

(P) Approval of Rate Increases. any failure of the Council to approve or consider annual rate increases contemplated by or necessary to satisfy the Rate Covenant Requirement prior to the beginning of the Borrower Fiscal Year for which such annual rate increases are applicable.

(ii) Within thirty (30) calendar 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*) or (I) (*Ratings Changes*) (in the case of a ratings upgrade), (K) (*Additional Principal Project Contracts*), (L) (*Issuance of Obligations*), and (M) (*Postings on EMMA*)), the Borrower's Authorized Representative shall provide a

statement to the WIFIA Lender setting forth the actions the Borrower proposes to take with respect thereto. 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 Project or the Revenues as the WIFIA Lender may from time to time reasonably request.

(j) Amendments. The Borrower shall furnish to the WIFIA Lender, except as otherwise agreed by the WIFIA Lender in writing, copies of (1) any proposed amendments to the provisions or definitions of the Indenture included in **Schedule V** (*Flow of Funds*), **Schedule VI** (*Rate Covenant*) and **Schedule VII** (*Additional Bonds Test*) or referenced in Section 1 (*Definitions*) at least thirty (30) days prior to the effective date thereof and (2) copies of fully executed amendments of any Related Document within ten (10) days following execution thereof.

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 (i) 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 (ii) 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, the WIFIA Bond 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 Requirement), 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, however, 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 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 from the date on which the Borrower first became aware (or reasonably should have become aware) of such misrepresentation.

(iv) Acceleration of Bonds. Any acceleration shall occur of the maturity of any Bond, or any such Bond shall not be paid in full upon the final maturity thereof.

(v) Cross Default with Other Financing Documents. Any default shall occur in respect of the performance of any covenant, agreement or obligation of the Borrower under the Related Documents (other than the Principal Project Contracts), and such default shall be continuing after the giving of any applicable notice and the expiration of any applicable grace period specified in the Related Documents (other than the Principal Project Contracts) (as the case may be) with respect to such default, and the Borrower shall have failed to cure such default or to obtain an effective written waiver thereof in accordance with the terms thereof.

(vi) Material Adverse Judgment. Any final, non-appealable judgment related to the Revenues, the System or the Project shall be entered against the Borrower which has a Material Adverse Effect.

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

(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, 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 Indenture 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 Trustee or any Secured Party, and with the priority purported to be created thereby; or (C) any event occurs that results in the material impairment in the perfection or priority of the WIFIA Lender's security interest in the Pledged Collateral or in the value of such Pledged Collateral.

(ix) Failure to Satisfy Rate Covenant. The Borrower fails to satisfy the Rate Covenant Requirement 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, however, 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 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 Bonds (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, (i) 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, and (ii) the WIFIA Loan (and the related WIFIA Bond) shall be subject to mandatory prepayment as set forth in Section 9(a) (*Prepayment – Mandatory Prepayment Upon a Bankruptcy Related Event*). Following the occurrence of a

Bankruptcy Related Event, the WIFIA Lender shall have the right to inspect any and all records related to transfers of funds to and from the System Accounts, and the Borrower shall deliver to the WIFIA Lender (or give the WIFIA Lender access to) any such records as the WIFIA Lender may request so as to permit the WIFIA Lender to determine that the Borrower is treating the WIFIA Loan as a Bond in all respects, including in respect of priority of payments.

(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 cease permitting interest on the WIFIA Loan to be capitalized;

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

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

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

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

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 shall in any event be effective without the 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 nor any interest 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 reserved to the WIFIA Lender is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

Section 29. Delay or Omission Not Waiver. No delay or omission of the WIFIA Lender to exercise any right or remedy provided hereunder upon a default of the Borrower (except a delay or omission pursuant to a written waiver) shall impair any such right or remedy or constitute a waiver of any such default or acquiescence therein. Every right and remedy given by this Agreement or by law to the WIFIA Lender may be exercised from time to time, and as often as may be deemed expedient by the WIFIA Lender.

Section 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 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: Salt Lake City Department of Public Utilities
1530 South West Temple
Salt Lake City, Utah 84115
Attention: Executive Director of Public Utilities
Email: [_____]

If to Trustee: U.S. Bank National Association, as Trustee
170 South Main Street, Suite 200
Salt Lake City, Utah 84101
Attention: Corporate Trust Services

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 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, the WIFIA Bond 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 Indemnatee, 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 Bond, the enforcement of any provision of this Agreement or the other Related Documents, any amendments, waivers (other than amendments or waivers in writing with respect to this Section 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. However, 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, however, 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 not (x) obligate the WIFIA Lender to sell nor (y) provide the Borrower with any rights or remedies in the event the WIFIA Lender, for any reason, does not sell the WIFIA Loan.

Section 34. Effectiveness. This Agreement shall be effective on the Effective Date.

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

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

SALT LAKE CITY CORPORATION,
by its authorized representative

By: _____
Name:
Title:

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

By: _____
Name: Andrew R. Wheeler
Title: Administrator

SCHEDULE I
PROJECT BUDGET⁸

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		

⁸ To be completed by Borrower.

SCHEDULE II
CONSTRUCTION SCHEDULE

*[To be provided by Borrower]*⁹

⁹ The schedule should clearly specify the projected substantial completion date, which should match up with the WLA's definition of "Projected Substantial Completion Date" and also be reflected accordingly in the Base Case Financial Model.

SCHEDULE III
EXISTING INDEBTEDNESS¹⁰

A. Bonds

	Agreement/Series	Outstanding Principal¹¹
1.	Series 2009 Bonds, issued pursuant to the 4th Supplemental Indenture, dated 11/1/2009, maturing on 2/1/2031	\$3,465,000
2.	Series 2010 Bonds, issued pursuant to the 5th Supplemental Indenture, dated 10/1/2010, maturing on 2/1/2031	7,110,000
3.	Series 2011 Bonds, issued pursuant to the 6th Supplemental Indenture, dated 10/1/2011, maturing on 2/1/2027	3,805,000
4.	Series 2012 Bonds, issued pursuant to the 7th Supplemental Indenture, dated 12/1/2012, maturing on 2/1/2027	11,155,000
5.	Series 2017 Bonds, issued pursuant to the 8th Supplemental Indenture, dated 03/1/2017, maturing on 2/1/2037	69,705,000

B. Subordinate Obligations

	Agreement/Series	Outstanding Principal¹²
1.	[]	
2.		
3.		
4.		
5.		

C. Unsecured Obligations

	Agreement/Series	Outstanding Principal¹³
1.	[]State Loan Repayment, maturing on FY 2021	\$2,125,000
2.		
3.		
4.		
5.		

¹⁰ To be completed by Borrower.

¹¹ As of Effective Date

¹² As of Effective Date

¹³ As of Effective Date

SCHEDULE IV

WIFIA PAYMENT INSTRUCTIONS

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. 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](#).
2. 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
3. Follow the remaining on-screen instructions to successfully process the payment to EPA.
4. Send an email to OCFO-OC-ACAD-WIFIA@epa.gov and wifia_portfolio@epa.gov informing that a payment has been made.

Option 2 FEDWIRE

Wire transfers made through FedWire are an alternative electronic wire transfer initiated between the borrower and its organization's financial institution (bank) and EPA. FedWire is typically used to initiate financial institution (bank) generated "same day" electronic payments.

Borrowers 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 a Federal Reserve Bank (FRB) must use the services of correspondent banks that do have an FRB account. 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.

Option 3 CHECK PAYMENTS (Not allowed for payment of Principal or Interest)

1. Send checks to:


USPS Mailing Address	Courier Address (e.g., FEDEX, UPS)
Laura Collier	Courier Address
USEPA Headquarters	Laura Collier
William Jefferson Clinton Building	Ronald Reagan Building
1200 Pennsylvania Avenue, N. W.	1300 Pennsylvania Ave., N.W.
Mail Code: 2733R	Rm # 81164
Washington, DC 20460	Washington, DC 20004
2. Provide the following information on your check payment to ensure proper credit please:
 - Company/remitter's name (borrower name as it appears on EPA document)
 - Complete address, including city, state, zip

- Remitter's point of contact person and phone number
 - EPA WIFIA Loan # (NOT the remitter's number)
 - Payment Type/Reason for payment from the Fee Notice letter
 - Reference number from the Fee Notice letter.
3. Send an email to OCFO-OC-ACAD-WIFIA@epa.gov and wifia_portfolio@epa.gov informing that a payment has been submitted.

NOTES:

1. *When checks are provided as payment, you authorize the EPA to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. When the EPA uses information from your check to make an electronic fund transfer, funds may be withdrawn from your account as soon as the same day we receive your payment, and you will not receive your check back from your financial institution.*
2. *As of the Effective Date, EPA is temporarily unable to accept paper checks due to the COVID-19 response. Prior to sending any paper check, contact EPA to determine whether paper checks are acceptable for payment at the 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 021030004	TYPE 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	<p>To ensure proper credit please include the following information on your payment:</p> <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.)
*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.	

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

SCHEDULE V

FLOW OF FUNDS

All terms used in this Schedule V shall have the meaning assigned to such terms as provided in the Indenture. All section references used in this Schedule V shall be references to the appropriate section in the Indenture. All references to this Indenture in this Schedule V shall be references to the Indenture.

Section 5.05. Flow of Funds. (a) On or before the fourth Business Day prior to the end of each month, after payment of unpaid Operation and Maintenance Costs then due, the City shall transfer from the Revenue Fund, to the extent of moneys available therein, and deposit, in the following order:

- (1) [Reserved], and
- (2) into the following Funds and Accounts, the amounts set forth below:

(A) Into the Principal and Interest Fund:

(i) for credit to the Bond Service Account, the amount, if any, required so that the balance in each of the Series Subaccounts in the Bond Service Account shall equal the Accrued Debt Service on the Series of Bonds and, to the extent required by the Supplemental Indenture creating such Series Subaccount, on any Security Instrument Obligations for which such Series Subaccount was established; provided that if there are not sufficient moneys to satisfy the requirements of this subsection (A) with respect to all Series Subaccounts in the Bond Service Account, all moneys available for distribution among such Series Subaccounts shall be deposited into the Bond Service Account and distributed on a pro rata basis to the deficient Series Subaccounts in the Bond Service Account, such distribution to be determined by multiplying the amount available for distribution by the proportion that the deficiency for each Series Subaccount bears to the total deficiency for all Series Subaccounts; and provided further, that in the event and to the extent moneys have been deposited in any Project Account pursuant to Section 2.03(b)(2), such moneys shall be transferred from the appropriate Project Account and deposited into the appropriate Series Subaccount in the Bond Service Account in an amount sufficient to cause the balance in such Series Subaccount to equal the interest component of Accrued Debt Service on the Series of Bonds; and

(ii) for credit to the Debt Service Reserve Account, without priority or preference as between subsections (A) or (B):

(A) if, after the issuance of a Series of Bonds, an amount equal to the Debt Service Reserve Requirement is not on deposit in the Series Subaccount established in the Debt Service Reserve Account for such Series of Bonds because sufficient moneys for that purpose were not required by a Supplemental Indenture to be deposited into the Debt Service Reserve Account

pursuant to the provisions of Section 2.02(a)(10), such amount as shall be required by the Supplemental Indenture authorizing such Series of Bonds, in not to exceed sixty (60) approximately equal monthly installments commencing no later than the business day immediately preceding the first interest payment date of such Series of Bonds, computed as of the contemplated date of issuance of such Series of Bonds, necessary to cause the balance in such Series Subaccount to equal the Debt Service Reserve Requirement;

(B) if moneys shall ever have been paid out of any Series Subaccount in the Debt Service Reserve Account for the purpose specified in Section 5.07(b) or if for any other reason moneys in any Series Subaccount in the Debt Service Reserve Account shall have been removed and in either case if such moneys shall not have been replaced from any source, such amount as shall be necessary to cause either the amount so paid out of or removed from such Series Subaccount in the Debt Service Reserve Account to be replaced, or the amount to be on deposit in such Series Subaccount to be equal to the Debt Service Reserve Requirement attributable to the corresponding Series of Bonds, whichever is less; and

(C) with respect to a Series of Bonds for which a Debt Service Reserve Requirement has been established pursuant to a Supplemental Indenture and for which the Debt Service Reserve Requirement has been increased because of a decline in the amount by which Net Revenues exceeded Aggregate Debt Service, such amount, in monthly installments, as shall be required by the Supplemental Indenture authorizing such Series of Bonds to cause the balance in such Series Subaccount to equal the Debt Service Reserve Requirement then existing for such Series of Bonds;

provided that if there are not sufficient moneys in the Revenue Fund to satisfy the requirements of this subsection (ii), all moneys available for distribution among the Series Subaccounts in the Debt Service Reserve Account shall be deposited into the Debt Service Reserve Account and distributed pro rata based on the amount of the deficiencies to the deficient Series Subaccounts in the Debt Service Reserve Account.

(B) Into the Renewal and Replacement Fund:

(i) if the Renewal and Replacement Fund Reserve Requirement shall ever be increased in accordance with the provisions of paragraph (d) of Section 5.08, the amount specified in a Written Certificate of the City identifying a schedule of sixty (60) approximately equal monthly deposits into the Renewal and Replacement Fund sufficient to cause the balance in the Renewal and Replacement Fund to equal the increased Renewal and Replacement Fund Reserve Requirement as required in paragraph (d) of Section 5.08; and

(ii) if moneys shall ever have been paid out of the Renewal and Replacement Fund and shall not have been replaced from any source, the amount of money necessary, in not to exceed one hundred twenty (120) approximately equal monthly installments, to cause the amount so paid out of the Renewal and Replacement Fund to be replaced, or to cause to be on deposit in the Renewal and Replacement Fund an amount equal to the Renewal and Replacement Fund Reserve Requirement, whichever is less;

provided, however, that so long as there shall be held in the Principal and Interest Fund, excluding any Reserve Instrument Coverage, an amount sufficient to pay in full all Outstanding Bonds and all outstanding Repayment Obligations in accordance with their terms (including Principal or applicable sinking fund Redemption Price and interest thereon), no deposits shall be required to be made into the Principal and Interest Fund.

(b) Amounts remaining in the Revenue Fund at the end of each month after payment of the amounts required by subsection (a) of this Section may be applied by the City, free and clear of the lien of the Indenture, to any one or more of the following, to the extent permitted by law: (1) the purchase or redemption of any Bonds and payment of expenses in connection therewith; (2) payments of principal or redemption price of and interest on any bonds, including general obligation or junior lien revenue bonds of the City, issued to acquire improvements or extensions to the System; (3) payments into any Project Account or Accounts established in the Construction Fund for application to the purposes of such Accounts; (4) payment of the costs of capital improvements to the System; and (5) any other lawful purpose of the City.

(c) Upon any purchase or redemption, pursuant to subsection (b) of this Section, of Bonds of any Series and maturity for which Sinking Fund Installments shall have been established, the principal amount of such Bonds shall be credited toward such Sinking Fund Installments in such order of their due dates as directed by the City, unless the City shall elect to have the Sinking Fund Installments next due credited as provided in Section 5.06(c).

Section 5.06. Principal and Interest Fund - Bond Service Account. (a) Each Supplemental Indenture providing for the issuance of a Series of Bonds shall establish a separate Series Subaccount in the Bond Service Account for each such Series of Bonds issued *provided, however*, that such a separate Series Subaccount need not be established in the Principal and Interest Fund for a Series of Bonds if such Series of Bonds is secured by Series Subaccount in the Debt Service Reserve Account that also secures one or more other Series of Bonds as contemplated by Section 5.07(a) (in which case the Supplemental Indenture may provide for the payment of principal and interest on such Series of Bonds from the same Series Subaccount in the Principal and Interest Fund as the principal and interest on such other Series of Bonds are payable from). There shall be deposited into each Series Subaccount the amounts required to be so deposited pursuant to Section 5.05(a)(A)(i). Any payments made by a Security Instrument Issuer with respect to a Series of Bon shall be deposited into the Series Subaccount in the Bond Service Account relating to such Series of Bonds, subject to the provisions of the Supplemental Indenture authorizing the issuance of such Series of Bonds.

(b) The Trustee shall pay out of the appropriate Series Subaccount in the Bond Service Account to the respective Paying Agent (1) on or before each interest payment date for each Series of Bonds, the amount required for the interest payable on such date; (2) on or before each Principal Installment due date, the amount required for the Principal Installment payable on such due date; and (3) on or before any redemption date for each Series of Bonds, the amount required for the payment of Redemption Price of and accrued interest on such Bonds then to be redeemed. Such amounts shall be applied by the Paying Agents to pay Principal Installments and Redemption Price of, and interest on the related Series of Bonds. The Trustee shall pay out of the appropriate Series Subaccount in the Bond Service Account to the Security Instrument Issuer, if any, that has issued a Security Instrument with respect to such Series of Bonds an amount equal to any Security Instrument Repayment Obligation then due and payable to such Security Instrument Issuer. If payment is so made on Pledged Bonds held for the benefit of the Security Instrument Issuer, a corresponding payment on the Security Instrument Repayment Obligation shall be deemed to have been made (without requiring an additional payment by the City) and the Trustee shall keep its records accordingly.

(c) Except as otherwise provided in a Supplemental Indenture authorizing a Series of Bonds, amounts accumulated in any Series Subaccount in the Bond Service Account with respect to any Sinking Fund Installment (together with amounts accumulated therein with respect to interest on the Bonds for which such Sinking Fund Installment was established) shall, if so directed by the City in a Written Request not less than 30 days before the due date of such Sinking Fund Installment, be applied by the Trustee to (1) the purchase of Bonds of the Series and maturity for which such Sinking Fund Installment was established, (2) the redemption at the applicable sinking fund Redemption Price of such Bonds, if then redeemable by their terms, or (3) any combination of (1) and (2). All purchases of any Bonds pursuant to this subsection (c) shall be made at prices not exceeding the applicable sinking fund Redemption Price of such Bonds plus accrued interest, and such purchases shall be made in such manner as the City shall direct the Trustee. The applicable sinking fund Redemption Price (or Principal amount of maturing Bonds) of any Bonds so purchased or redeemed shall be deemed to constitute part of the Bond Service Account until such Sinking Fund Installment date for the purpose of calculating the amount of such Account. As soon as practicable after the 60th day preceding the due date of any such Sinking Fund Installment, the Trustee shall proceed to call for redemption on such due date, by giving notice as required by the Indenture, Bonds of the Series and maturity for which such Sinking Fund Installment was established (except in the case of Bonds maturing on a Sinking Fund Installment date) in such amount as shall be necessary to complete the retirement of the unsatisfied balance of such Sinking Fund Installment. The Trustee shall pay out of the appropriate Series Subaccount in the Bond Service Account to the appropriate Paying Agents, on or before such redemption date (or maturity date), the amount required for the redemption of the Bonds so called for redemption (or for the payment of such Bonds then maturing), and such amount shall be applied by such Paying Agents to such redemption (or payment). All expenses in connection with the purchase or redemption of Bonds shall be paid by the City as an Operation and Maintenance Cost.

Section 5.07 Principal and Interest Fund - Debt Service Reserve Account. (a) Each Supplemental Indenture providing for the issuance of a Series of Bonds may establish in the Debt Service Reserve Account a separate Series Subaccount for each such Series of Bonds issued and, if established, shall specify the Debt Service Reserve Requirement to be on deposit in such Series Subaccount.

(b) If on the third Business Day prior to the end of any month, after the deposit of moneys required by Section 5.05(a)(A)(i) the amount in any Series Subaccount in the Bond Service Account shall

be less than the amount required to be in such Series Subaccount, the Trustee shall (1) apply amounts from the corresponding Series Subaccount, if any, in the Debt Service Reserve Account to the extent necessary to make good the deficiency; and (2) to the extent that moneys and investments available in the corresponding Series Subaccount, if any, in the Debt Service Reserve Account are not sufficient to eliminate the deficiency in the Series Subaccount in the Bond Service Account and Reserve Instruments are in effect for the corresponding Series of Bonds, immediately make a demand for payment on all such Reserve Instruments, to the maximum extent authorized by such Reserve Instruments, in the amount necessary to make up such deficiency, and immediately deposit such payment upon receipt thereof in the appropriate Series Subaccount in the Bond Service Account.

(c) Whenever the moneys on deposit in a Series Subaccount in the Debt Service Reserve Account, including investment earnings and Reserve Instrument Coverage with respect thereto, shall exceed the Debt Service Reserve Requirement for such Series Subaccount, such excess shall be transferred by the Trustee to the corresponding Series Subaccount in the Bond Service Account and shall be used to pay Debt Service on the related Bonds, subject to any limitations contained in the Tax Certificate relating to such Bonds.

(d) Whenever the amount in a Series Subaccount in the Debt Service Reserve Account, excluding any Reserve Instrument Coverage, together with the amount in the corresponding Series Subaccount in the Bond Service Account for a Series of Bonds, is sufficient to pay in full all Outstanding Bonds of such Series and related Repayment Obligations in accordance with their terms (including Principal or applicable sinking fund Redemption Price and interest thereon), the funds on deposit in such Series Subaccount in the Debt Service Reserve Account shall be transferred to the corresponding Series Subaccount in the Bond Service Account and no deposits shall be required to be made into such Series Subaccount in the Debt Service Reserve Account.

(e) Unless otherwise provided in a Supplemental Indenture authorizing a Series of Bonds, in calculating the amount on deposit in a Series Subaccount in the Debt Service Reserve Account, the amount of the Reserve Instrument Coverage for the corresponding Series of Bonds will be treated as an amount on deposit in such Series Subaccount in the Debt Service Reserve account. So long as any Series of Bonds rated by a Rating Agency is Outstanding, the City agrees that it will not invest moneys held in a Series Subaccount in the Debt Service Reserve Account in a Reserve Instrument without providing notice of such investment to such Rating Agency.

(f) Unless otherwise specified in the Supplemental Indenture authorizing a Series of Bonds, no Reserve Instrument for such Series of Bonds shall be allowed to expire unless and until cash has been deposited into the appropriate Series Subaccount in the Debt Service Reserve Account, or a new Reserve Instrument has been issued in place of the expiring Reserve Instrument, in an amount or to provide coverage at least equal to the Debt Service Reserve Requirement for the corresponding Series of Bonds.

Section 5.08. Renewal and Replacement Fund. (a) The amounts in the Renewal and Replacement Fund shall, from time to time, be applied by the City to the payment of extraordinary Operation and Maintenance Costs, and contingencies, including the prevention or correction of any unusual loss or damage to the System to the extent not covered by the proceeds of insurance or other moneys recoverable as a result thereof.

(b) If on the third Business Day prior to the end of any month the amount in any Series Subaccount in the Bond Service Account shall be less than the amount required to be in such Series Subaccount in the Bond Service Account pursuant to Section 5.05(a)(A)(i), and there shall not be on deposit in the corresponding Series Subaccount in the Debt Service Reserve Account sufficient moneys to cure such deficiency, the Trustee shall request that the City transfer from the Renewal and Replacement Fund and deposit into such Series Subaccount in the Bond Service Account the amount necessary (or all the moneys in the Renewal and Replacement Fund, if less than the amount necessary) to make up such deficiency; provided that to the extent that such deficiencies occur in more than one Series Subaccount in the Bond Service Account and there are insufficient moneys available in the Renewal and Replacement Fund to make up such deficiencies, the amount transferred and deposited from the Renewal and Replacement Fund shall be distributed on a pro rata basis to the deficient Series Subaccounts in the Bond Service Account based on the proportion that the total funds available to remedy the total deficiency bears to the deficiency for each Series of Bonds.

(c) At the end of each Fiscal Year any balance of moneys or Investment Securities in the Renewal and Replacement Fund in excess of the Renewal and Replacement Fund Reserve Requirement and not required to meet any deficiency in the Bond Service Account or needed for any of the purposes for which the Renewal and Replacement Fund was established, shall be transferred by the City and deposited into the Revenue Fund.

SCHEDULE VI

RATE COVENANT

All terms used in this Schedule VI shall have the meaning assigned to such terms as provided in the Indenture. All section references used in this Schedule VI shall be references to the appropriate section in the Indenture. All references to this Indenture in this Schedule VI shall be references to the Indenture.

Section 6.13. Rates and Charges. (a) In order to assure full and continuous performance of the covenants contained in Sections 6.01 and 6.08 with a margin for contingencies and temporary unanticipated reduction in Revenues, the City covenants and agrees to establish, fix, prescribe, continue and collect (directly or through leases, use agreements or other agreements, or licenses or ordinances) rates and charges for the sale or use of the System services furnished by the City which, together with other income, are reasonably expected to yield Net Revenues at least equal to the Rate Covenant Requirement for the forthcoming Fiscal Year. The term “*Rate Covenant Requirement*” shall mean an amount equal to at least (1) 125% of the Aggregate Debt Service excluding amounts payable on Repayment Obligations for the Fiscal Year, (2) 100% of the Repayment Obligations, if any, which will be due and payable during the forthcoming Fiscal Year and (3) 100% of the amounts, if any, then required by the Indenture to be deposited into the Debt Service Reserve Account during the forthcoming Fiscal Year.

(b) if the annual financial statement made in accordance with the provisions of Section 6.12(b) relating to Revenues discloses that during the period covered by such financial statement the Net Revenues were not at least equal to the Rate Covenant Requirement, the City shall not be in default under this Section if, within 60 days after the date of such financial statement (1) the City obtains recommendations from a Qualified Engineer as to the revision of the rates, charges and fees necessary to produce Net Revenues at least equal to the Rate Covenant Requirement and (2) the City, on the basis of such recommendations, revises the schedule of rates, charges and fees insofar as is practicable and revises Operation and Maintenance Costs so as to produce Net Revenues at least equal to the Rate Covenant Requirement.

SCHEDULE VII

ADDITIONAL DEBT TEST

All terms used in this Schedule VII shall have the meaning assigned to such terms as provided in the Indenture. All section references used in this Schedule VII shall be references to the appropriate section in the Indenture. All references to this Indenture in this Schedule VII shall be references to the Indenture.

Section 2.02. General Provisions for the Issuance of Bonds. (a) Whenever the City shall determine to issue any Series of Bonds, the City shall execute and deliver a Supplemental Indenture which shall specify the following:

- (1) The purpose for which such Series of Bonds is to be issued, which shall be for a purpose set forth in Section 2.03, Section 2.04 or Section 2.05, or a combination of such purposes;
- (2) The authorized Principal amount and Series designation of such Series of Bonds;
- (3) The Issue Date and the maturity date or dates of the Bonds of such Series;
- (4) The interest rate or rates (including a zero interest rate) of the Bonds of such Series, or the manner of determining such rate or rates, *provided* that the Supplemental Indenture shall specify the maximum rate that the Bonds of such Series may bear if such Bonds are Variable Rate Bonds, and the interest payment dates of the Bonds of such Series;
- (5) The authorized denominations of the Bonds of such Series;
- (6) Any Paying Agents and the places of payment of the Principal and Redemption Prices, if any, of, and interest on, the Bonds of such Series, and, if other than the Trustee, any Transfer Agents and the places where Bonds may be registered for transfer or exchange;
- (7) The Redemption Prices, if any, and subject to Article IV, the redemption terms, if any, for the Bonds of such Series;
- (8) The amount and due date of each Sinking Fund Installment, if any, for the Bonds of such Series;
- (9) The Record Date for the Bonds of such Series;
- (10) Any Debt Service Reserve Requirement for such series of Bonds pursuant to Section 5.07(a) and the amount, if any, to be deposited from the proceeds of such Series of Bonds into any Series Subaccount in the Debt Service Reserve Account established for such Series of Bonds;

(11) The amount, if any, to be deposited from any legally available source into the Construction Fund;

(12) The amount, if any, to be deposited from any legally available source into the Renewal and Replacement Fund;

(13) The forms of the Bonds of such Series;

(14) To the extent applicable, the obligations payable under any Security Instrument Agreement or Reserve Instrument Agreement entered into in connection with the issuance of the Bonds of such Series which, when outstanding, shall constitute Security Instrument Repayment Obligations or Reserve Instrument Repayment Obligations, as the case may be, and which portions of such Security Instrument Repayment Obligations or Reserve Instrument Repayment Obligations, as the case may be, are to be attributed to principal of and to interest on such Repayment Obligations; and

(15) Any further covenants by the City required by any Security Instrument Issuer, Reserve Instrument Issuer or purchaser of Bonds deemed necessary or desirable by the City in connection with the sale of such Series of Bonds.

(b) The Bonds of any Series shall be executed by the City for issuance under the Indenture and delivered to the Trustee and thereupon shall be authenticated by the Trustee and by it delivered to the City or upon the Written Request of the City but only upon receipt by the Trustee of the following documents or moneys or securities, all of such documents dated or certified, as the case maybe, as of the date of such delivery by the Trustee (unless the Trustee shall accept any of such documents bearing a prior date):

(1) A certified copy of the Supplemental Indenture relating to the issuance of the Bonds of such Series;

(2) A Written Request of the City as to the delivery of the Bonds of such Series;

(3) An Opinion of Bond Counsel to the effect that (i) the City has the power under the Act, as amended to the date of such Opinion, to issue the Bonds of such Series and to execute and deliver the Indenture, and the Indenture has been duly and lawfully executed and delivered by the City, is in full force and effect and is valid and binding upon the City and enforceable in accordance with its terms, and no other authorization for the Indenture is required; (ii) the Indenture creates the valid pledge which it purports to create of the Revenues, Funds, moneys, securities and funds held or set aside under the Indenture, subject to the application thereof to the purposes and on the conditions permitted by the Indenture; (iii) the Bonds of such Series are valid and binding special obligations of the City, enforceable in accordance with their terms and the terms of the Indenture and are entitled to the benefits of the Indenture and the Act, as amended to the date of such Opinion; and (iv) the Bonds of such Series have been duly and validly authorized and issued in accordance with law and the Indenture; provided that such Opinion of Counsel may contain limitations acceptable to the purchaser of such Series of Bonds, including

limitations as to enforcement by bankruptcy or similar laws, equity principles, sovereign police powers, and federal powers;

(4) A Written Certificate of the City setting forth (A) the Debt Service for each Fiscal Year of the Bonds of such Series or (B) the Aggregate Debt Service, including such Series of Bonds being issued, for each Fiscal Year, whichever is applicable, and containing such additional statements as may be reasonably necessary to show compliance with the requirements of the Indenture;

(5) The amounts, if any, necessary for deposit into the Construction Fund, the Revenue Fund, and any Series Subaccount in the Debt Service Reserve Account for such Series of Bonds; and

(6) Such further documents, moneys and securities as are required by the provisions of Section 2.03, Section 2.04 or Section 2.05, or of any Supplemental Indenture.

(c) The City may authorize by Supplemental Indenture the delivery to the Trustee of one or more Security Instruments with respect to any Series of Bonds and the execution and delivery of any Security Instrument Agreements deemed necessary in connection therewith.

(d) The City may authorize by Supplemental Indenture the issuance and delivery to the Trustee of one or more Reserve Instruments and the execution and delivery of any Reserve Instrument Agreements deemed necessary in connection therewith.

(e) The City may authorize by Supplemental Indenture the issuance of Put Bonds; provided that any obligation of the City to pay the purchase price of any such Put Bonds shall not be secured by a pledge of Revenues on a parity with the pledge contained in Section 5.01. The City may provide for the appointment of such Remarketing Agents, indexing agents or other agents as the City may determine.

(f) The City may authorize by Supplemental Indenture such other provisions relating to a Series of Bonds as are permitted by law and are consistent with the provisions of the Indenture.

(g) After the original issuance of the Bonds of any Series, no Bonds of such Series shall be issued except in lieu of or in substitution for other Bonds of such Series pursuant to Article III, Section 4.04 or Section 8.06.

(h) Notwithstanding any provision of this Section 2.02 to the contrary, a Supplemental Indenture may provide for the delivery of a Series of Bonds, issued in the form of a single Bond, in installments to be noted by the Trustee in a delivery schedule on the reverse side thereof or attached thereto.

Section 2.03. Special Provisions for the Issuance of Construction Bonds. (a) One or more Series of Construction Bonds may be authenticated and delivered upon original issuance from time to time in such Principal amount for each such Series as may be determined by the City for the purpose of paying or providing for the payment of all or a portion of (i) the Cost of Construction

of a Project, (ii) Principal, Redemption Price and interest on Bond Anticipation Notes or (iii) any combination of (i) and (ii). Each such Series shall be in such Principal amount which, when taken together with other funds legally available for such Project, will provide the City with sufficient funds to pay the estimated Cost of Construction of such Project, as set forth in the Written Certificate of the City furnished pursuant to Section 2.03(c)(1).

(b) Each Supplemental Indenture authorizing the issuance of a Series of Construction Bonds:

(1) Shall specify the Project for which the proceeds of such Series of Construction Bonds were applied; and

(2) May require the City to deposit a specified amount of money from the proceeds of the sale of such Series of Construction Bonds or from other legally available sources into the applicable Project Account sufficient to pay when due all or a portion of the interest on such Series of Construction Bonds to accrue up to 12 months following the Estimated Completion Date set forth in the Written Certificate of the City delivered with respect to such Series of Construction Bonds pursuant to Section 2.03(c)(1), plus interest to accrue on such Series of Construction Bonds after the Estimated Completion Date for up to one Year (or such different period as may then be permitted by law).

(c) Each Series of Construction Bonds shall be authenticated and delivered by the Trustee only upon receipt by the Trustee (in addition to the documents required by Section 2.02) of the following documents, all dated as of the date of such delivery (unless the Trustee shall accept any of such documents bearing a prior date):

(1) A Written Certificate of the City setting forth the then Estimated Completion Date and the then estimated Cost of Construction of the Project being financed by such Series of Bonds.

(2) A Written Certificate of the City to the effect that, upon the authentication and delivery of the Bonds of such Series, no event will have occurred which, with the passage of time or the giving of notice, or both, would give rise to an Event of Default under the Indenture.

(3) Either:

(A) A Written Certificate of the City either for the City's most recent Fiscal Year or for any Year during the most recent eighteen (18) months showing that, the Net Revenues for such period would not be less than the Rate Covenant Requirement with respect to all Bonds to be Outstanding at any time during the Year next following the issuance of the proposed Series of Bonds and to the Repayment Obligations to be outstanding at any time during the Year next following the issuance of the proposed Series of Bonds; or

(B) (I)(x) An Accountant's Certificate, (y) an Engineer's Certificate or (z) any combination of (x) and (y) setting forth the Estimated Net Revenues (assuming the completion of the Project on its then Estimated Completion Date) for whichever of the following periods shall extend until the latest date:

(i) If the Supplemental Indenture authorizing the Series of Bonds being issued requires that interest on the Series of Bonds be capitalized until a certain date in accordance with Section 2.03(b)(2), for each of the two Fiscal Years succeeding such date, or

(ii) If the Supplemental Indenture authorizing the Series of Bonds being issued does not require that interest on the Series of Bonds be capitalized, for the then current Fiscal Year and each succeeding Fiscal Year to and including the third Fiscal Year succeeding the date of issuance of such Series of Bonds; and

(II) A Written Certificate of the City showing the Aggregate Debt Service for each of the Fiscal Years set forth in the certificate or certificates delivered pursuant to clause (I) above and showing that the Estimated Net Revenues as shown in such certificate or certificates for each of such Fiscal Years are not less than the Rate Covenant Requirement for each of such Fiscal Years with respect to all Series of Bonds to be Outstanding after the issuance of the proposed Series of Construction Bonds and to the Repayment Obligations to be outstanding after the issuance of the proposed Series of Construction Bonds.

(d) Notwithstanding any other provision of the Indenture, the provisions of Section 2.03(c)(3) shall not apply:

(1) to the first Series of Construction Bonds issued under the Indenture;

(2) to any Series of Construction Bonds all of the proceeds of which are to be applied to pay the Cost of Construction of a Project necessary, as expressed in an Engineer's Certificate delivered to the Trustee, to keep the System in good operating condition or to prevent a loss of Revenues therefrom, or to comply with requirements of any governmental agency having jurisdiction over the System;

(3) to any Series of Bonds, the aggregate Principal amount of which, together with the aggregate Principal amount of all other Outstanding Bonds issued pursuant to this paragraph (3) during any Fiscal Year, does not exceed 10% of Revenues for the most recent Fiscal Year prior to the issuance of such Series of Bonds for which audited financial statements are available, all as expressed in a Written Certificate of the City; provided that the Trustee shall have received a Written Certificate of the City showing that the Estimated Net Revenues for the next succeeding Fiscal Year are not less than the Rate Covenant Requirement for such Fiscal Year with respect to all Series of Bonds to be Outstanding at any time during such Fiscal Year and to the Repayment Obligations to be outstanding at any time during such Fiscal Year; or

(4) to any Series of Bonds issued to pay the Cost of Construction necessary to complete any Project for which Construction Bonds have previously been issued, provided that the Trustee shall have received:

(A) A Written Certificate of the City stating that the nature and purpose of such Project has not materially changed since the initial Written Certificate of the City was filed pursuant to Section 2.03(c)(1); and

(B) A Written Certificate of the City to the effect that (i) all of the proceeds (including investment earnings) of Construction Bonds (or Bond Anticipation Obligations) previously issued to finance such Project have been or will be used to pay Costs of Construction of the Project, (ii) the then estimated Costs of Construction of the Project as contained in the Written Certificate of the City delivered pursuant to Section 2.03(c)(1) exceeds the sum of the Costs of Construction already paid plus moneys available in the Project Account established for the Project (including unspent proceeds of Bonds previously issued for such purpose), (iii) the issuance of such Series of Bonds is necessary to provide funds to pay Costs of Construction necessary for the Project and (iv) the Principal amount of such Series of Bonds does not exceed fifteen percent of the Principal amount of all Construction Bonds previously issued to finance such Project.

(e) The proceeds, including accrued interest, of the Construction Bonds of each Series shall be deposited simultaneously with the delivery of such Bonds in the Construction Fund and, to the extent permitted by law and the provisions of the Indenture, in any other Funds or such other funds or accounts as may be established by the Supplemental Indenture, in such amounts, if any, as may be provided in the Supplemental Indenture authorizing the issuance of such Series of Construction Bonds.

(f) There may also be deposited from any legally available source, to the extent permitted by law and the provisions of the Indenture, in the Funds, including, but not limited to the Renewal and Replacement Fund, or such other funds or accounts as may be established by the Supplemental Indenture, such amounts, if any, as may be provided in the Supplemental Indenture authorizing the issuance of such Series of Construction Bonds.

Section 2.04. Special Provisions for the Issuance of Refunding Bonds. (a) One or more Series of Refunding Bonds may be issued in such Principal amount which, when taken together with other legally available funds, will provide the City with funds sufficient to accomplish the refunding of all or a part of the Outstanding Bonds of one or more Series or all or part of any other borrowing of the City payable in whole or in part from the Revenues, including in each case the payment of all expenses in connection with such refunding. As used in this Section, the term "Refunded Debt" shall refer to such Bonds or other debt to be so refunded.

(b) Each Supplemental Indenture authorizing the issuance of a Series of Refunding Bonds shall specify the Refunded Debt to be refunded.

(c) Each Series of Refunding Bonds shall be authenticated and delivered by the Trustee only upon receipt by the Trustee (in addition to the documents required by Section 2.02) of the following documents or moneys or securities (or if such documents or moneys or securities are to be delivered as hereinafter provided to the lender for other borrowings, to such lender, with a copy or other evidence of such delivery to the Trustee), all of such documents dated as of the date of such delivery (unless the Trustee or lender, as appropriate, shall accept any of such documents bearing a prior date):

(1) A Written Certificate of the City stating that the issuance of such Series of Refunding Bonds complies with the requirements of the Indenture and either:

(A) A Written Certificate of the City setting forth the Aggregate Debt Service for each Fiscal Year to and including the Fiscal Year in which occurs the latest maturity of the Refunded Debt to be refunded or such Series of Refunding Bonds, whichever is later, (i) with respect to the Refunded Debt to be refunded and (ii) with respect to the Series of Refunding Bonds to be authenticated and delivered, and stating that the Aggregate Debt Service for any Fiscal Year set forth pursuant to clause (ii) of this subparagraph (A) is no greater than the Aggregate Debt Service for any Fiscal Year set forth pursuant to clause (i) of this subparagraph (A); or

(B) An Accountant's Certificate (I) setting forth for the latest Fiscal Year preceding the authentication and delivery of such Series of Bonds for which Fiscal Year an audited financial report is available, the Net Revenues for such period, and (II) showing that such Net Revenues for such Year would not be less than the Rate Covenant Requirement (for each Fiscal Year to and including the Fiscal Year in which occurs the latest maturity of such Series of Refunding Bonds) with respect to all Bonds to be Outstanding at any time during the Year next following the issuance of the proposed Series of Bonds and to the Repayment Obligations to be outstanding at any time during the Year next following the issuance of the proposed Series of Bonds.

(2) Irrevocable instructions to the Trustee (or the lender or its designee), satisfactory to it, to give due notice of redemption of all the Refunded Debt to be refunded on the redemption date or dates specified in such instructions;

(3) If the Refunded Debt to be refunded is not by its terms subject to redemption within the next succeeding 60 days, irrevocable instructions to the Trustee (or the lender or its designee for other borrowings), satisfactory to it, to mail the notice provided for in Section 11.01(b) (or any similar provision for other borrowings) to the Refunded Debt being refunded;

(4) Either (i) moneys in an amount sufficient to effect payment at the applicable redemption price of the Refunded Debt to be refunded, together with accrued interest to the redemption date, which moneys shall be held by the Trustee or any one or more of the Paying Agents (or the lender or its designee for other borrowings) in a separate account irrevocably in trust for and assigned to the respective holders of the Refunded Debt to be refunded, or (ii) Investment Securities (or similar investments as provided in the other

document relating to other borrowings) in such principal amounts, of such maturities, bearing such interest, and otherwise having such terms and qualifications and any moneys, as shall be necessary to comply with the provisions of Section 11.01(b) (or any similar provision for other borrowings), which Investment Securities and moneys shall be held in trust and used only as provided in such Section; and

(5) If the Refunding Bonds to be issued are Cross-over Refunding Bonds, the Supplemental Indenture providing for the issuance of the Refunding Bonds shall, in addition to all other requirements of this Section 2.04, provide:

(A) That until the Cross-over Date neither Principal of nor interest on the Cross-over Refunding Bonds shall be payable from or secured by a pledge of the Revenues, but shall be payable solely from the escrow provided for in Section 11-27-3, Utah Code Annotated 1953, as amended; and

(B) there shall be filed with the Trustee an Accountant's Certificate demonstrating the sufficiency of the moneys and investments in the escrow provided for in Section 11-27-3, Utah Code Annotated 1953, as amended, to pay Principal of and interest on the Cross-over Refunding Bonds to the Cross-over Date (which Cross-over Date may, at the option of the City, be extended as provided in the Supplemental Indenture providing for the issuance of the Cross-over Refunding Bonds, but only upon filing a revised Accountant's Certificate which demonstrates that the moneys and investments then in the escrow will be sufficient to pay Principal of and interest on the Cross-over Refunding Bonds to the extended Cross-over Date).

(d) A Series of Refunding Bonds may be combined with a Series of Construction Bonds.

Section 2.05. Conditions for Issuance of Bond Anticipation Notes. (a) One or more Series of Bond Anticipation Notes, payable on a parity with all Outstanding Bonds (except as provided in Section 2.05(b)(2) below), may be authenticated and delivered upon original issuance from time to time in such Principal amount for each such Series as may be determined by the City for the purpose of paying or providing for the payment of all or a portion of the Cost of Construction of a Project, or the refunding of Bond Anticipation Notes, or a combination of such purpose. Each such Series shall be in such Principal amount which, when taken together with funds previously used or to be provided by the City for such Project, will provide the City with sufficient funds to pay the estimated Cost of Construction of such Project, as set forth in the Written Certificate of the City furnished pursuant to Section 2.05(c)(1). The City hereby covenants to apply so much of the proceeds of the Bonds in anticipation of which such Bond Anticipation Notes have been issued as shall be necessary to provide for the payment of all Principal Installments on such Bond Anticipation Notes.

(b) (1) Each Supplemental Indenture authorizing the issuance of a Series of Bond Anticipation Notes (i) shall specify the Project for which the proceeds of such Series of Bond Anticipation Notes will be applied, and (ii) may require the City to deposit a specified amount of money from the proceeds of the sale of such Series of Bond Anticipation Notes into a Project

Account in the Construction Fund to pay when due all or a portion of the interest on such Series of Bond Anticipation Notes accrued and to accrue to the Estimated Completion Date set forth in the Written Certificate of the City delivered with respect to such Series of Bond Anticipation Notes pursuant to Section 2.05(c)(1), plus interest to accrue on such Series of Bond Anticipation Notes after the Estimated Completion Date for up to one Year (or such different period as may then be permitted by law). Such Supplemental Indenture may also contain such limitations and restrictions on, and covenants and agreements of, the City and such rights and remedies for the holders of such Series of Bond Anticipation Notes, as deemed necessary and desirable by the City; provided, however, that such limitations, restrictions, covenants, agreements, rights and remedies shall not be contrary to or inconsistent with the limitations, restrictions, covenants, agreements, rights and remedies contained in this Indenture for the payment and security of any Bonds then Outstanding.

(2) If so provided in the Supplemental Indenture providing for the issuance of any Series of Bond Anticipation Notes, the payment of the Principal Installments on such Bond Anticipation Notes shall be subject to the prior lien and charge created herein for the payment of the Bonds out of the Principal and Interest Fund. In such case, such Supplemental Indenture shall provide that each of such Bond Anticipation Notes shall state on its face that the payment of Principal Installments thereof is so subordinated.

(3) No Bond Anticipation Note shall mature later than ten years from its date, including all refundings thereof by other Bond Anticipation Notes (whether such refundings occur by reason of exchanges of Bond Anticipation Notes or by reason of payment of such Bond Anticipation Notes from refunding Bond Anticipation Notes, or otherwise).

(c) Each Series of Bond Anticipation Notes shall be authorized and delivered by the Trustee only upon receipt by the Trustee (in addition to the documents required by Section 2.02 and Section 2.05(d) below) of the following documents, all dated as of the date of such delivery (unless the Trustee shall accept any of such documents bearing a prior date):

(1) a Written Certificate of the City setting forth the then Estimated Completion Date and the then estimated Cost of Construction of the Project being financed by such Series of Bond Anticipation Notes; and

(2) a Written Certificate of the City to the effect that, upon the authentication and delivery of the Bond Anticipation Notes of such Series, no event will have occurred which, with the passage of time or the giving of notice, or both, would give rise to an Event of Default under the Indenture; provided, however, that in the case of refunding Bond Anticipation Notes, the Principal Installments of which have been subordinated pursuant to Section 2.05(b)(2) above, the City need not so certify with respect to such Principal Installments.'

(d) As of the date of issuance of any Series of Bond Anticipation Notes, the aggregate Principal amount of all outstanding Bond Anticipation Notes (including such Series) shall never exceed the Principal amount of a hypothetical Series of Bonds which could be issued by the City on such date in compliance with Section 2.03(c)(3), having an assumed final maturity of 30 years,

bearing an assumed rate of interest equal to the highest rate then borne by any outstanding Bond Anticipation Notes and having Debt Service due in each Fiscal Year in approximately equal amounts; provided that if no Series of Bond Anticipation Notes are then Outstanding under the Indenture, the interest rate used for purposes of the calculation set forth in this Section 2.05(d) shall be the interest rate borne by the Series of Bond Anticipation Notes to be issued. Each Series of Bond Anticipation Notes shall be authenticated and delivered by the Trustee only upon receipt by the Trustee (in addition to the documents required by Section 2.02 and Section 2.05(c) above) of a Written Certificate of the City, together with a supporting Accountant's Certificate or a supporting Engineer's Certificate, as appropriate, all dated as of the date of such delivery (unless the Trustee shall accept any of such documents bearing a prior date), stating that the person signing each such certificate has reviewed and is familiar with the provisions of paragraph Section 2.05(d) and that, in the opinion of such signer, the Bond Anticipation Notes then proposed to be issued by the City can be duly and validly issued by the City pursuant to the provisions hereof, assuming for purposes of compliance with Section 2.03(c)(3) as required by the preceding sentence, that the Debt Service on the proposed Series of Bond Anticipation Notes is calculated on the basis of the hypothetical Series of Bonds as set forth in this Section 2.05(d).

Section 2.06. Provisions Regarding Bonds Secured by a Security Instrument. (a) The City may include such provisions in a Supplemental Indenture authorizing the issuance of a Series of Bonds secured by a Security Instrument as the City deems appropriate, including:

(1) So long as the Security Instrument is in full force and effect, and payment on the Security Instrument is not in default, (A) the Security Instrument Issuer shall be deemed to be the Holder of the Outstanding Bonds of such Series when the approval, consent or action of the Bondholders for such Series of Bonds is required or may be exercised under the Indenture and following an Event of Default and (B) the Indenture may not be amended in any manner which affects the rights of such Security Instrument Issuer without its prior written consent.

(2) In the event that the Principal and Redemption Price, if applicable, and interest due on any Series of Bonds Outstanding shall be paid under the provisions of a Security Instrument, all covenants, agreements and other obligations of the City to the Bondholders of such Series of Bonds shall continue to exist and such Security Instrument Issuer shall be subrogated to the rights of such Bondholders in accordance with the terms of such Security Instrument.

(b) In addition, such Supplemental Indenture may establish such provisions as are necessary to provide relevant information to the Security Instrument Issuer and to provide a mechanism for paying Principal Installments and interest on such Series of Bonds from the Security Instrument.

SCHEDULE 12(f)

LITIGATION¹⁴

No.	Parties	Date Initiated	Description	Venue

¹⁴ To be completed by Borrower, if applicable.

SCHEDULE 12(n)

PRINCIPAL PROJECT CONTRACTS¹⁵

A. Existing Principal Project Contracts

Contract	Date	Parties	Description
Sundt/PLC, A Joint Venture - Construction Manager/General Contractor Agreement for Preconstruction and Construction Services	August 13, 2019	Salt Lake City Corporation Sundt Corporation, Inc PLC Construction, Inc	Construction Manager/General Contractor Agreement for Preconstruction and Construction Services

B. Additional Principal Project Contracts

Contract	Expected Effective Date (if known)	Parties	Description

¹⁵ To be completed by Borrower.

SCHEDULE 12(p)

ENVIRONMENTAL MATTERS

[To be provided by Borrower, if applicable]

EXHIBIT A

FORM OF WIFIA BOND¹⁶

SALT LAKE CITY CORPORATION

SALT LAKE CITY WATER RECLAMATION FACILITY NUTRIENT PROJECT

**(WIFIA – [N____])
WIFIA BOND**

**Maximum Principal Amount: \$ [Maximum Amount of WIFIA Loan]
(including the maximum amount of capitalized interest that has been authorized)**

Effective Date: _____ **Due:** _____

SALT LAKE CITY CORPORATION, a municipal corporation and political subdivision created under the laws of the State of Utah (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, together with any interest that is capitalized and added to principal in accordance with the provisions of the WIFIA Loan Agreement (as defined below), 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) on the Outstanding Principal Sum and all fees, costs and other amounts payable in connection therewith, all 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, however, 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 interest rate on this WIFIA Bond shall be [____] percent ([____]%) per annum. Interest will accrue and be computed on the Outstanding Principal Sum (as well as on any past due interest)

¹⁶ This will need to be harmonized with the Borrower’s form of bond, but these are the concepts that EPA would like to be addressed in the WIFIA Bond.

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 Principal Sum at the Default Rate (as defined in the WIFIA Loan Agreement to be the sum of (a) the WIFIA Interest Rate set forth above plus (b) [____] basis points) in accordance with Section 6 (*Interest Rate*) of the WIFIA Loan Agreement.

Payments hereon are to be made in accordance with Section 8(d) (*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. [If the Final Maturity Date is amended in connection with an update to the Updated Financial Model approved by the WIFIA Lender pursuant to Section 16(a) (*Reporting Requirements – Updated Financial Model*) of the WIFIA Loan Agreement, the due date of this WIFIA Bond shall be deemed to be amended to change the due date to such revised Final Maturity Date without any further action required on the part of the Borrower or the WIFIA Lender and such amendment shall in no way amend, modify or affect the other provisions of this WIFIA Bond without the prior written agreement of the WIFIA Lender. Any such amendment shall be reflected in a revised **Exhibit F**.]¹⁷

This WIFIA Bond has been executed under and pursuant to that certain WIFIA Loan Agreement, dated as of the date hereof, 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 loan 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 all 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, however, 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 Indenture referred to in the WIFIA Loan Agreement.

¹⁷ To be included when the WIFIA Lender has agreed to a Final Maturity Date that is a defined anniversary of the Substantial Completion Date. Pursuant to the Act, the Final Maturity Date cannot be later than the 35th anniversary of the Substantial Completion Date. The actual number of years will be determined as part of the WIFIA Lender’s underwriting process.

This WIFIA Bond, including the interest hereon, is payable from the Revenues and other funds of the Borrower pledged for the payment hereof and this WIFIA Bond does not constitute a debt of the Borrower within the meaning of any constitutional or statutory limitations or provisions.

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, SALT LAKE CITY CORPORATION 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 set forth above.

SALT LAKE CITY CORPORATION,
by its authorized representative

(SEAL)

By _____
Name: _____
Title: _____

ATTEST:

Secretary

CERTIFICATE OF AUTHENTICATION

This WIFIA Bond is the WIFIA Bond described in the within-mentioned Indenture.

[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 within 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 within bond in every
particular, without alteration or enlargement or
any change whatever.

EXHIBIT B

ANTICIPATED WIFIA LOAN DISBURSEMENT SCHEDULE

<u>Federal Fiscal Year</u>	<u>Amount</u>
	\$

EXHIBIT C

FORM OF NON-DEBARMENT CERTIFICATE

The undersigned, on behalf of SALT LAKE CITY CORPORATION, hereby certifies that SALT LAKE CITY CORPORATION, has fully complied with its verification obligations under 2 C.F.R. § 180.320 and hereby further confirms, based on such verification, that, to its knowledge, the Borrower and its principals (as defined in 2 C.F.R. § 180.995 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.

Dated: _____

SALT LAKE CITY CORPORATION,
by its authorized representative

By: _____

Name:

Title:

EXHIBIT D

REQUISITION PROCEDURES

This **Exhibit D** 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**.

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 such short-term interim financing in respect of which the proceeds were used to pay such documented Eligible Project Costs. The WIFIA Lender shall review the Eligible Project Costs Documentation 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** 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*) and Section 11(b) (*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 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 Agency¹⁸
1200 Pennsylvania Avenue NW
WJC-W 6201A
Washington, D.C. 20460
Attention: WIFIA Director

Re: Salt Lake City Water Reclamation Facility Nutrient Project (WIFIA — N19109UT)

Ladies and Gentlemen:

Pursuant to Section 4 (*Disbursement Conditions*) of the WIFIA Loan Agreement, dated as of [____], 2020 (the “**WIFIA Loan Agreement**”), by and between SALT LAKE CITY CORPORATION (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	Salt Lake City Water Reclamation Facility Nutrient Project
2.	Borrower name	Salt Lake City Corporation
3.	WIFIA reference number	[__]
4.	Requisition number	[__]
5.	Requested disbursement amount	\$[__]

¹⁸ If there is a Servicer for the WIFIA Loan, provide a copy to the Servicer as well and include its notice details here.

6.	Requested disbursement date (the “Disbursement Date”)	<input type="text"/>
7.	Total amounts previously disbursed under the WIFIA Loan Agreement	\$ <input type="text"/>
8.	Wire instructions	<input type="text"/>

1. 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 debt of the Borrower that is not the WIFIA Loan (“**Other Debt**”)[.][, except as set forth below:

Source of Other Debt	Amount of Other Debt
<input type="text"/>	\$ <input type="text"/>
Total Amount of Other Debt	\$ <input type="text"/>

The portion of the amount requisitioned equal to the total amount of the Other Debt set forth above will be promptly applied by the Borrower to either (i) discharge a like principal amount of such Other Debt or (ii) reimburse the applicable fund or account from which the proceeds of such Other Debt were spent.]¹⁹

2. The aggregate amount of all disbursements of the WIFIA Loan (including the amount requested under this Requisition but excluding any interest that is capitalized in accordance with the WIFIA Loan Agreement) does not exceed (a) the amount of the WIFIA Loan, (b) the amount of Eligible Project Costs paid or incurred by the Borrower, and (c) the cumulative disbursements through the end of the current Federal Fiscal Year as set forth in the Anticipated WIFIA Loan Disbursement Schedule.

¹⁹ This paragraph should be included when the Eligible Project Costs for which the proceeds of the requisition are to be applied were previously funded with bond anticipation notes or other short-term interim financing by the Borrower on a temporary basis with the intent of redeeming the bond anticipation notes or other obligations with proceeds of the WIFIA Loan as permanent financing, or reimbursing the applicable funds of the other obligations such that they become available for payment of other Project costs.

3. The Borrower has sufficient available funds committed to the Project, which together with funds that remain available and not yet drawn under the WIFIA Loan, will be sufficient to pay the reasonably anticipated remaining Total Project Costs.
4. The total federal assistance provided to the Project, including the maximum principal amount of the WIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), does not exceed eighty percent (80%) of Total Project Costs.
5. 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).
6. Each of the insurance policies obtained by the Borrower in satisfaction of Section 11(a)(xvi) (*Conditions Precedent – Conditions Precedent to Effectiveness*) 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.
7. As of the date hereof and on the Disbursement Date (immediately after giving effect to the above-requested disbursement of WIFIA Loan proceeds), (i) no Default or Event of Default and (ii) no event of default under any other Related Document and no event that, with the giving of notice or the passage of time or both, would constitute an event of default under any Related Document, in each case, has occurred and is continuing. No Material Adverse Effect, or any event or condition that could reasonably be expected to have a Material Adverse Effect, has occurred or arisen since [February 26, 2020].
8. 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 without limitation 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.
9. The representations and warranties of the Borrower set forth in the WIFIA Loan Agreement and in each other Related Document are true and correct as of the date hereof and as of the Disbursement Date, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).

10. Each Indenture Document and each Principal Project Contract that has been delivered by the Borrower to the WIFIA Lender pursuant to Section 11(b) (*Conditions Precedent – Conditions Precedent to Disbursements*) is complete, fully executed and in full force and effect.
11. 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.²⁰
12. All documentation evidencing the Eligible Project Costs to be reimbursed to the Borrower [or to be used to pay Eligible Project Costs previously paid from proceeds of Other Debt] by the above-requested disbursement has been delivered by the Borrower to the WIFIA Lender at the times and in the manner specified by the WIFIA Loan Agreement, including the details set forth [in the attachment hereto, which is in form satisfactory to the WIFIA Lender][below:

								WIFIA USE ONLY	
Vendor or Contractor Name ²¹	Invoice Number ²²	Invoice Date	Payment Date	Invoice Amount	WIFIA Requested Amount ²³	Activity Type ²⁴	Description of Activity ²⁵	Approved Amount	Notes

²⁰ The most recent quarterly progress report should set out a summary of the progress of construction of the Project, as well as a general description of the work done for which the funds being requisitioned are being applied and a summary of any material changes/risks. If not, PM should request additional information (including a risk register, if applicable).

²¹ If seeking reimbursement for internal costs, enter “Internally financed activities.”

²² Vendor’s number indicated on the invoice sent to the Borrower.

²³ 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.

²⁴ 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.

²⁵ 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.

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.

Date: _____

SALT LAKE CITY CORPORATION,
By its authorized representative

By: _____

Name:

Title: _____

APPENDIX TWO TO EXHIBIT D

[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,]²⁶ by the WIFIA Lender (as defined herein) pursuant to Section 4
(*Disbursement Conditions*) of the WIFIA Loan Agreement, dated as of [], 2020, by
and between Salt Lake City Corporation (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:

²⁶ 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 E

FORM OF NON-LOBBYING CERTIFICATE

The undersigned, on behalf of SALT LAKE CITY CORPORATION, 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 [____], 2020 (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: _____

SALT LAKE CITY CORPORATION,
by its authorized representative

By: _____

Name:

Title:

EXHIBIT F
WIFIA DEBT SERVICE²⁷

²⁷ WIFIA Underwriting to work with Borrower to provide an initial amortization schedule. This will need to be finalized on the day of closing to account for the final interest rate.

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:

(a) the Borrower is duly formed, validly existing, and in good standing under the laws of the jurisdiction of its organization;

(b) the Borrower has all requisite power and authority to conduct its business and to execute and deliver, and to perform its obligations under the Related Documents to which it is a party;

(c) the execution and delivery by the Borrower of, and the performance of its respective obligations under, the Related Documents to which it is a party, have been duly authorized by all necessary organizational or regulatory action;

(d) the Borrower has duly executed and delivered each Related Document to which it is a party and each such Related Document constitutes the legal, valid and binding obligation of such party; enforceable against such party in accordance with their respective terms;

(e) no authorization, consent, or other approval of, or registration, declaration or other filing with any governmental authority of the United States of America or of the State is required on the part of the Borrower for the execution and delivery by such party of, and the performance of such party under, any Related Document to which it is a party other than authorizations, consents, approvals, registrations, declarations and filings that have already been timely obtained or made by the Borrower;

(f) the execution and delivery by the Borrower of, and compliance with the provisions of, the Related Documents to which it is a party in each case do not (i) violate the Organizational Documents of the Borrower, (ii) violate the law of the United States of America or of the State or (iii) conflict with or constitute a material breach of or material default under any material agreement or other instrument known to such counsel to which the Borrower is a party, or to the best of such counsel's knowledge, after reasonable review, any court order, consent decree, statute, rule, regulation or any other law to which the Borrower is subject;

(g) the Borrower is not an investment company required to register under the Investment Company Act of 1940, as amended;

(h) to our knowledge after due inquiry, there are no actions, suits, proceedings or investigations against the Borrower by or before any court, arbitrator or any other Governmental Authority in connection with the Related Documents or the Project that are pending; and

(i) the Borrower is not entitled to claim governmental immunity in any breach of contract action under the WIFIA Loan Agreement or the WIFIA Bond or by the Trustee under the Indenture.

EXHIBIT G-2

OPINIONS REQUIRED FROM BOND COUNSEL

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

(a) The Borrower has been duly created and validly exists as a municipal corporation and political subdivision created under and pursuant to the laws of the State of Utah (including the Bond Act as amended to the date hereof) (the “**Borrower Act**”), with good right and power to issue the WIFIA Bond.

(b) The Borrower has the right and power under the laws of the State, including the Borrower Act, to enter into the Indenture, the Related Documents and the WIFIA Bond, and each has been duly authorized, executed and delivered by the Borrower, is in full force and effect, and constitutes a legal, valid and binding agreement of the Borrower enforceable against the Borrower in accordance with its respective terms and conditions;

(c) The WIFIA Bond is (i) secured by the Pledged Collateral, (ii) a Bond entitled to the benefits of a Bond under the Indenture, (iii) enforceable under the laws of the State without any further action by the Borrower or any other Person, and (iv) rank *pari passu* in right of payment and right of security with all Bonds and are senior in right of payment and right of security to all Subordinate Obligations;

(d) The Indenture creates the valid and binding assignment and pledge of the Pledged Collateral to secure the payment of the principal of, interest on, and other amounts payable in respect of, the WIFIA Bond, irrespective of whether any party has notice of the pledge and without the need for any physical delivery, recordation, filing or further act;

(e) All actions by the Borrower that are required for the application of Revenues as required under the Indenture and under the WIFIA Loan Agreement have been duly and lawfully made;

(f) The Borrower has complied with the requirements of State law to lawfully pledge the Pledged Collateral and use the Revenues as required by the terms of the Indenture and the WIFIA Loan Agreement; and

(g) The Borrower is not eligible to be a debtor in either a voluntary or involuntary case under the United States Bankruptcy Code.

EXHIBIT H
FORM OF CERTIFICATE OF TRUSTEE
SALT LAKE CITY CORPORATION

WIFIA Bond,
Salt Lake City Water Reclamation Facility Nutrient Project
(WIFIA – N19109UT)

The undersigned, U.S. Bank National Association (the “**Trustee**”), by its duly appointed, qualified and acting [____], certifies with respect to the above referenced bond (the “**WIFIA Bond**”) dated as of [____], 2020, as follows (capitalized terms used in this Certificate which are not otherwise defined shall have the meanings given to such terms in the Indenture (as defined below)):

1. That the Trustee is a national association duly organized and validly existing under the laws of the United States of America and [is duly licensed and] in good standing under the laws of [_____].

2. All approvals, consents and orders of any governmental authority or agency having jurisdiction in the matter which would constitute a condition precedent to the performance by the Trustee of its duties and obligations under the documents pertaining to the issuance of the WIFIA Bond have been obtained by the Trustee and are in full force and effect.

3. That the documents pertaining to the issuance of the WIFIA Bond to which the Trustee is a party were executed by the Trustee and the WIFIA Bond was authenticated on behalf of the Trustee by one or more of the persons whose names and offices appear on Annex One attached hereto and made part hereof, that each person was at the time of the execution of such documents and the authentication of the WIFIA Bond and now is duly appointed, qualified and acting incumbent of his or her respective office, that each such person was authorized to execute such documents and to authenticate the WIFIA Bond, and that the signature appearing after the name of each such person is a true and correct specimen of that person’s genuine signature.

4. That the undersigned is authorized to act as Trustee and accept the trusts conveyed to it under the Indenture (“**Trusts**”), has accepted the Trusts so conveyed and in so accepting the Trusts and so acting is in violation of no provision of its articles of association or bylaws, any law, regulation or court or administrative order or any agreement or other instrument to which it is a party or by which it may be bound.

5. That attached to this Certificate as Annex [One][Two]²⁸ is a full, true and correct copy of excerpts from [resolutions of the board of directors][the bylaws] of the Trustee and other applicable documents that evidence the Trustee’s trust powers and the authority of the officers referred to above to act on behalf of the Trustee; and that these excerpts and other applicable documents were in effect on the date or dates such officers acted and remain in full force and effect

²⁸ If the Trustee’s authorizing document is the same document that sets out the incumbency signatures (e.g. US Bank NA), refer to and attach one annex. If separate documents, refer here to and attach as a second annex.

today, and such excerpts and documents have not been amended since the date of the last amendment thereto shown on any such copy, as applicable.

6. That receipt is acknowledged of all instruments, certifications and other documents or confirmations required to be received by the Trustee pursuant to Section [] of that certain Master Trust Indenture (the “**Indenture**”), dated as of January 1, 2004, between Salt Lake City Corporation (the “**Borrower**”) and the Trustee.

7. That receipt is also acknowledged of that certain WIFIA Loan Agreement, dated as of [], 2020 (the “**WIFIA Loan Agreement**”), between the Borrower and the United States Environmental Protection Agency, acting by and through the Administrator (the “**WIFIA Bondholder**”).

8. That the Trustee also accepts its appointment and agrees to perform the duties and responsibilities of Trustee [and of Bond Registrar and Paying Agent] for and in respect of the WIFIA Bond as set forth in the Indenture and the WIFIA Loan Agreement, including from time to time redeeming all or a portion of the WIFIA Bond as provided in Section [] of the Indenture. In accepting such duties and responsibilities, the Trustee shall be entitled to all of the privileges, immunities, rights and protections set forth in Section [] of the Indenture.

9. That all funds and accounts for the payment of the WIFIA Bond pursuant to the Indenture (including, but not limited to, the Bond Service Account) have been established as provided in the Indenture.

Dated: [], 2020

U.S. BANK NATIONAL ASSOCIATION

By: _____

Name:

Title:

ANNEX ONE TO EXHIBIT H

[See attached]

EXHIBIT I

FORM OF CLOSING CERTIFICATE

Reference is made to that certain WIFIA Loan Agreement, dated as of [____], 2020 (the “**WIFIA Loan Agreement**”), by and among Salt Lake City Corporation (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)(viii), 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), attached hereto as Annex B are copies of the Indenture and each Supplemental Indenture (including the WIFIA Supplemental Indenture) and any other Indenture Document authorizing Obligations in respect of the Project that has been entered into on or prior to the Effective Date, together with any amendments, waivers or modifications thereto, 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, 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), attached hereto as Annex D is a copy of the Borrower’s Organizational Documents, as in effect on the Effective Date (and certified by the Secretary of State of the State, to the extent applicable), which Organizational Documents are in full force and effect. Other than the WIFIA Supplemental Indenture, there are no additional 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;
- (e) pursuant to Section 11(a)(viii)(1), 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;

- (f) pursuant to Section 11(a)(viii)(2), 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);
- (g) pursuant to Section 11(a)(viii)(3), (i) the maximum principal amount of the WIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), together with the amount of any other credit assistance provided under the Act to the Borrower, does not exceed forty-nine percent (49%) of reasonably anticipated Eligible Project Costs and (ii) the total federal assistance provided to the Project, including the maximum principal amount of the WIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), does not exceed eighty percent (80%) of Total Project Costs;
- (h) pursuant to Section 11(a)(viii)(4), the Borrower is in compliance with NEPA and any applicable federal, state or local environmental review and approval requirements with respect to the Project, and, if requested by the WIFIA Lender, has provided evidence satisfactory to the WIFIA Lender of such compliance;
- (i) pursuant to Section 11(a)(viii)(5), the Borrower has developed, and identified adequate revenues to implement, a plan for operating, maintaining and repairing the Project during its useful life;
- (j) pursuant to Section 11(a)(viii)(6), (i) the Borrower's Federal Employer Identification Number is 87-60000279, (ii) the Borrower's Data Universal Numbering System number is 028442379, 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 is attached hereto as Annex [];
- (k) pursuant to Section 11(a)(viii)(7), the CUSIP number for the WIFIA Loan is [];
- (l) pursuant to Section 11(a)(viii)(8), 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;

- (m) pursuant to Section 11(a)(viii)(9), no Material Adverse Effect, or any event or condition that could reasonably be expected to have a Material Adverse Effect, has occurred or arisen since [February 26, 2020];
- (n) pursuant to Section 11(a)(x), none of the rating letters delivered to the WIFIA Lender pursuant to such Section 11(a)(x) has been reduced, withdrawn or suspended as of the Effective Date;
- (o) pursuant to Section 11(a)(xi), [the Borrower has delivered to the WIFIA Lender][attached hereto as Annex [] is] the Base Case Financial Model, which (i) demonstrates that projected Net Revenues are sufficient to meet the Loan Amortization Schedule, (ii) demonstrates compliance with the Rate Covenant Requirement 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)(xi); [and]
- (p) pursuant to Section 11(a)(xii), attached hereto as Annex [] [are certificates of insurance][is a certificate of the Borrower's risk management department pertaining to the Borrower's self-insurance program], and such insurance certificate is true and correct and demonstrates compliance with the requirements of Section 14(f) (*Affirmative Covenants – Insurance*) of the WIFIA Loan Agreement[; and][.]
- (q) [*any other attachments and provisions, as may apply to the specific WIFIA Loan Agreement*].

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

SALT LAKE CITY CORPORATION,

by its authorized representative

By: _____
Name:
Title:

ANNEX A TO EXHIBIT I

INCUMBENCY CERTIFICATE

The undersigned certifies that he/she is the [City Recorder] of Salt Lake City, Utah, a municipal corporation and political subdivision of the State of Utah (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 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 [_____], 2020.

SALT LAKE CITY CORPORATION, by its
authorized representative

By: _____
Name:
Title:

EXHIBIT J

FORM OF CERTIFICATE OF SUBSTANTIAL COMPLETION

[Letterhead of **Borrower**]

[Date]

WIFIA Program Office
[Insert Proper Address]
Attention: Administrator

Project: Salt Lake City Water Reclamation Facility Nutrient Project [*WIFIA Project Reference Number*]

Dear Director:

This Notice is provided pursuant to Section 16(a)(i)(A) (*Affirmative Covenants – Notice – Substantial Completion*) of that certain WIFIA Loan Agreement (the “**WIFIA Loan Agreement**”), dated as of [_____], 2020, by and between Salt Lake City Corporation (the “**Borrower**”) and the United States Environmental Protection Agency, acting by and through its Administrator (the “**WIFIA Lender**”).

Unless otherwise defined herein, all capitalized terms in this Notice have the meanings assigned to those terms in the WIFIA Loan Agreement.

I, the undersigned, in my capacity as the Borrower’s Authorized Representative and not in my individual capacity, do hereby certify to the WIFIA Lender that:

- (a) on [*insert date Substantial Completion requirements were satisfied*], the Project satisfied each of the requirements for Substantial Completion set forth in the [*Insert reference to the concession agreement, design-build or similar agreement 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.

SALT LAKE CITY CORPORATION, by its
authorized representative

By: _____

Name:

Title:

EXHIBIT K

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: Salt Lake City Water Reclamation Facility Nutrient Project (WIFIA – N19109UT)

This Quarterly Report for the period of [] is provided pursuant to Section 16(d) (*Reporting Requirements – Construction Reporting*) of the WIFIA Loan Agreement, dated as of [], 2020 (the “**WIFIA Loan Agreement**”), by and between Salt Lake City Corporation (“**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) Amount Expended

Principal Project Contract (PPC)	Original Contract Amount	Change Orders to Date	Total Estimated Costs	Estimated Costs to Complete	Costs Earned or Paid Through Previous Reporting period	Current Reporting Period Costs Earned or Paid	Total Costs Earned or Paid to date	% Costs Earned or Paid to Date
TOTAL								

(ii) Construction Progress, Governmental Approvals, Updated Schedule

Assessment of overall construction progress:

--

Notice of receipt of relevant Governmental Approvals since the Effective Date and since the prior Quarterly Report:

--

Assessment of construction progress compared to Construction Schedule provided in the prior Quarterly Report:

Principal Project Contract (PPC)	NTP Effective Date	Original Time for Completion (days)	Original Contract Completion (date)	Time Added to Date (days)	Current Contract Completion (date)	Days Elapsed	% Contract Duration

(iii) Substantial Completion Date

Current projection for the 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:

(iv) Material Problems (if any)

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

(v) Proposed or pending change orders that exceed the threshold set out in Section 16(f) (*Modifications to Total Project Costs*) or could reasonably be expected to result in a Material Adverse Effect

(vi) Other matters related to the Project

Date: _____

SALT LAKE CITY CORPORATION,
by its authorized representative

By: _____

Name: _____
Title: _____

EXHIBIT L

FORM OF PUBLIC BENEFITS REPORT

Pursuant to [Section 11(a)(xiv))] [and] [Section 16(e)] of the WIFIA Loan Agreement, Salt Lake City Corporation (the “**Borrower**”) is providing this Public Benefits Report in connection with the Salt Lake City Water Reclamation Facility Nutrient Project (WIFIA – N19109UT):

- (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 anniversary of the Substantial Completion Date], the number of jobs projected to be created by the Project during the period between the Effective Date and the Substantial Completion Date:**

The Borrower projects [] jobs to be created by the Project during the period between [[(1)] the Effective Date and the Substantial Completion Date]²⁹ [and] [[(2)] the Substantial Completion Date and the fifth anniversary of the Substantial Completion Date]³⁰.

- (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 [assist the Borrower (measured by percent annually) in reducing levels of Nitrogen, Phosphorus, biochemical oxygen demand (BOD) and total suspended solids (TSS)][increase the volume of potable water produced (measured in MGD annually)][increase the volume of water recycled, recharged or redirected (measured in MGD annually)][increase Class [A][B] biosolids (measured in tons annually)]³¹:**

[].

²⁹ Include for both the reports delivered (i) prior to the Effective Date and (ii) 90 days following the Substantial Completion Date.

³⁰ 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.

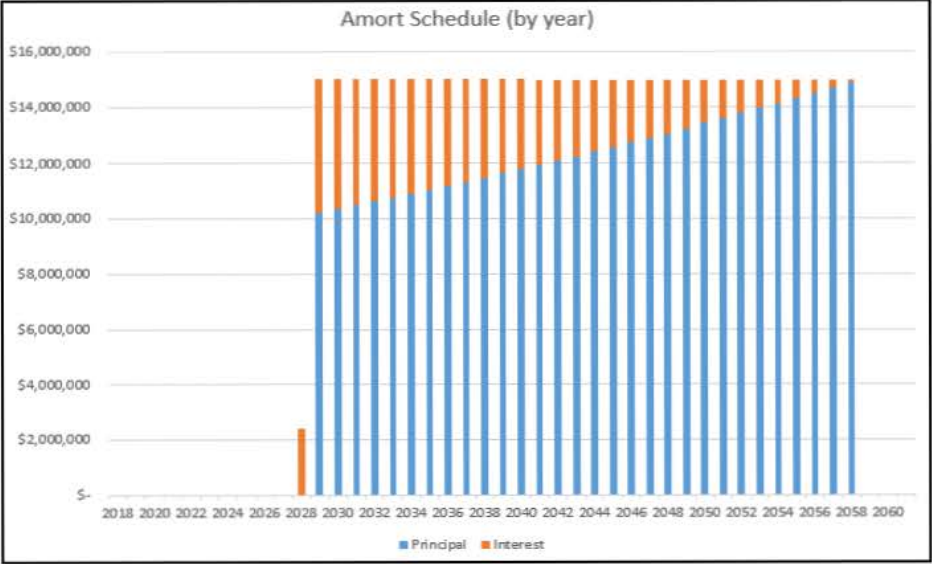
³¹ Include one of the bracketed items as applicable.

Salt Lake City Corp - Salt Lake City Water Reclamation Facility Nutrient Project - 19109UT
WIFIA Loan Amortization Schedu

Closing Date 8/15/2020
 Loan Amount \$ 348,635,000.00
 Interest rate 1.30% SLGS estimate as of 7/15/20
 Weight Average Life (year-month) 23-1
 Maturity 2/1/2058

Period Start Date	Period End Date	Period Payment Date	Disbursements in Period	Capitalized Interest	Interest Payment	Principal Repayment	Semi-annual Debt Service Payment	Ending Balance
8/15/2020	1/31/2021	2/1/2021	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2/1/2021	7/31/2021	8/1/2021	\$93,210,000.00	\$151,466.25	\$0.00	\$0.00	\$0.00	\$93,361,466.25
8/1/2021	1/31/2022	2/1/2022	\$0.00	\$606,849.54	\$0.00	\$0.00	\$0.00	\$93,968,315.79
2/1/2022	7/31/2022	8/1/2022	\$93,890,000.00	\$763,365.31	\$0.00	\$0.00	\$0.00	\$188,621,681.10
8/1/2022	1/31/2023	2/1/2023	\$0.00	\$1,226,040.93	\$0.00	\$0.00	\$0.00	\$189,847,722.03
2/1/2023	7/31/2023	8/1/2023	\$70,465,000.00	\$1,348,515.83	\$0.00	\$0.00	\$0.00	\$261,661,237.86
8/1/2023	1/31/2024	2/1/2024	\$0.00	\$1,700,798.05	\$0.00	\$0.00	\$0.00	\$263,362,035.91
2/1/2024	7/31/2024	8/1/2024	\$64,017,000.00	\$1,815,880.87	\$0.00	\$0.00	\$0.00	\$329,194,916.78
8/1/2024	1/31/2025	2/1/2025	\$0.00	\$2,139,766.96	\$0.00	\$0.00	\$0.00	\$331,334,683.74
2/1/2025	7/31/2025	8/1/2025	\$24,356,000.00	\$2,193,253.95	\$0.00	\$0.00	\$0.00	\$357,883,937.69
8/1/2025	1/31/2026	2/1/2026	\$0.00	\$2,326,245.60	\$0.00	\$0.00	\$0.00	\$360,210,183.29
2/1/2026	7/31/2026	8/1/2026	\$2,697,000.00	\$2,345,748.83	\$0.00	\$0.00	\$0.00	\$365,252,932.12
8/1/2026	1/31/2027	2/1/2027	\$0.00	\$2,374,144.06	\$0.00	\$0.00	\$0.00	\$367,627,076.18
2/1/2027	7/31/2027	8/1/2027	\$0.00	\$2,389,576.00	\$0.00	\$0.00	\$0.00	\$370,016,652.18
8/1/2027	1/31/2028	2/1/2028	\$0.00	\$2,405,108.24	\$0.00	\$0.00	\$0.00	\$372,421,760.42
2/1/2028	7/31/2028	8/1/2028	\$0.00	\$0.00	\$2,420,741.45	\$0.00	\$2,420,741.45	\$372,421,760.42
8/1/2028	1/31/2029	2/1/2029	\$0.00	\$0.00	\$2,420,741.45	\$10,229,779.31	\$12,650,520.76	\$362,191,981.11
2/1/2029	7/31/2029	8/1/2029	\$0.00	\$0.00	\$2,354,247.88	\$0.00	\$2,354,247.88	\$362,191,981.11
8/1/2029	1/31/2030	2/1/2030	\$0.00	\$0.00	\$2,354,247.88	\$10,362,766.44	\$12,717,014.32	\$351,829,214.67
2/1/2030	7/31/2030	8/1/2030	\$0.00	\$0.00	\$2,286,889.90	\$0.00	\$2,286,889.90	\$351,829,214.67
8/1/2030	1/31/2031	2/1/2031	\$0.00	\$0.00	\$2,286,889.90	\$10,497,482.40	\$12,784,372.30	\$341,331,732.27
2/1/2031	7/31/2031	8/1/2031	\$0.00	\$0.00	\$2,218,656.26	\$0.00	\$2,218,656.26	\$341,331,732.27
8/1/2031	1/31/2032	2/1/2032	\$0.00	\$0.00	\$2,218,656.26	\$10,633,949.67	\$12,852,605.93	\$330,697,782.60
2/1/2032	7/31/2032	8/1/2032	\$0.00	\$0.00	\$2,149,535.59	\$0.00	\$2,149,535.59	\$330,697,782.60
8/1/2032	1/31/2033	2/1/2033	\$0.00	\$0.00	\$2,149,535.59	\$10,772,191.02	\$12,921,726.61	\$319,925,591.58
2/1/2033	7/31/2033	8/1/2033	\$0.00	\$0.00	\$2,079,516.35	\$0.00	\$2,079,516.35	\$319,925,591.58
8/1/2033	1/31/2034	2/1/2034	\$0.00	\$0.00	\$2,079,516.35	\$10,912,229.50	\$12,991,745.85	\$309,013,362.08
2/1/2034	7/31/2034	8/1/2034	\$0.00	\$0.00	\$2,008,586.86	\$0.00	\$2,008,586.86	\$309,013,362.08
8/1/2034	1/31/2035	2/1/2035	\$0.00	\$0.00	\$2,008,586.86	\$11,054,088.48	\$13,062,675.34	\$297,959,273.60
2/1/2035	7/31/2035	8/1/2035	\$0.00	\$0.00	\$1,936,735.28	\$0.00	\$1,936,735.28	\$297,959,273.60
8/1/2035	1/31/2036	2/1/2036	\$0.00	\$0.00	\$1,936,735.28	\$11,197,791.63	\$13,134,526.91	\$286,761,481.97
2/1/2036	7/31/2036	8/1/2036	\$0.00	\$0.00	\$1,863,949.64	\$0.00	\$1,863,949.64	\$286,761,481.97
8/1/2036	1/31/2037	2/1/2037	\$0.00	\$0.00	\$1,863,949.64	\$11,343,362.93	\$13,207,312.57	\$275,418,119.04
2/1/2037	7/31/2037	8/1/2037	\$0.00	\$0.00	\$1,790,217.78	\$0.00	\$1,790,217.78	\$275,418,119.04
8/1/2037	1/31/2038	2/1/2038	\$0.00	\$0.00	\$1,790,217.78	\$11,490,826.64	\$13,281,044.42	\$263,927,292.40
2/1/2038	7/31/2038	8/1/2038	\$0.00	\$0.00	\$1,715,527.41	\$0.00	\$1,715,527.41	\$263,927,292.40
8/1/2038	1/31/2039	2/1/2039	\$0.00	\$0.00	\$1,715,527.41	\$11,640,207.39	\$13,355,734.80	\$252,287,085.01
2/1/2039	7/31/2039	8/1/2039	\$0.00	\$0.00	\$1,639,866.06	\$0.00	\$1,639,866.06	\$252,287,085.01
8/1/2039	1/31/2040	2/1/2040	\$0.00	\$0.00	\$1,639,866.06	\$11,791,530.09	\$13,431,396.15	\$240,495,554.92
2/1/2040	7/31/2040	8/1/2040	\$0.00	\$0.00	\$1,563,221.11	\$0.00	\$1,563,221.11	\$240,495,554.92
8/1/2040	1/31/2041	2/1/2041	\$0.00	\$0.00	\$1,563,221.11	\$11,944,819.98	\$13,508,041.09	\$228,550,734.94
2/1/2041	7/31/2041	8/1/2041	\$0.00	\$0.00	\$1,485,579.78	\$0.00	\$1,485,579.78	\$228,550,734.94
8/1/2041	1/31/2042	2/1/2042	\$0.00	\$0.00	\$1,485,579.78	\$12,100,102.64	\$13,585,682.42	\$216,450,632.30
2/1/2042	7/31/2042	8/1/2042	\$0.00	\$0.00	\$1,406,929.11	\$0.00	\$1,406,929.11	\$216,450,632.30
8/1/2042	1/31/2043	2/1/2043	\$0.00	\$0.00	\$1,406,929.11	\$12,257,403.97	\$13,664,333.08	\$204,193,228.33
2/1/2043	7/31/2043	8/1/2043	\$0.00	\$0.00	\$1,327,255.99	\$0.00	\$1,327,255.99	\$204,193,228.33
8/1/2043	1/31/2044	2/1/2044	\$0.00	\$0.00	\$1,327,255.99	\$12,416,750.22	\$13,744,006.21	\$191,776,478.11
2/1/2044	7/31/2044	8/1/2044	\$0.00	\$0.00	\$1,246,547.11	\$0.00	\$1,246,547.11	\$191,776,478.11
8/1/2044	1/31/2045	2/1/2045	\$0.00	\$0.00	\$1,246,547.11	\$12,578,167.98	\$13,824,715.09	\$179,198,310.13
2/1/2045	7/31/2045	8/1/2045	\$0.00	\$0.00	\$1,164,789.02	\$0.00	\$1,164,789.02	\$179,198,310.13
8/1/2045	1/31/2046	2/1/2046	\$0.00	\$0.00	\$1,164,789.02	\$12,741,684.16	\$13,906,473.18	\$166,456,625.97
2/1/2046	7/31/2046	8/1/2046	\$0.00	\$0.00	\$1,081,968.07	\$0.00	\$1,081,968.07	\$166,456,625.97
8/1/2046	1/31/2047	2/1/2047	\$0.00	\$0.00	\$1,081,968.07	\$12,907,326.05	\$13,989,294.12	\$153,549,299.92
2/1/2047	7/31/2047	8/1/2047	\$0.00	\$0.00	\$998,070.45	\$0.00	\$998,070.45	\$153,549,299.92
8/1/2047	1/31/2048	2/1/2048	\$0.00	\$0.00	\$998,070.45	\$13,075,121.29	\$14,073,191.74	\$140,474,178.63
2/1/2048	7/31/2048	8/1/2048	\$0.00	\$0.00	\$913,082.17	\$0.00	\$913,082.17	\$140,474,178.63
8/1/2048	1/31/2049	2/1/2049	\$0.00	\$0.00	\$913,082.17	\$13,245,097.87	\$14,158,180.04	\$127,229,080.76
2/1/2049	7/31/2049	8/1/2049	\$0.00	\$0.00	\$826,989.03	\$0.00	\$826,989.03	\$127,229,080.76

8/1/2049	1/31/2050	2/1/2050	\$0.00	\$0.00	\$826,989.03	\$13,417,284.14	\$14,244,273.17	\$113,811,796.62
2/1/2050	7/31/2050	8/1/2050	\$0.00	\$0.00	\$739,776.68	\$0.00	\$739,776.68	\$113,811,796.62
8/1/2050	1/31/2051	2/1/2051	\$0.00	\$0.00	\$739,776.68	\$13,591,708.83	\$14,331,485.51	\$100,220,087.79
2/1/2051	7/31/2051	8/1/2051	\$0.00	\$0.00	\$651,430.58	\$0.00	\$651,430.58	\$100,220,087.79
8/1/2051	1/31/2052	2/1/2052	\$0.00	\$0.00	\$651,430.58	\$13,768,401.05	\$14,419,831.63	\$86,451,686.74
2/1/2052	7/31/2052	8/1/2052	\$0.00	\$0.00	\$561,935.97	\$0.00	\$561,935.97	\$86,451,686.74
8/1/2052	1/31/2053	2/1/2053	\$0.00	\$0.00	\$561,935.97	\$13,947,390.26	\$14,509,326.23	\$72,504,296.48
2/1/2053	7/31/2053	8/1/2053	\$0.00	\$0.00	\$471,277.93	\$0.00	\$471,277.93	\$72,504,296.48
8/1/2053	1/31/2054	2/1/2054	\$0.00	\$0.00	\$471,277.93	\$14,128,706.34	\$14,599,984.27	\$58,375,590.14
2/1/2054	7/31/2054	8/1/2054	\$0.00	\$0.00	\$379,441.34	\$0.00	\$379,441.34	\$58,375,590.14
8/1/2054	1/31/2055	2/1/2055	\$0.00	\$0.00	\$379,441.34	\$14,312,379.52	\$14,691,820.86	\$44,063,210.62
2/1/2055	7/31/2055	8/1/2055	\$0.00	\$0.00	\$286,410.87	\$0.00	\$286,410.87	\$44,063,210.62
8/1/2055	1/31/2056	2/1/2056	\$0.00	\$0.00	\$286,410.87	\$14,498,440.45	\$14,784,851.32	\$29,564,770.17
2/1/2056	7/31/2056	8/1/2056	\$0.00	\$0.00	\$192,171.01	\$0.00	\$192,171.01	\$29,564,770.17
8/1/2056	1/31/2057	2/1/2057	\$0.00	\$0.00	\$192,171.01	\$14,686,920.18	\$14,879,091.19	\$14,877,849.99
2/1/2057	7/31/2057	8/1/2057	\$0.00	\$0.00	\$96,706.03	\$0.00	\$96,706.03	\$14,877,849.99
8/1/2057	1/31/2058	2/1/2058	\$0.00	\$0.00	\$96,706.03	\$14,877,849.99	\$14,974,556.02	\$0.00
Total			\$348,635,000.00	\$23,786,760.42	\$79,716,105.42	\$372,421,760.42	\$452,137,865.84	



ERIN MENDENHALL
Mayor



LAURA BRIEFER, DIRECTOR
Department of Public Utilities

CITY COUNCIL TRANSMITTAL

Lisa Shaffer

Lisa Shaffer, Chief of Staff

Date Received: August 5, 2020

Date sent to Council: August 5, 2020

TO: Salt Lake City Council
Chris Wharton, Chair

DATE: August 5, 2020

FROM: Laura Briefer, Public Utilities Director

A blue ink signature, likely of Laura Briefer, is written over the "FROM:" line.

SUBJECT: Salt Lake City, Utah Public Utilities Revenue Bond (WIFIA Loan), Series 2020B

STAFF CONTACT: Lisa M. Tarufelli, Finance Administrator, 801-483-6755

lisa.tarufelli@slcgov.com

Laura Briefer, Director, 801-483-6741

laura.briefer@slcgov.com

DOCUMENT TYPE: Briefing/Discussion

RECOMMENDATION: That the City Council consider adopting a Bond Parameters Resolution for the issuance and sale of up to \$348,635,000 principal amount of Salt Lake City Public Utilities Revenue Bond (WIFIA Loan) Series 2020B. This includes a recommendation to 1) brief the Council on August 11 or 18, 2020 in anticipation of adopting a Bond Parameters Resolution for the aforementioned bond issue; 2) on August 11th, set a public hearing date for September 1 2020; 3) adopt a Bond Parameters Resolution on August 18, 2020 approving the issuance of up to \$348,635,000 principal amount of Salt Lake City Public Utilities Revenue Bond (WIFIA Loan), Series 2020B and give authority to certain officers to approve the final terms and provisions of and confirm the issuance of the Bond within certain parameters set forth in the attached Bond Parameters Resolution; and 4) hold a public hearing on September 1, 2020. The timing of the adoption of the resolution on August 18th and a public hearing on September 1st allows the City to hold a 30-day contest period for the resolution prior to the close of the federal fiscal year. This is important as the loan closing must occur prior to the close of the federal fiscal year (September 30).

BUDGET IMPACT: None. The FY21 budget anticipated the bond issuance (WIFIA Loan Proceeds). No budget opening will be required.

BACKGROUND/DISCUSSION: In accordance with provisions of the Local Government Bonding Act, the City is required to hold a public hearing to receive input from the public for all bond issues with respect to: a) the issuance of the Series 2020B revenue bonds and b) the potential economic impact that the sewer infrastructure improvements will have on the private sector. The financing team is requesting that the City Council approve the Bond Parameters Resolution on August 18, 2020 setting Tuesday, September 1, 2020 as the date to hold the public hearing. A Notice of Public Hearing is required to be published once a week for two

consecutive weeks, with the first publication proposed to start on August 17, 2020 and the second starting on August 24, 2020 (if the September 1 public hearing date is set on August 11).

The Bond Parameters Resolution for the above-referenced bond issue contemplates the issuance of up to a \$348.635 million principal amount bond bearing interest at an interest rate not to exceed 4% per annum with a bond period not to exceed 39 years.

The Water Infrastructure Finance and Innovation Act (WIFIA) loan will finance 49% of the construction costs of the Water Reclamation Facility to meet regulatory requirements. The Series 2020 revenue bonds will finance a portion of the required 51% match on the project.

Draft copies of the Bond Parameters Resolution, Tenth Supplemental Trust Indenture, WIFIA Loan Agreement, and draft amortization schedule are included for your review. These documents are subject to change.

Attachments: Bond Parameters Resolution
Tenth Supplemental Trust Indenture
WIFIA Loan Agreement
Draft Loan Amortization Schedule

cc: Lisa Tarufelli, Boyd Ferguson, Rusty Vetter, Marina Scott

Salt Lake City, Utah

August 11, 2020

The City Council (the “Council”) of Salt Lake City, Utah (the “City”), met in regular session at the regular meeting place of the Council in Salt Lake City, Utah, at 7:00 p.m. on Tuesday, August 11, 2020, with the following members present:

Present:

Chris Wharton	Chair
Andrew Johnston	Vice Chair
Dan Dugan	Council Member
Amy Fowler	Council Member
Darin Mano	Council Member
James Rogers	Council Member
Ana Valdemoros	Council Member

There were also present:

Erin Mendenhall	Mayor
Katherine N. Lewis	City Attorney

Absent:

After the meeting had been duly called to order and after other matters not pertinent to this Resolution had been discussed, a Certificate of Compliance with Open Meeting Law with respect to this August 11, 2020 meeting was presented to the Council, a copy of which is attached hereto.

The following resolution was then introduced in written form, was fully discussed, and pursuant to motion duly made by Council Member _____ and seconded by Council Member _____, was adopted by the following vote:

AYE:

NAY:

The resolution is as follows:

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF SALT LAKE CITY, UTAH (THE “ISSUER”), AUTHORIZING THE ISSUANCE AND SALE OF NOT MORE THAN \$348,635,000 AGGREGATE PRINCIPAL AMOUNT OF PUBLIC UTILITIES REVENUE BOND (WIFIA LOAN), SERIES 2020B; FIXING THE MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF THE BONDS, THE MAXIMUM NUMBER OF YEARS OVER WHICH THE BONDS MAY MATURE, THE MAXIMUM INTEREST RATE WHICH THE BONDS MAY BEAR, AND THE MAXIMUM DISCOUNT FROM PAR AT WHICH THE BONDS MAY BE SOLD; PROVIDING FOR THE PUBLICATION OF A NOTICE OF PUBLIC HEARING AND BONDS TO BE ISSUED; PROVIDING FOR THE RUNNING OF A CONTEST PERIOD; AUTHORIZING THE EXECUTION BY THE ISSUER OF A SUPPLEMENTAL INDENTURE, A WIFIA LOAN AGREEMENT, AND OTHER DOCUMENTS REQUIRED IN CONNECTION THEREWITH; AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION; AND RELATED MATTERS.

WHEREAS, pursuant to the provisions of the Local Government Bonding Act, Title 11, Chapter 14, Utah Code Annotated 1953, as amended (the “Bond Act”), the City Council (the “Council”) of Salt Lake City, Utah (the “Issuer”), is authorized to issue Public Utilities Revenue Bonds (to be issued in one or more series and with such other series or title designation(s) as may be determined by the Issuer) payable from the net revenues of its existing water, sewer, storm drain and street lighting systems (collectively, the “System”) for the municipal purposes set forth therein; and

WHEREAS, subject to the limitations set forth herein, the Issuer desires to issue its Public Utilities Revenue Bond (WIFIA Loan), Series 2020B (the “WIFIA Bond”) to (a) finance the reconstruction of the Issuer’s Water Reclamation Facility (the “Project”) and (b) pay costs of issuance of the WIFIA Bond, pursuant to this Resolution, the Bond Act, the WIFIA Loan Agreement (defined hereinbelow), a Master Trust Indenture, dated as of January 1, 2004, as heretofore amended and supplemented (the “Master Indenture”), between the Issuer and U.S. Bank National Association, as trustee (the “Trustee”), and a Supplemental Indenture to be entered into between the Issuer and the Trustee (the “Supplemental Indenture” and collectively with the Master Indenture, the “Indenture”), in substantially the form presented to the meeting at which this Resolution was adopted and which is attached hereto as Exhibit B; and

WHEREAS, in order to obtain funding for a portion of the costs of the Project, the Issuer has submitted an application for participation in the programs enabled by the federal Water Infrastructure Finance and Innovation Act, as amended (“WIFIA”), administered by the United States Environmental Protection Agency (the “WIFIA Credit Provider”) pursuant to WIFIA, 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, which is codified as 33 U.S.C. §§ 3901-3914 (the "Federal Act"); and

WHEREAS, the WIFIA Credit Provider has agreed to provide financing for the Project in a principal amount not to exceed \$348,635,000 (excluding capitalized interest thereon) subject to the terms of the WIFIA Loan Agreement (the "WIFIA Loan Agreement"), dated as of [____], 2020, between the Issuer and the WIFIA Credit Provider, in substantially the form presented to the meeting at which this Resolution was adopted and which is attached hereto as Exhibit C; and

WHEREAS, to enable the Issuer's participation in the WIFIA program and the execution and delivery of the WIFIA Loan Agreement and to evidence the borrowing from the WIFIA Credit Provider contemplated by the WIFIA Loan Agreement, the Issuer proposes to issue and deliver to the WIFIA Credit Provider the WIFIA Bond in the principal amount not to exceed \$348,635,000, such not to exceed principal amount representing the not to exceed principal amount of the WIFIA Loan Agreement; and

WHEREAS, the Council hereby finds and determines that each and all of the conditions precedent to the issuance of the WIFIA Bond on a parity with and co-equal in priority and lien to the existing revenue bond indebtedness of all bonds issued under the Master Indenture have, or can and will be satisfied prior to or upon the issuance of the WIFIA Bond; and

WHEREAS, the Bond Act provides that prior to issuing bonds, an issuing entity must (a) give notice of its intent to issue such bonds and (b) hold a public hearing to receive input from the public with respect to (i) the issuance of the bonds and (ii) the potential economic impact that the improvement, facility or property for which the bonds pay all or part of the cost will have on the private sector; and

WHEREAS, the Issuer desires to call a public hearing for this purpose and to publish a notice of such hearing with respect to the WIFIA Bond; and

WHEREAS, in order to allow the Issuer, in consultation with the Issuer's Municipal Advisor, Stifel, Nicolaus & Company, Incorporated (the "Municipal Advisor") flexibility in finalizing the issuance of the WIFIA Bond, the Council desires to grant to (a) the Mayor or, in the event of the absence or incapacity of the Mayor, the Mayor's Chief of Staff, or in the event of the absence or incapacity of both the Mayor and the Mayor's Chief of Staff, the City Treasurer and (b) the Chair of the City Council or, in the event of the absence or incapacity of the Chair of the City Council, the Vice Chair of the City Council, or in the event of the absence or incapacity of both the Chair and the Vice Chair of the City Council, the most senior member of the City Council then available (collectively, the "Designated Officers"), the authority to determine whether the WIFIA Bond should be issued, to finalize the terms and conditions of the WIFIA Loan Agreement, and to make any changes with respect thereto from those terms which were before the Council at the time of adoption of this Resolution, provided such terms do not exceed the parameters set forth for such terms in this Resolution (the "Parameters");

NOW, THEREFORE, it is hereby resolved by the City Council of Salt Lake City, Utah, as follows:

Section 1. For the purpose of financing the Project and paying costs of issuance of the WIFIA Bond, the Issuer hereby authorizes the issuance of the WIFIA Bond which shall be designated “Salt Lake City, Utah Public Utilities Revenue Bond (WIFIA Loan), Series 2020B” (to be issued from time to time as one or more series and with such other series or title designation(s) as may be determined by the Issuer) in the initial aggregate principal amount of not to exceed \$348,635,000. The WIFIA Bond shall mature in not more than thirty-nine (39) years from its date or dates, shall be sold at a price not less than ninety-nine percent (99%) of the total principal amount thereof, shall bear interest at a rate or rates not to exceed four percent (4.0%) per annum, and may be non-callable or subject to redemption, all as shall be approved by the Designated Officers in consultation with the Issuer’s Municipal Advisor, all within the Parameters.

Section 2. The Supplemental Indenture and the WIFIA Loan Agreement, in substantially the forms presented at this meeting and attached hereto as Exhibits B and C, respectively, are hereby authorized, approved, and confirmed. The Mayor or the Mayor’s Chief of Staff as the Mayor’s designee (collectively referred to herein as the “Mayor”) are hereby authorized to execute and deliver and the City Recorder or Deputy City Recorder (the “City Recorder”) to attest or countersign, the Supplemental Indenture and the WIFIA Loan Agreement in substantially the forms and with substantially the content as the forms presented at this meeting for and on behalf of the Issuer, with final terms as may be established by the Designated Officers, in consultation with the Municipal Advisor, within the Parameters, and with such alterations, changes or additions as may be necessary or as may be authorized by Section 3 hereof. The Designated Officers are each hereby authorized to specify and agree as to the final principal amounts, terms, discounts, maturities, interest rates, and redemption features with respect to the WIFIA Bond for and on behalf of the Issuer, provided that such terms are within the Parameters.

Section 3. The appropriate officials of the Issuer are authorized to make any alterations, changes, deletions or additions to the Indenture, the WIFIA Loan Agreement, the WIFIA Bond, or any other document herein authorized and approved which may be necessary to conform the same to the final terms of the WIFIA Bond (within the Parameters), to conform to any applicable insurance or to remove the same, to correct errors or omissions therein, to complete the same, to remove ambiguities therefrom, or to conform the same to other provisions of said instruments, to the provisions of this Resolution or any resolution adopted by the Council or the provisions of the laws of the State of Utah or the United States. The execution thereof by the Mayor on behalf of the Issuer shall conclusively establish such necessity, appropriateness, and approval with respect to all such additions, modifications, deletions, and changes incorporated therein.

Section 4. The form, terms, and provisions of the WIFIA Bond and the provisions for the signatures, authentication, payment, registration, transfer, exchange, redemption, and number shall be as set forth in the Indenture. The Mayor and City Recorder are hereby authorized and directed to execute and seal the WIFIA Bond and to

deliver said WIFIA Bond to the Trustee for authentication. The signatures of the Mayor and the City Recorder may be by electronic, facsimile or manual execution.

Section 5. The appropriate officials of the Issuer are hereby authorized and directed to execute and deliver to the Trustee the written order of the Issuer for authentication and delivery of the WIFIA Bond in accordance with the provisions of the Indenture.

Section 6. Upon its issuance, the WIFIA Bond will constitute a special limited obligation of the Issuer payable solely from and to the extent of the sources set forth in the WIFIA Bond, the WIFIA Loan Agreement and the Indenture. No provision of this Resolution, the Indenture, the WIFIA Bond, the WIFIA Loan Agreement, or any other instrument, shall be construed as creating a general obligation of the Issuer, or of creating a general obligation of the State of Utah or any political subdivision thereof, or as incurring or creating a charge upon the general credit of the Issuer or its taxing powers.

Section 7. The appropriate officials of the Issuer, and each of them, are hereby authorized and directed to execute and deliver for and on behalf of the Issuer any or all additional certificates, documents and other papers (including, without limitation, any reserve instrument guaranty agreements permitted by the Indenture) and to perform all other acts they may deem necessary or appropriate in order to implement and carry out the matters authorized in this Resolution and the documents authorized and approved herein.

Section 8. The Issuer shall hold a public hearing on [September 1], 2020, to receive input from the public with respect to (a) the issuance of the WIFIA Bond, and (b) the potential economic impact that the improvements to be financed with the proceeds of the WIFIA Bond will have on the private sector, which hearing date shall not be less than fourteen (14) days after notice of the public hearing is first published (i) once a week for two consecutive weeks in The Salt Lake Tribune and the Deseret News, newspapers of general circulation in the Issuer, (ii) on the Utah Public Notice Website created under Section 63F-1-701, Utah Code Annotated 1953, as amended, and (iii) on the Utah Legal Notices website (www.utahlegals.com) created under Section 45-1-101, Utah Code Annotated 1953, as amended. The City Recorder shall cause a copy of this Resolution (together with all exhibits hereto) to be kept on file electronically and at 349 South 200 East, Salt Lake City, Utah, for public examination during the regular business hours of the Issuer until at least thirty (30) days from and after the date of publication thereof. The Issuer directs its officers and staff to publish a “Notice of Public Hearing and Bonds to be Issued” in substantially the following form:

NOTICE OF PUBLIC HEARING AND BONDS TO BE ISSUED

NOTICE IS HEREBY GIVEN pursuant to the provisions of the Local Government Bonding Act, Title 11, Chapter 14, Utah Code Annotated 1953, as amended (the “Bond Act”) that on August 11, 2020, the City Council (the “Council”) of Salt Lake City, Utah (the “Issuer”), adopted a resolution (the “Resolution”) in which it authorized the issuance of the Issuer’s Public Utilities Revenue Bond (WIFIA Loan), Series 2020B (the “WIFIA Bond”) (to be issued in one or more series and with such other name, series or title designation(s) as may be determined by the Issuer) and called a public hearing.

PURPOSE, TIME, PLACE AND LOCATION OF PUBLIC HEARING

[The Issuer shall hold a public hearing on [September 1], 2020, at the hour of 7:00 p.m. at 451 South State Street, Room 315, Salt Lake City, Utah. The purpose of the hearing is to receive input from the public with respect to (a) the issuance of the WIFIA Bond and (b) any potential economic impact that the project to be financed with the proceeds of the WIFIA Bond may have on the private sector. All members of the public are invited to attend and participate.]

[or]

[The Issuer shall hold a public hearing on [September 1], 2020, at the hour of 7:00 p.m. via electronic means pursuant to the Salt Lake City Emergency Proclamation. This hearing will **not** have a physical location at the City and County Building. All attendees will connect remotely. Members of the public are encouraged to participate in the hearing using the following platforms:

Facebook Live: www.facebook.com/slcCouncil/

YouTube: www.youtube.com/slclivemeetings

Web Agenda: www.slc.gov/council/agendas/

SLCtv Channel 17 Live: www.slctv.com/livestream/SLCtv-Live/2

Please visit the website council.comments@slcgov.com or call 801-535-7654 to learn how you can share your comments live during the hearing.]

PURPOSE FOR ISSUING THE WIFIA BOND

The WIFIA Bond will be issued for the purpose of financing the reconstruction of the Issuer’s Water Reclamation Facility and paying costs of issuance of the WIFIA Bond.

REVENUES TO BE PLEDGED

The WIFIA Bond is a special limited obligation of the Issuer payable from the revenues of the Issuer’s water, sewer, stormwater and street lighting systems (the “Revenues”).

PARAMETERS OF THE WIFIA BOND

The Issuer intends to issue the WIFIA Bond in the aggregate principal amount of not more than Three Hundred Forty-Eight Million Six Hundred Thirty-Five Thousand Dollars (\$348,635,000), to mature in not more than thirty-nine (39) years from its date or dates, to be sold at a price not less than ninety-nine percent (99%) of the total principal amount thereof, and bearing interest at a rate or rates not to exceed four percent (4.0%) per annum. The WIFIA Bond is to be issued and sold by the Issuer pursuant to the Resolution, including as part of said Resolution, a WIFIA Loan Agreement (the “WIFIA Loan Agreement”), a Master Trust Indenture (the “Master Indenture”), and a Supplemental Indenture of Trust (the “Supplemental Indenture” and collectively with the Master Indenture, the “Indenture”) which WIFIA Loan Agreement and Indenture were before the Council in substantially final forms at the time of the adoption of the Resolution and said WIFIA Loan Agreement and Supplemental Indenture are to be executed by the Issuer in such forms and with such changes thereto as shall be approved by the Issuer; provided that the principal amount, interest rate or rates, maturity, and discount of the WIFIA Bond will not exceed the maximums set forth above.

OUTSTANDING BONDS SECURED BY REVENUES

Other than the proposed WIFIA Bond, the Issuer currently has \$252,630,000 of bonds outstanding (the “Outstanding Bonds”) secured by the Revenues (as more fully described in the Indenture).

OTHER OUTSTANDING BONDS OF THE ISSUER

Additional information regarding the Issuer’s Outstanding Bonds may be found in the Issuer’s financial report (the “Financial Report”) at: <https://reporting.auditor.utah.gov/searchreport>. For additional information, including any information more recent than as of the date of the Financial Report, please contact Marina Scott, City Treasurer, at (801) 535-6565.

TOTAL ESTIMATED COST

Based on the Issuer’s current plan of finance and a current estimate of interest rates, the total principal and interest cost of the WIFIA Bond if held until maturity is \$452,137,365.

A copy of the Resolution, the WIFIA Loan Agreement and the Indenture are on file in the office of the Salt Lake City Recorder, electronically, and at 349 South 200 East, Salt Lake City, Utah, where they may be examined by appointment at the office of the City Recorder during regular business hours of the City Recorder from 8:00 a.m. to 5:00 p.m. for a period of at least thirty (30) days from and after the date of publication of this notice. To schedule an appointment, please call (801) 535-7671. Additionally, a protected, pdf copy of the Resolution, the WIFIA Loan Agreement and the Indenture may be requested by sending an email to the City Recorder at SLCRecorder@slcgov.com.

NOTICE IS FURTHER GIVEN that a period of thirty (30) days from and after the date of the publication of this notice is provided by law during which any person in interest shall have the right to contest the legality of the Resolution, the WIFIA Loan Agreement, the Indenture (only as it pertains to the WIFIA Bond), or the WIFIA Bond, or any provision made for the security and payment of the WIFIA Bond, and that after such time, no one shall have any cause of action to contest the regularity, formality, or legality thereof for any cause whatsoever.

DATED this August 11, 2020.

/s/ Cindy Lou Trishman
City Recorder

Section 10. The Issuer hereby reserves the right to opt not to issue the WIFIA Bond for any reason, including without limitation, consideration of the opinions expressed at the public hearing.

Section 11. All resolutions or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed and this Resolution shall be in full force and effect immediately upon its approval and adoption.

Section 12. Upon the issuance of the WIFIA Bond, this Resolution shall be and remain irrevocable until the principal of, premium, if any, and interest on the WIFIA Bond is deemed to have been duly discharged in accordance with the terms and provisions of the Indenture.

ADOPTED this August 11, 2020.

Chair

(SEAL)

Attest and Countersign:

City Recorder

PRESENTATION TO THE MAYOR

The foregoing resolution was presented to the Mayor for her approval or disapproval on August 11, 2020.

By: _____
Chair

MAYOR'S APPROVAL OR DISAPPROVAL

The foregoing resolution is hereby approved on this August 11, 2020.

By: _____
Mayor

EXHIBIT A

CERTIFICATE OF COMPLIANCE WITH
OPEN MEETING LAW

I, Cindy Lou Trishman, the undersigned City Recorder of Salt Lake City, Utah (the “City”), do hereby certify, according to the records of the City in my official possession, and upon my own knowledge and belief, that in accordance with the requirements of Section 52-4-202, Utah Code Annotated, 1953, as amended, I gave not less than twenty-four (24) hours public notice of the agenda, date, time and place of the August 11, 2020, public meeting held by the City Council of the City (the “City Council”) as follows:

(a) By causing a Notice, in the form attached hereto as Schedule 1, to be posted at the principal offices of the City at least twenty-four (24) hours prior to the convening of the meeting, said Notice having continuously remained so posted and available for public inspection until the completion of the meeting;

(b) By causing a copy of such Notice, in the form attached hereto as Schedule 1, to be delivered to a newspaper of general circulation within the City at least twenty-four (24) hours prior to the convening of the meeting; and

(c) By causing a copy of such Notice, in the form attached hereto as Schedule 1, to be posted on the Utah Public Notice Website (<http://pmn.utah.gov>) at least twenty-four (24) hours prior to the convening of the meeting.

In addition, the Notice of 2020 Annual Meeting Schedule for the City Council (attached hereto as Schedule 2) was given specifying the date, time, and place of the regular meetings of the City Council to be held during the year, by causing said Notice to be (a) posted on December 30, 2019 at the principal office of the City Council, (b) provided to at least one newspaper of general circulation within the City on January 2, 2020 and (c) published on the Utah Public Notice Website (<http://pmn.utah.gov>) during the current calendar year.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature this August 11, 2020.

(SEAL)

By: _____
City Recorder

SCHEDULE 1

NOTICE OF MEETING

SCHEDULE 2
ANNUAL MEETING SCHEDULE

(attach Proof of Publication of
Notice of Public Hearing and Bonds to be Issued)

EXHIBIT B

INDENTURE

(See Transcript Document Nos. ____ and ____)

EXHIBIT C

FORM OF WIFIA LOAN AGREEMENT

(See Transcript Document No. ____)

TENTH SUPPLEMENTAL TRUST INDENTURE

BETWEEN

SALT LAKE CITY, UTAH

AND

U.S. BANK NATIONAL ASSOCIATION

as Trustee

Dated as of _____ 1, 2020

\$ _____

SALT LAKE CITY, UTAH

PUBLIC UTILITIES REVENUE BOND (WIFIA LOAN), SERIES 2020B

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TENTH SUPPLEMENTAL TRUST INDENTURE

THIS TENTH SUPPLEMENTAL TRUST INDENTURE (the “Tenth Supplemental Indenture”), dated as of [_____] 1, 2020, between Salt Lake City, Utah, a municipal corporation and political subdivision of the State of Utah (the “City”), and U.S. Bank National Association, a national banking association duly organized and qualified under the laws of the United States of America, authorized by law to accept and execute trusts and having an office in Salt Lake City, Utah (the “Trustee”):

WITNESSETH

WHEREAS, the City has entered into a Master Trust Indenture, dated as of January 1, 2004, as amended and supplemented to the date hereof (the “Master Indenture” and, together with this Tenth Supplemental Indenture, the “Indenture”), with the Trustee;

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 “WIFIA”), which is codified as 33 U.S.C. §§ 3901-3914;

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

WHEREAS, the City has requested that the WIFIA Lender make the WIFIA Loan (as defined herein) in a principal amount not to exceed \$[_____] (excluding interest that is capitalized in accordance with the terms hereof) to be used to pay a portion of the Eligible Project Costs (as defined in the hereinafter defined WIFIA Loan Agreement) related to the Series 2020B Project (as defined herein) pursuant to the application for WIFIA financial assistance dated February 26, 2020 (the “Application”);

WHEREAS, as of the date hereof, the WIFIA Lender has approved WIFIA financial assistance for the Project to be provided in the form of the WIFIA Loan, the payment obligation of which will be evidenced by the City’s Public Utilities Revenue Bond (WIFIA Loan), Series 2020B (the “Series 2020B Bond”) to be issued hereunder;

WHEREAS, based on the Application and the representations, warranties and covenants set forth herein, the WIFIA Lender proposes to make funding available to the City through the purchase of the Series 2020B Bond;

WHEREAS, the City considers it necessary and desirable and for the benefit of the City and the users of the System (as defined herein) to issue the Series 2020B Bond pursuant to the Indenture and as hereinafter provided for the purpose of financing the Project pursuant to authority contained in the Local Government Bonding Act, Chapter 14 of Title 11, Utah Code Annotated 1953, as amended;

WHEREAS, the Series 2020B Bond will be authorized, issued and secured under the Indenture on a parity with all other Bonds issued and outstanding from time to time thereunder;

WHEREAS, the execution and delivery of the Series 2020B Bond and of this Tenth Supplemental Indenture have in all respects been duly authorized and all things necessary to make the Series 2020B Bond, when executed by the City and authenticated by the Trustee, the valid and binding legal obligation of the City and to make this Tenth Supplemental Indenture a valid and binding agreement have been done;

NOW, THEREFORE, THIS TENTH SUPPLEMENTAL INDENTURE WITNESSETH:

For and in consideration of the mutual covenants herein contained and of the purchase of the Series 2020B Bond by the Bondholders thereof from time to time, and of the acceptance by the Trustee of the trusts hereby created, and intending to be legally bound hereby, the City has executed and delivered this Tenth Supplemental Indenture, and by these presents does confirm the pledge provided for in the Master Indenture and to further secure the payment of the Series 2020B Bond and all other Bonds now or hereafter Outstanding under the Indenture does hereby sell, assign, transfer, set over and pledge unto U.S. Bank National Association, as Trustee, its successors and trusts and its assigns forever, all right, title and interest of the City in and to (a) the proceeds of the sale of the Series 2020B Bond, (b) the Revenues, (c) all moneys held by the Trustee in funds and accounts established hereunder, including the investments, if any, thereof (except for any Rebate Fund), and (d) all other rights hereinafter granted for the future securing of such Series 2020B Bond subject to the permitted applications thereof as provided in the Master Indenture.

TO HAVE AND TO HOLD THE SAME unto the Trustee and its successors and its assigns in trust forever;

IN TRUST, NEVERTHELESS, FIRST, for the equal and ratable benefit and security of all present and future Bondholders and Security Instrument Issuers without preference, priority, or distinction as to security or otherwise (except as otherwise specifically provided) of any of the Bonds or Security Instrument Repayment Obligations over any of the others by reason of time of issuance, sale, delivery, maturity or expiration thereof or otherwise for any cause whatsoever; and SECOND, for the equal and proportionate benefit, security and protection of all Reserve Instrument Issuers without preference, priority, or distinction as to lien or otherwise (except as otherwise specifically provided) of any Reserve Instrument Provider over any other Reserve Instrument Provider

by reason of time of issuance, delivery or expiration thereof or otherwise for any cause whatsoever.

ARTICLE I

DEFINITIONS

Section 1.1 Definitions. (a) Except as provided in subparagraph (b) of this Section and as the same may be amended hereby, all defined terms contained in the Master Indenture when used in this Tenth Supplemental Indenture shall have the same meanings as set forth in the Master Indenture.

(b) As used in this Tenth Supplemental Indenture, unless the context shall otherwise require, the following terms shall have the following meanings:

“Eligible Project Costs” has the meaning given to such term in the WIFIA Loan Agreement.

“Indenture” means the Master Indenture as amended and supplemented by this Tenth Supplemental Indenture and as from time to time hereafter amended and supplemented by Supplemental Indentures.

“Master Indenture” means the Master Trust Indenture, dated as of January 1, 2004, as heretofore amended and supplemented, between the City and the Trustee, providing for the issuance of public utility revenue bonds.

“Outstanding Bonds” means, as of the date of execution and delivery of the Series 2020B Bond, (i) Taxable Water and Sewer Bonds, Series 2009, (ii) Water and Sewer Revenue Bonds, Series 2010, (iii) Water and Sewer Revenue Bonds, Series 2011, (iv) Water and Sewer Improvement and Refunding Revenue Bonds, Series 2012, (v) Public Utilities Revenue and Refunding Bonds, Series 2017, and (vi) Public Utilities Revenue Bond (WIFIA Loan), Series 2020B.

“Record Date” means the fifteenth day of the month next preceding any interest payment date.

“Renewal and Replacement Fund Reserve Requirement” means an amount equal to \$0.

“Series 2020B Bond” means the City’s Public Utilities Revenue Bond (WIFIA Loan), Series 2020B, issued pursuant to this Tenth Supplemental Indenture.

“Series 2020B Bond Service Subaccount” means the Series Subaccount in the Bond Service Account established in Section 3.5.

“Series 2020B Debt Service Reserve Requirement” means an amount equal to \$0.

“Series 2020B Project” has the meaning given to the term “Project” in the WIFIA Loan Agreement.

“Series 2020B Project Account” means the Project Account in the Construction Fund established in Section 3.4.

“Tenth Supplemental Indenture” means this Tenth Supplemental Trust Indenture, dated as of [_____] 1, 2020, between the City and the Trustee.

“WIFIA” means 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.

“WIFIA Lender” means United States Environmental Protection Agency, an agency of the United States of America, acting by and through the Administrator of the Environmental Protection Agency.

WIFIA Loan” means the secured loan made by the WIFIA Lender to the City on the terms and conditions set forth herein, pursuant to WIFIA and the Act, in a principal amount not to exceed \$[_____] (excluding capitalized interest), to be used in respect of Eligible Project Costs paid or incurred by the City.

“WIFIA Loan Agreement” means the WIFIA Loan Agreement dated as of [____], 2020 between the WIFIA Lender and the City.

The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder,” and any similar terms as used in this Tenth Supplemental Indenture, refer to this Tenth Supplemental Indenture.

Section 1.2 Authority for Tenth Supplemental Indenture. This Tenth Supplemental Indenture is executed pursuant to the provisions of the Act and the Indenture.

ARTICLE II

AUTHORIZATION, TERMS AND ISSUANCE OF SERIES 2020 BONDS

Section 2.1 Authorization of Bonds, Principal Amount, Designation and Series. In order to provide sufficient funds, together with other available moneys of the City, if any, for the (a) financing of a portion of the Cost of Construction of the Series 2020B Project and (b) paying all expenses properly incidental thereto and to the issuance of the Series 2020B Bond and in accordance with and subject to the terms, conditions and limitations established in the Indenture, a Series of the City's Public Utilities Revenue Bonds is hereby authorized to be issued in the aggregate principal amount of \$_____ and designated "Public Utilities Revenue Bond (WIFIA Loan), Series 2020B."

Section 2.2 Finding and Purpose. The Series 2020B Bond is hereby authorized to be issued for the purpose of paying part of the Cost of Construction of the Series 2020B Project pursuant to Section 2.03 of the Master Indenture. Except for the City's Outstanding Bonds and the Series 2020 Bond authorized by this Tenth Supplemental Indenture, the City has no outstanding bonds, notes or other obligations issued pursuant to the Indenture.

Section 2.3 Issue Date. The Series 2020B Bond shall be dated as of the date of delivery thereof.

Section 2.4 Series 2020B Bond. (a) The Series 2020B Bond shall mature on the dates and in the principal amounts and shall bear interest from the date of delivery thereof (calculated on the basis of a 360-day year consisting of twelve 30-day months), payable semi-annually thereafter on February 1 and August 1 in each year, beginning _____, at the rates shown below:

Maturity Date
(February 1)

Principal Amount

Interest Rate

(b) The Series 2020B Bond shall bear interest from the interest payment date next preceding the date of registration and authentication thereof unless it is registered as of an interest payment date, in which event it shall bear interest from the date thereof, or unless it is registered prior to the first interest payment date, in which event it shall bear interest from its date, or unless, as shown by the records of the Trustee, interest on the Series 2020B Bond shall be in default, in which event it shall bear interest from the date to which interest has been paid in full.

(c) Interest on the Series 2020B Bond will be paid on each Interest Payment Date to the registered owner thereof who is the registered owner at the

close of business on the Record Date for such interest, which shall be the fifteenth day of the month next preceding such Interest Payment Date. Any such interest not so punctually paid or duly provided for shall forthwith cease to be payable to the registered owner of any Series 2020B Bond on such Regular Record Date, and may be paid to the registered owner thereof at the close of business on a Special Record Date for the payment of such defaulted interest to be fixed by the Trustee, notice thereof to be given to such registered owner not less than ten days prior to such Special Record Date. The principal of and premium, if any, on the Series 2020B Bonds are payable upon presentation and surrender thereof at the principal corporate trust office of the Trustee. Interest shall be paid by check or draft mailed on each Interest Payment Date to the registered owner of the Series 2020B Bond as the name and address of such registered owner appear on the Record Date in the Register.

Section 2.5 Registered Bonds; Denomination and Numbers. The Series 2020B Bond shall be issued solely as a fully registered Bond, without coupons, in the denomination of \$[5,000] or any integral multiple thereof. The Series 2020B Bond shall be numbered from one (1) consecutively upwards with the prefix “R” preceding each number.

Section 2.6 Paying Agent. U.S. Bank National Association, of Salt Lake City, Utah, is hereby appointed the Paying Agent for the Series 2020B Bond, pursuant and subject to Section 7.02 of the Master Indenture. Principal of the Series 2020B Bond when due shall be payable at the principal corporate trust operations office of the Trustee, or of its successor as Paying Agent. Payment of interest on the Series 2020B Bond shall be made to the registered owner thereof and shall be paid by check or draft mailed on the payment date to the person who is the registered owner of record as of the close of business on the Record Date at his address as it appears on the registration books of the Trustee or at such other address as is furnished in writing by such registered owner to the Trustee prior to the Record Date. In the written acceptance of each Paying Agent referred to in Section 7.02 of the Master Indenture, such Paying Agent shall agree to take all action necessary for all representations of the City in the Letter of Representations with respect to the Paying Agent to at all times be complied with.

Section 2.7 Optional Redemption; Redemption Price. (a) The Series 2020B Bond is subject to redemption, in whole or in part, at the election of the City, on any date on or after _____ (if in part, such Series 2020B Bond to be redeemed shall be selected from by the City in its discretion), upon notice as provided in Section 4.03 of the Master Indenture, and at a Redemption Price equal to the principal amount thereof plus accrued interest to the redemption date.

(b) With respect to any notice of optional redemption of the Series 2020B Bond, unless upon the giving of such notice such Series 2020B Bond shall be deemed to have been paid within the meaning of Article XI of the Indenture, such notice may state that such redemption shall be conditioned upon the receipt by the Trustee on or prior to the date fixed for such redemption of money sufficient

to pay the Redemption Price of and interest on the Series 2020B Bond to be redeemed, and that if such money shall not have been so received said notice shall be of no force and effect, and the City shall not be required to redeem such Series 2020B Bond. In the event that such notice of redemption contains such a condition and such money is not so received, the redemption shall not be made and the Trustee shall within a reasonable time thereafter give notice, in the manner in which the notice of redemption was given, that such money was not so received and that such redemption was not made.

(c) In addition to the notice described in Section 4.03 of the Master Indenture, further notice of any redemption of the Series 2020B Bond shall be given by the Trustee to the Municipal Securities Rule Making Board's EMMA website, but no defect in such further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if notice thereof is given as described in Section 4.03 of the Master Indenture.

(d) Upon the payment of the redemption price of the Series 2020B Bond being redeemed, each check or other transfer of funds issued for such purpose shall bear the CUSIP number identifying, by issue and maturity, the Series 2020B Bond being redeemed with the proceeds of such check or other transfer.

Section 2.8 Execution of Series 2020B Bond. The Series 2020B Bond shall be executed on behalf of the City by the Mayor by his or her electronic, manual or facsimile signature, and attested and countersigned by the City Recorder by his or her electronic, manual or facsimile signature, and the City's seal shall be affixed or a facsimile thereof shall be imprinted upon the Series 2020B Bond. The Series 2020B Bond shall then be delivered to the Trustee and manually authenticated by it.

Section 2.9 Delivery of Series 2020B Bond. The Series 2020B Bond shall be delivered to the WIFIA Lender, upon compliance with the provisions of Section 3.02 of the Master Indenture, at such time and place as provided in, and subject to, the provisions of the WIFIA Loan Agreement.

ARTICLE III

APPLICATION OF SERIES 2020 BOND PROCEEDS AND OTHER MONEYS; ESTABLISHMENT AND OPERATION OF ACCOUNTS AND SUBACCOUNTS

Section 3.1 Interest During Construction. The amount to be deposited from the proceeds of the Series 2020B Bond into the Construction Fund to pay interest on the Series 2020B Bond estimated to fall due during the period of construction of the Series 2020B Project, as set forth in the Written Certificate of the City estimating the cost of construction of the Series 2020B Project and the estimated date of completion thereof as required by Section 2.03(c)(1) of the Master Indenture is \$[-0-].

Section 3.2 Debt Service Reserve Account. The amount to be deposited from the proceeds of the Series 2020B Bond into the Debt Service Reserve Account is \$0.

Section 3.3 Renewal and Replacement Fund. The amount to be deposited from the proceeds of the Series 2020B Bond into the Renewal and Replacement Fund is \$0 and upon the issuance of the Series 2020B Bond amounts previously on deposit in the Renewal and Replacement Fund shall be deposited to the Revenue Account.

Section 3.4 Establishment of Series 2020B Project Account. There is hereby established a Project Account in the Construction Fund designated as the “Series 2020B Project Account.” Moneys in the Series 2020 Project Account shall be used for the purposes and as authorized by Section 5.03 of the Master Indenture to pay the Cost of Construction of the Series 2020B Project. Costs of issuance of the Series 2020B Bond will be paid by the Trustee upon receipt from the City of an executed Cost of Issuance Disbursement Request.

Section 3.5 Establishment of Series 2020B Bond Service Subaccount. Pursuant to Section 5.06(a) of the Master Indenture, there is hereby established a separate Series Subaccount in the Bond Service Account in the Principal and Interest Fund designated as the “Series 2020B Bond Service Subaccount.” Moneys shall be deposited into and paid from the Series 2020B Bond Service Subaccount in accordance with Section 5.06 of the Master Indenture to pay Principal of and interest on the Series 2020B Bond.

Section 3.6 No Series 2020B Debt Service Reserve Subaccount. No Series Subaccount in the Debt Service Reserve Account shall be established for the Series 2020B Bond and no Debt Service Reserve Requirement is required for the Series 2020B Bond.

Section 3.7 Application of Proceeds of Series 2020B Bond and Certain Other Moneys. From the proceeds of the Series 2020B Bond (\$ _____) there shall be paid to the Trustee for deposit into the Series 2020B Project Account \$ _____.

ARTICLE IV

FORM OF SERIES 2020B BOND

Subject to the provisions of the Indenture, the Series 2020B Bond shall be in substantially the following form, with such insertions or variations as to any redemption or amortization provisions and such other insertions or omissions, endorsements and variations as may be required or permitted by the Indenture:

FORM OF BOND

Registered

Registered

UNITED STATES OF AMERICA

SALT LAKE CITY, UTAH

PUBLIC UTILITIES REVENUE BOND (WIFIA LOAN),
SERIES 2020B

Number R - _____ \$ _____

Interest Rate

Maturity Date

Dated Date

CUSIP

_____%

February 1, _____

_____, 2020

795604 ____

Registered Owner: CEDE & CO.

Principal Amount: _____ AND NO/100 DOLLARS

KNOW ALL MEN BY THESE PRESENTS that Salt Lake City, Utah (the "City"), a duly organized and existing municipal corporation and political subdivision of the State of Utah, located in Salt Lake County, Utah, acknowledges itself indebted and for value received hereby promises to pay, in the manner and from the source hereinafter provided, to the registered owner identified above, or registered assigns, on the maturity date identified above, upon presentation and surrender hereof, the principal amount identified above, and to pay, in the manner and from the source hereinafter provided, to the registered owner hereof interest on the balance of said principal amount from time to time remaining unpaid from the interest payment date next preceding the date of registration and authentication of this Bond, unless this Bond is registered and authenticated as of an interest payment date, in which event this Bond shall bear interest from such interest payment date, or unless this Bond is registered and authenticated prior to the first interest payment date, in which event this Bond shall bear interest from the dated date specified above, or unless, as shown by the records of the hereinafter referred to Trustee, interest on the hereinafter referred to Series 2020B Bond shall be in default, in which event this Bond shall bear interest from the date to which interest has been paid in full, at the rate per annum specified above (calculated on the basis of a year of 360 days comprised of twelve 30-day months), payable in each year on February 1 and August 1, beginning _____, until payment in full of such principal amount, except as the provisions hereinafter set forth with respect to redemption prior to maturity may become applicable hereto. This Bond, as to principal when due, will be payable at the principal corporate trust operations office of U.S. Bank National Association, in St. Paul, Minnesota, as paying agent of the City, or its successor as such paying agent. Payment of the interest hereon shall be made to the registered owner hereof and shall be paid by check or draft mailed to the person who is the registered owner of record as of the close of business on the fifteenth day of the month next

preceding each interest payment date (the “Record Date”) at his address as it appears on the registration books of the Trustee or at such other address as is furnished in writing by such registered owner to the Trustee prior to the Record Date. Principal and interest are payable in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

The Bonds are special limited obligations of the City, payable solely from the Net Revenues, moneys, securities, and funds pledged therefor in the Indenture. Neither the credit nor the taxing power of the City, the State or any agency, instrumentality, or political subdivision thereof is pledged for the payment of the principal of, premium, if any, or interest on the Bonds. The Bonds are not general obligations of the City or the State or any agency, instrumentality, or political subdivision thereof. The issuance of the Bonds shall not directly, indirectly, or contingently obligate the City or the State or any agency, instrumentality, or political subdivision thereof to levy any form of taxation therefor or to make any appropriation for the payment of the Bonds.

THE CITY IS OBLIGATED TO PAY PRINCIPAL OF AND INTEREST ON THIS BOND SOLELY FROM THE REVENUES (AFTER PAYMENT OF OPERATION AND MAINTENANCE COSTS) AND OTHER FUNDS OF THE CITY PLEDGED THEREFOR UNDER THE TERMS OF THE INDENTURE (AS DEFINED BELOW). THIS BOND IS NOT A DEBT OF THE CITY WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY LIMITATIONS OF INDEBTEDNESS OR PROVISIONS THEREFOR. PURSUANT TO THE INDENTURE, SUFFICIENT REVENUES HAVE BEEN PLEDGED AND WILL BE SET ASIDE INTO SPECIAL FUNDS BY THE CITY TO PROVIDE FOR THE PROMPT PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THIS BOND AND ALL BONDS OF THE SERIES OF WHICH IT IS A PART.

This Bond is issued in conformity with and after full compliance with the Constitution of the State of Utah and pursuant to the provisions of the Local Government Bonding Act, Chapter 14 of Title 11, Utah Code Annotated 1953, as amended (the “Act”), and all other laws applicable thereto.

This Bond is a special obligation of the City and is one of the public utilities revenue bonds of the City (the “Bonds”) issued under and by virtue of the Act and under and pursuant to a Master Trust Indenture, dated as of January 1, 2004, and heretofore amended and supplemented (the “Master Indenture”), between the City and U.S. Bank National Association, as trustee (said trustee and any successor thereto under the Master Indenture being herein referred to as the “Trustee”), as further amended and supplemented by a Tenth Supplemental Trust Indenture, dated as of [] 1, 2020 (the “Tenth Supplemental Indenture”), between the City and the Trustee (such Master Indenture, as amended and supplemented by the Tenth Supplemental Indenture and as hereafter amended and supplemented, being herein referred to as the “Indenture”), for the purpose of (a) paying part of the costs of acquiring and constructing the Series 2020B Project (as defined in the Indenture), together with all necessary appurtenant facilities and (b) paying of all expenses incident thereto and to the issuance of the Series 2020B Bond described below.

As provided in the Indenture, Bonds may be issued from time to time in one or more series in various principal amounts, may mature at different times, may bear interest at different rates, and may otherwise vary as provided in the Indenture, and the aggregate principal amount of Bonds which may be issued is not limited. All Bonds issued and to be issued under the Indenture are and will be equally and ratably secured by the pledge and covenants made therein, except as otherwise expressly provided or permitted in or pursuant to the Indenture.

This Bond is a Series of Bonds designated as “Public Utilities Revenue Bond (WIFIA Loan), Series 2020B” (the “Series 2020B Bond”), limited to the aggregate principal amount of \$[_____], dated as of the dated date identified above, and duly issued under and by virtue of the Act and under and pursuant to the Indenture and a Resolution of the City Council of the City adopted on August 11, 2020. Copies of the Indenture are on file at the office of the City Recorder in Salt Lake City, Utah, and at the principal corporate trust office of the Trustee, in Salt Lake City, Utah, and reference to the Indenture and the Act is made for a description of the pledge and covenants securing the Series 2020B Bond, the nature, manner and extent of enforcement of such pledge and covenants, the terms and conditions upon which the Series 2020B Bond are issued and additional Bonds may be issued thereunder, and a statement of the rights, duties, immunities and obligations of the City and of the Trustee. Such pledge and other obligations of the City under the Indenture may be discharged at or prior to the maturity or redemption of the Series 2020B Bond upon the making of provision for the payment thereof on the terms and conditions set forth in the Indenture. Pursuant to the Indenture, the definition of the System is subject to including additional systems of the City by Supplemental Indenture, without the consent of the holders of Outstanding Bonds.

To the extent and in the respects permitted by the Indenture, the Indenture may be modified, supplemented or amended by action on behalf of the City taken in the manner and subject to the conditions and exceptions prescribed in the Indenture. The holder or owner of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the pledge or covenants made therein or to take any action with respect to an event of default under the Indenture or to institute, appear in, or defend any suit or other proceeding with respect thereto, except as provided in the Indenture.

This Bond is transferable, as provided in the Indenture, only upon the books of the City kept for that purpose at the principal corporate trust office of the Trustee, by the registered owner hereof in person or by his attorney duly authorized in writing, upon surrender hereof together with a written instrument of transfer satisfactory to the Trustee, duly executed by the registered owner or such duly authorized attorney, and thereupon the City shall issue in the name of the transferee a new registered Bond or Bonds of the same aggregate principal amount and series, designation, maturity and interest rate as the surrendered Bond, all as provided in the Indenture and upon the payment of the charges therein prescribed. The City and the Trustee may treat and consider the person in whose name this Bond is registered as the holder and absolute owner hereof for the purpose of receiving payment of, or on account of, the principal hereof and interest due hereon and for all other purposes whatsoever.

The Series 2020B Bond is issuable solely in the form of fully registered Bonds, without coupons, in the denomination of \$5,000, or any integral multiple of \$5,000.

The Series 2020B Bond is subject to redemption prior to maturity at the times, in the amounts and with notice, all as provided in the Indenture.

Except as otherwise provided herein and unless the context clearly indicates otherwise, words and phrases used herein shall have the same meanings as such words and phrases in the Indenture.

It is hereby certified and recited that all conditions, acts and things required by the Constitution or statutes of the State of Utah or by the Act, or the Indenture to exist, to have happened or to have been performed precedent to or in the issuance of this Bond exist, have happened and have been performed and that the issue of Bonds, together with all other indebtedness of the City, is within every debt and other limit prescribed by said Constitution and statutes.

This Bond shall not be valid until the Certificate of Authentication hereon shall have been signed by the Trustee.

IN WITNESS WHEREOF, SALT LAKE CITY, UTAH, has caused this Bond to be signed in its name and on its behalf by the signature of its Mayor, and its corporate seal to be impressed or imprinted hereon, and attested and countersigned by the signature of its City Recorder (the signatures of said Mayor and City Recorder being by electronic, facsimile or manual signature), all as of the dated date specified above.

SALT LAKE CITY, UTAH

By _____
Mayor

[SEAL]

ATTEST AND COUNTERSIGN:

By _____
City Recorder

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds described in the within mentioned Indenture and designated as the “Public Utilities Revenue Bond (WIFIA Loan), Series 2020B of Salt Lake City, Utah.

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: _____ (Manual Signature)
Authorized Officer

Date of Authentication: _____

ASSIGNMENT

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

(Social Security or Other Identifying Number of Assignee)

(Please Print or Typewrite Name and Address of Assignee)

the within Bond and all rights thereunder and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

DATED: _____

Signature: _____

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

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by an “eligible guarantor institution” that is a member of or a participant in a “signature guarantee program” (e.g., the Securities Transfer Agents Medallion Program, the Stock Exchange Medallion Program or the New York Stock Exchange, Inc. Medallion Signature Program).

ARTICLE V

MISCELLANEOUS

Section 5.1 [WIFIA Loan Agreement; Incorporation of Terms]. Reference is hereby made to the WIFIA Loan Agreement for the terms and conditions relating to the WIFIA Loan. The provisions of the WIFIA Loan Agreement are hereby incorporated herein.]

Section 5.2 System of Registration. The Indenture shall constitute a system of registration within the meaning and for all purposes of the Registered Public Obligations Act, Chapter 7 of Title 15, Utah Code Annotated 1953, as amended.

Section 5.3 Article and Section Headings. The headings or titles of the several articles and sections hereof, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Tenth Supplemental Indenture.

Section 5.4 Partial Invalidity. If any one or more of the covenants or agreements, or portions thereof, provided in this Tenth Supplemental Indenture to be performed shall be contrary to law (other than the provisions of the Indenture limiting the liability of the City to make payments on the Bonds solely from Revenues and other amounts pledged therefor by the Indenture), then such covenant or covenants, such agreement or agreements, or such portions thereof, shall be null and void and shall be deemed separable from the remaining covenants and agreements or portions thereof and shall in no way affect the validity of this Tenth Supplemental Indenture or of the Series 2020B Bond; but the Holders of the Series 2020B Bond shall retain all the rights and benefits accorded to them under the Act or any other applicable provisions of law.

Section 5.5 Counterparts. This Tenth Supplemental Indenture may be executed in multiple counterparts, each of which shall be regarded for all purposes as an original; and such counterparts shall constitute but one and the same instrument.

Section 5.6 Use of Electronic Signatures and Records. Pursuant to the Uniform Electronic Transactions Act, Title 46, Chapter 4 of the Utah Code Annotated 1953, as amended, the Trustee and the City hereby agree and consent to the use of electronic signatures and electronic records in connection with the Series 2020B Bond transaction; provided, however, that such consent and agreement only permits the use of, but does not require, electronic signatures or electronic records, including on documents delivered in counterparts.

Section 5.7 Effective Date. This Tenth Supplemental Indenture shall take effect immediately.

Section 5.8 Confirmation of Master Indenture. As supplemented and amended by this Tenth Supplemental Indenture, and except as provided herein, the Master Indenture is in all respects ratified and confirmed, and the Master Indenture and this Tenth

Supplemental Indenture shall be read, taken and construed as one and the same instrument so that all of the rights, remedies, terms, conditions, covenants and agreements of the Master Indenture shall apply and remain in full force and effect with respect to this Tenth Supplemental Indenture and to any revenues, receipts and moneys to be derived therefrom.

Section 5.9 Representation Regarding Ethical Standards for City Officers and Employees and Former City Officers and Employees. The Trustee represents that it has not: (a) provided an illegal gift or payoff to a City officer or employee or former City officer or employee, or his or her relative or business entity; (b) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, or brokerage or contingent fee, other than bona fide employees or bona fide commercial selling agencies for the purpose of securing business; (c) knowingly breached any of the ethical standards set forth in the City's conflict of interest ordinance, Chapter 2.44, Salt Lake City Code; or (d) knowingly influenced, and hereby promises that it will not knowingly influence, a City officer or employee or former City officer or employee to breach any of the ethical standards set forth in the City's conflict of interest ordinance, Chapter 2.44, Salt Lake City Code.

IN WITNESS WHEREOF, the City has caused this Tenth Supplemental Indenture to be executed by the Mayor and countersigned by the City Recorder, and its official seal to be hereunto affixed and attested by the City Recorder, and to evidence its acceptance of the trusts hereby created, U.S. Bank National Association has caused this Tenth Supplemental Indenture to be executed by its Vice President, all as of the date hereof.

SALT LAKE CITY, UTAH

By: _____
Mayor

COUNTERSIGN AND ATTEST:

By: _____
City Recorder

[SEAL]

APPROVED AS TO FORM:

Senior City Attorney

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: _____
Vice President

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

WIFIA LOAN AGREEMENT

For Up to \$[348,635,000]

With

**SALT LAKE CITY, SALT LAKE COUNTY, UTAHSALT LAKE
CITY CORPORATION**

For the

**SALT LAKE CITY WATER RECLAMATION FACILITY
NUTRIENT PROJECT
(WIFIA – N19109UT)**

Dated as of [_____], 2020

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WIFIA LOAN AGREEMENT

THIS WIFIA LOAN AGREEMENT (this “Agreement”), dated as of [____], 2020, is by and between SALT LAKE CITY CORPORATION~~SALT LAKE CITY, SALT LAKE COUNTY, UTAH~~, a municipal corporation and political subdivision created under the laws of the State of Utah (the “State”), with an address at 451 South State Street, Salt Lake City, Utah 84111 (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”).

Commented [TL1]: Salt Lake City Corporation

Formatted: Font: Bold

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 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 V Act of 2018 (collectively, as the “WIFIA” Act), 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 secured 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 \$[348,635,000] (excluding interest that is capitalized in accordance with the terms hereof) to be used to pay a portion of the Eligible Project Costs (as defined herein) related to the Project (as defined herein) pursuant to the application for WIFIA financial assistance dated [February 26, 2020] (the “Application”);

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

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

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

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

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

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.

“**Acceptable Credit Rating**” means, with respect to any Person, the rating of its unsecured, senior long-term indebtedness (or, if such Person has no such rating, then its issuer rating or corporate credit rating) is no lower than (a) at the time such Person executes, delivers or issues a Qualified Hedge, ‘A+’, ‘A1’ or the equivalent rating from each Nationally Recognized Rating Agency that provide unsecured, senior long-term indebtedness for that Person’s provides an issuer rating or corporate credit rating for such Person, as applicable; and (b) at any time thereafter, ‘A’, ‘A2’ or the equivalent rating from each Nationally Recognized Rating Agency that provides a rating on such Person unsecured, senior long-term indebtedness or that provides an issuer rating or corporate credit rating for such Person, as applicable.

Commented [PB2]: Brad: Does this apply to any type of debt or just utility based?

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

“**Additional Principal Project Contracts**” 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), (i) pursuant to which the Borrower has payment obligations in excess of \$[] in the aggregate or (ii) 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 an insurance program (as applicable), (B) Governmental Approvals and (C) agreements, documents and instruments (1) providing for, governing or evidencing any Permitted Indebtedness and any related Permitted Lien for such Permitted Indebtedness or (2) entered into to consummate any Permitted Investment.

“**Additional Bonds**” means any Bonds permitted under Section 15(a) (*Negative Covenants – Indebtedness*) and under the Indenture, which Bonds are issued or incurred after the Effective Date.

“**Additional Subordinate Obligations**” means any Subordinate Obligations permitted under Section 15(a) (*Negative Covenants – Indebtedness*) and under the Indenture, which Subordinate Obligations are issued or incurred after the Effective Date.

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

“**Aggregate Debt Service**” has the meaning set forth in the Indenture.

Commented [PB3]: Brad: Check

“**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(c) (*Disbursement Conditions*).

“**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, 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, including seeking approval or legislative enactment by any Governmental Authority to authorize commencement of a voluntary proceeding under any Insolvency Law; (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 Bonds, 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 Accounts upon the occurrence and during the continuation of an Event of Default under this Agreement or an event of default under the Indenture for application to the prepayment or repayment of any principal amount of the Bonds other than in accordance with the provisions of the Indenture.

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

Commented [PB4]: Brad: Does this include market bonds and any capital costs payable from revenues in the budget?

“Bond Act” means the ~~Utah Municipal~~ Local Government Bonding-Bond Act, Chapter 14 of Title 11, Utah Code Annotated 1953, as amended, and, to the extent applicable, the Registered Public Obligations Act, Chapter 7 of Title 15, Utah Code Annotated 1953, as amended, and the Utah Refunding Bond Act, Chapter 27 of Title 11, Utah Code Annotated 1953, as amended, and all laws amendatory thereof or supplemental thereto.

“Bond Service Account” means the Bond Service Account in the Principal and Interest Fund established in Section 5.02 of the Indenture.

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

“Bonds” means bonds, notes, commercial paper or other obligations (other than Repayment Obligations) authorized by and at any time Outstanding pursuant to the Indenture, in each case, that rank senior in right of payment and right of security to the Subordinate Obligations, including (a) the Existing Indebtedness, (b) the WIFIA Bond and (c) any Additional Bonds.

“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 16(f) of the Indenture (Borrower’s 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 Salt Lake City, Utah.

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

“**Capitalized Interest Period**” means the period from (and including) the Effective Date to (but excluding) the first day of the initial Payment Period, subject to earlier termination as set forth in Section 8(b) (*Payment of Principal and Interest – Capitalized Interest Period*).

“**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.

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

“**Construction Fund**” means the fund by which the monies established in Section 5.02 of the Indenture.

“**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 City, or any other governmental entity hereafter provided for pursuant to law.

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

“**Debt Service**” has the meaning set forth in the Indenture.

“Debt Service Payment Commencement Date” means the earliest to occur of either (a) [fixed date]¹; (b) if the Capitalized Interest Period ends pursuant to Section 8(b) (*Payment of Principal and Interest – Capitalized Interest Period*) due to the occurrence of an Event of Default, the first Payment Date immediately following the end of the Capitalized Interest Period; or (c) the Payment Date falling closest to, but not later than, the fifth anniversary of the Substantial Completion Date.

“Debt Service Reserve Account” means the Debt Service Principal and Interest Fund established in Section 5.02 of the Indenture.

Commented [PB5]: Brad: Funded? Need to think our other deals have reserves?

“Default” means any event 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 sum of (a) the WIFIA Interest Rate plus (b) [_____] ² basis points.

“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 [_____].

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

“Effective Date” means the date of this Agreement.

“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;

¹ In no event later than five (5) years after the Projected Substantial Completion Date as of the Effective Date.

² To be determined by EPA.

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

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

“EMMA” means the Electronic Municipal Market Access system a 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*).

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

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

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

“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 System 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) [fixed date]³ (or such earlier date as is set forth in an updated **Exhibit F** (*WIFIA Debt Service*) pursuant to Section 8(e) (*Payment of Principal*

³ In no event later than the earlier to occur of (i) the 35th anniversary of the Projected Substantial Completion Date and (ii) the estimated expiration of the useful life of the Project, in each case as of the Effective Date, consistent with 33 U.S.C. § 3908(b)(5).

and Interest – Adjustments to Loan Amortization Schedule)); and (b) the 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*).

“Fund” means one of the funds confirmed or established pursuant to Section 5.02, including the Construction Fund, the Principal and Interest Fund, the Renewal and Replacement Fund and the Revenue Fund.

“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.

“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.

“Hedging Agreement” means (a) the ISDA Master Agreement(s) and any related credit support annex, schedules and confirmations, to be entered into by the Borrower and a Hedging Bank, (b) any other agreement entered into, or to be entered into, by the Borrower and a Hedging Bank for a Hedging Transaction, and (c) any other documentation directly relating to the foregoing.

“Hedging Bank” means any Qualified Hedge Provider that becomes a party to a Hedging Agreement and its permitted successors (to the extent such successors are also Qualified Hedge Providers).

“Hedging Obligations” means, collectively, the payment of (a) all scheduled amounts payable to the Hedging Banks by the Borrower under the Hedging Agreements (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), net of all scheduled amounts payable to the Borrower by such Hedging Banks, and (b) all other indebtedness, fees, indemnities and other amounts payable by the Borrower to the Hedging Banks under such Hedging Agreements, net of all other indebtedness, fees, indemnities and other amounts payable by the Hedging Banks to the Borrower under such Hedging

Agreements; provided, that Hedging Obligations shall not include Hedging Termination Obligations. For the avoidance of doubt, all calculations of such amounts payable under the Hedging Agreements shall be made in accordance with the terms of the applicable Hedging Agreements.

“Hedging Termination Obligations” means the aggregate amount payable to the Hedging Banks by the Borrower upon the early termination of all or a portion of the Hedging Agreements, net of all amounts payable to the Borrower by such Hedging Banks upon such early termination. For the avoidance of doubt, all calculations of such amounts payable under the Hedging Agreements shall be made in accordance with the terms of the applicable Hedging Agreements.

“Hedging Transaction” means any interest rate protection agreement, interest rate swap transaction, interest rate “cap” transaction, interest rate future, interest rate option or other similar interest rate hedging arrangement commonly used in loan transactions to hedge against interest rate increases (and not for any speculative purpose).

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

“Indenture” means that certain Master Trust Indenture, dated as of January 1, 2004, between the Borrower and the Trustee, providing for the issuance of Public Utility Revenue Bonds, as from time to time amended or supplemented by Supplemental Indentures.

“Indenture Documents” means the Indenture, each Supplemental Indenture, each resolution adopted by the Council for the purpose of authorizing Bonds or other Obligations and each other agreement, instrument and document executed and delivered pursuant to or in connection with any of the foregoing.

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

“Interest Payment Date” means each February 1 and August 1, commencing on the Debt Service Payment Commencement Date.

Commented [TL6]: This language follows the indenture. What does this look like in terms of the loan?

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

“Investment Securities” has the meaning set forth in the Indenture.

“ISDA Master Agreement” means a master agreement, entered into by the Borrower and a Hedging Bank, in the form published by the International Swaps and Derivatives Association, Inc.

“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(e) (*Payment of Principal and Interest – Adjustments to Loan Amortization Schedule*).

“Loss Proceeds” means any proceeds of insurance (other than any proceeds from any policy of business interruption insurance insuring against loss of revenues upon the occurrence of certain casualties or events covered by such policy of insurance) or proceeds of eminent domain proceedings resulting from any Event of Loss.

“Material Adverse Effect” means a material adverse effect on (a) the System, the Project or the Revenues, (b) the business, operations, properties, condition (financial or otherwise) or prospects of the Borrower, (c) the legality, validity or enforceability of any material provision of the Indenture or any WIFIA Loan Document, (d) the ability of the Borrower to enter into, perform or comply with any of its material obligations under the Indenture or any WIFIA Loan Document, (e) the validity, enforceability or priority of the Liens provided under the Indenture on the Pledged Collateral in favor of the Secured Parties or (f) the WIFIA Lender’s rights or remedies available under the Indenture or 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][Categorical Exclusion][Record of Decision] for the Project issued by EPA on [_____], 20[___] in accordance with NEPA.

“Net Loss Proceeds” means Loss Proceeds after excluding any proceeds of delay-in-start-up insurance and proceeds covering liability of the Borrower to third parties.

“Net Revenues” means, for any period, the Revenues for such period, less Operation and Maintenance Costs for such period.

“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

Commented [PB7]: Brad: ?

pursuant to 49 C.F.R. § 20.100(b), substantially in the form attached hereto as **Exhibit E (Form of Non-Lobbying Certificate)**.

Commented [PB8]: Brad: How to discover? Materially standard?

“Obligations” means debt of the Borrower that is secured by a portion of the Revenues, including the Bonds and Subordinate Obligations.

Commented [PB9]: Brad: Does this include O&M?

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

“Operating Period Servicing Fee” has the meaning of (a)(ii)(Fees for the Operating Period and Expenses – Fees).

“Operation and Maintenance Costs” means, subject to Section 14(h)(ii) (*Affirmative Covenants – System Accounts; Investment Securities*), all actual operation and maintenance costs related to the System incurred by the Borrower in any particular Borrower Fiscal Year or period to which said term is applicable or charges made therefor during such Borrower Fiscal Year or period. Such Operation and Maintenance Costs include, but are not limited to, amounts paid by the Borrower for improvement, repair, replacement or for the acquisition of any item of equipment related to the System; salaries, wages, pension and retirement expenses; fees for services, materials and supplies; rents; administrative and general expenses; insurance expenses; Trustee, Paying Agent, legal, engineering, accounting and financial advisory fees and expenses and costs of other consulting and technical services; training of personnel; taxes, payments in lieu of taxes and other governmental charges (including franchise fees imposed by the Borrower for the use of public streets and rights-of-way); fuel and electricity costs; payments for the purchase of water or the treatment or transmission of water for distribution in the System; payments for the treatment, transmission or disposal of sewage; payments pursuant to any Resource Purchase Agreement; and any other current expenses or obligations required to be paid by the Borrower under the provisions of the Indenture or by law, all to the extent properly allocable to the System. Operation and Maintenance Costs do not include depreciation or obsolescence charges or reserves therefor; amortization of intangibles or other bookkeeping entries of a similar nature; interest charges and charges for the payment of principal, or amortization, of bonded or other indebtedness of the Borrower, or costs or charges made therefor; and losses from the sale, abandonment, reclassification, revaluation or other disposition of any properties.

“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.

Commented [PB10]: Boyd: What documents do we have in mind to satisfy this concept? (I only recall one similar request in the past. I think we provided the Utah Code sections from Title 10 and perhaps a Constitutional provision.)

“Outstanding” means (a) with respect to Bonds (other than the WIFIA Bond) or Subordinate Obligations, Bonds or Subordinate Obligations that have not been cancelled or legally defeased or discharged within the meaning of the applicable issuing document or resolutions and (b) with respect to the WIFIA Bond, the (i) entire amount available to be drawn under this Agreement (including amounts drawn and amounts that remain available to be drawn), less (ii)

any amount that has been irrevocably determined will not be drawn under this Agreement, less (iii) the aggregate principal amount of the WIFIA Bond that has been repaid.

“Outstanding WIFIA Loan Balance” means the sum of (i) the aggregate principal amount of the WIFIA Loan drawn by the Borrower plus (ii) capitalized interest added to the principal balance of the WIFIA Loan minus (iii) the aggregate principal amount of the WIFIA Loan repaid by the Borrower, as determined in accordance with Section 8(e) (*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.

“Paying Agent” means any bank designated as paying agent for the Bonds of any Series, and its successor or successors hereinafter appointed in the manner provided in Section 7.02 of the Indenture.

Commented [TL11]: Is this for consistency with the indenture? Or would we have to follow this procedure regardless?

“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*).

“Payment Period” means the six (6) month period beginning on [] and ending on [], and each succeeding six (6) month period thereafter; provided, that, that if the Debt Service Payment Commencement Date begins earlier than [], the first Payment Period shall be the six (6) month period ending on the date immediately prior to the Debt Service Payment Commencement Date.

Commented [TL12]: Is this merely for consistency with the indenture or are we making semi-annual payments?

“Permitted Hedging Termination” means the early termination, in whole or in part, of any Qualified Hedge (a) at the request of the Borrower as a result of a determination by the Borrower that such (or any part of such) Qualified Hedge is no longer necessary or required under the terms of this Agreement, (b) pursuant to the terms of any Hedging Agreement evidencing such Qualified Hedge that provides for the notional amount of such Qualified Hedge to amortize or otherwise be reduced from time to time or (c) as may be required pursuant to Section 14(k)(iii) (*Affirmative Covenants – Variable Rate Bonds*).

“Permitted Indebtedness” means:

- (a) Existing Indebtedness;
- (b) the WIFIA Loan;
- (c) Additional Bonds that satisfy the requirements of Section 15(a)(ii) (*Negative Covenants – Indebtedness*) and the Indenture;
- (d) Repayment Obligations in respect of Additional Bonds that satisfy the requirements of Section 15(a)(ii) (*Negative Covenants – Indebtedness*) and the Indenture;

(e) Additional Subordinate Obligations that satisfy the requirements of Section 15(a)(iv) (*Negative Covenants – Indebtedness*) and the Indenture; and

(f) indebtedness incurred in respect of Qualified Hedges.

“Permitted Liens” means:

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

(b) Liens imposed pursuant to the Indenture Documents in respect of Permitted Indebtedness;

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

(d) 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(j) (*Affirmative Covenants – Material Obligations*);

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

(f) 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;

(g) 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

(h) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that, in any case, do not secure any monetary obligations and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of the Borrower.

“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 all of the interests of the Borrower in (a) the proceeds of sale of the Bonds, (b) the [Net](#) Revenues, and (c) the Construction Fund, Principal and Interest Fund, Renewal and Replacement Fund, Revenue Fund and any other Funds established or confirmed by the Indenture (except for any Rebate Fund) and pledged for the payment of Principal, Redemption Price and interest on the Bonds and of Repayment Obligations, including the investments, if any,

thereof, subject to any required rebate of all or a portion of the earnings on such investments to the United States of America pursuant to the requirements of Section 148(f) of the Code.

“Prior Lien Resolution” means Resolution No. 100 of 1981 adopted by the City on November 3, 1981, as supplemented and amended from time to time.

Commented [TL13]: This is indenture language. The trustee would not accept the designation of authority to the engineer provided by this resolution during our series 2017 completion certification.

“Principal” has the meaning set forth in the

“Principal and Interest Fund” means the Principal and Interest Fund established in Section 5.02 of the Indenture.

“Principal Payment Date” means August 1, 20[].

Commented [PB14]: Brad: Correspond with bonds

“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 [Salt Lake City Water Reclamation Facility Nutrient Project].⁴

Commented [TL15]: What further description is needed here?

“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 [insert date], as such date may be adjusted in accordance with Section 16(d) (*Reporting Requirements – Construction Reporting*).

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

“Qualified Hedge” means, to the extent from time to time permitted by law, with respect to Permitted Indebtedness any Hedging Transaction entered into with a Qualified Hedge Provider and meeting the requirements of Section 14(k) (*Affirmative Covenants – Variable Rate Bonds*).

“Qualified Hedge Provider” means any bank or trust company, or an affiliate thereof, authorized to engage in the banking business that is organized under or licensed as a branch or agency under the laws of the United States of America or any state thereof, that has an Acceptable Credit Rating.

“Rate Covenant Requirement” shall mean an amount equal to at least (1) Aggregate Debt Service excluding amounts payable on Repayment Obligations for the Fiscal Year, (2) 100% of the Repayment Obligations, if any, which will be due and payable during the forthcoming Borrower Fiscal Year and (3) 100% of the amounts, if any, then required by the

⁴ Further description to be provided.

Indenture to be deposited into the Debt Service Reserve Account during the forthcoming Borrower Fiscal Year.

“Redemption Price” has the meaning set forth in the Indenture.

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

“Renewal and Replacement Fund” means the Renewal and Replacement Fund established in Section 5.02 of the Indenture.

“Repayment Obligations” has the meaning set forth in the Indenture.

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

“Reserve Instrument Issuer” has the meaning set forth in the Indenture.

“Resource Purchase Agreement” has the meaning set forth in the Indenture.

“Revenue Fund” means the Revenue Fund established in Section 5.02 of the Indenture.

“Revenues” means all revenues, connection fees, income, rents and receipts derived by the Borrower from or attributable to the System, including the proceeds of any insurance covering business interruption loss. “Revenues” also includes all interest, from the investment of any moneys held pursuant to the Indenture and required to be paid into the Revenue Fund and the proceeds of any interest subsidy with respect to the Bonds paid for or for the account of the Borrower by any governmental body or agency. Revenues shall not include: (a) proceeds received on insurance resulting from casualty damage to assets of the System; or (b) the proceeds of sale of Bonds, notes or other obligations issued for System purposes.

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

“Sanctioned Person” means, at any time, (a) any Person listed in any 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 administered, or enforced from time to time by the Government, including those administered by OFAC or the U.S. Department of State.

“Secured Parties” means the WIFIA Lender, any other Bondholders, any Reserve Instrument Issuers and any Security Instrument Issuers.

“Security Instrument Issuer” has the meaning set forth in the Indenture.

“Series” means Bonds designated as being of the same Series authenticated and delivered on original issuance in a simultaneous transaction, and any Bonds thereafter authenticated and delivered in lieu thereof or in substitution therefor pursuant to Article III or Section 4.04 or Section 8.06 of the Indenture.

“Series Subaccount” has the meaning set forth in the Indenture.

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

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

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

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

“State Cooperative Agreement” means the State Cooperative Agreement, dated as of [____], by and between the Borrower and the State of Utah Division of Facilities Construction and Management, and the related note payable due no later than February 1, 2021, outstanding in the aggregate principal amount of \$2,125,000 as of the Effective Date.

Commented [TL16]: December 7, 2017

“Subordinate Obligations” means any Obligation that is fully subordinated to the WIFIA Loan and the WIFIA Bond in priority of payment (as to both principal and interest), voting and priority of security interest in the Pledged Collateral, including with respect to payment from revenues and reserves and payment upon default or acceleration of any such Obligations.

“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 Indenture” means any indenture or supplemental indenture thereof that is in full force and effect and has been duly executed and delivered by the Borrower and the Trustee in accordance with the provisions of the Indenture, including, without limitation, the WIFIA Supplemental Indenture.

“System” means the complete combined waterworks plant and system, sewerage collection, treatment and disposal plant and system, stormwater system and street lighting system of the Borrower, including all improvements, extensions, and additions thereto which may be made while any of the Bonds remain Outstanding, and including all property, real, personal and mixed, of every nature now or hereafter owned by the Borrower and used or useful in the operation of its waterworks, sewerage, stormwater or street lighting properties. The Borrower may, without the

consent of Bond Holders, further amend the definition of System by adding additional systems, properties and improvements and the revenues therefrom by Supplemental Indenture.⁵

“System Accounts” means all funds, accounts or subaccounts established pursuant to the Indenture or holding Revenues, including the Revenue Fund, the Renewal and Replacement Fund, the Principal and Interest Fund (and within the Principal and Interest Fund, the Bond Service Account, and the subaccounts therein including the WIFIA Debt Service Account, and the Debt Service Reserve Account, and the subaccounts therein) and such additional funds, accounts or subaccounts that may be established in connection with the System for Revenues.

“Technical and Rate Consultant” means a single individual or firm, or a company, one or more individuals or firms, not related to the Borrower and considered independent with respect to the Borrower (i.e. not an employee of the Borrower or any affiliate of the Borrower) authorized to do business in and qualified to practice in the areas required to provide the services required of the Technical and Rate Consultant, that together have expertise in the technical requirements for operation and maintenance of systems similar in size and scope to the System and delivering the services provided by the System, and establishing rates and charges for governmental water, ~~or~~ wastewater, stormwater, and streetlighting systems similar in size and scope to the System, selected by the Borrower and reasonably acceptable to the WIFIA Lender.

“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 the Indenture Documents or the WIFIA Loan Documents to be paid into any fund or account upon the incurrence of the WIFIA Loan, any Bonds or any Subordinate Obligations, 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) during the Construction Period in respect of any indebtedness of the Borrower, in each case in connection with the Project (other than the WIFIA Loan); and (d) costs of equipment and supplies and initial working capital and reserves required by the Borrower for the commencement of operation of the Project, including general administrative expenses and overhead of the Borrower.

“Trustee” means U.S. Bank National Association appointed by the Borrower pursuant to Section 7.01 of the Indenture, its successors and assigns, and any other corporation or association which may at any time be substituted in its place as provided in the Indenture.

“Uncontrollable Force” means any cause beyond the control of the Borrower, including: (a) a hurricane, tornado, flood or similar occurrence, landslide, earthquake, fire or other casualty, strike or labor disturbance, freight embargo, act of a public enemy, explosion, war, blockade, terrorist act, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, sabotage, 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

⁵ Note: The last sentence of the definition of “System” is still under review like to ensure continued compliance with the Rate Covenant Requirement at the time of and taking into consideration such proposed additions to the System.

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 **Financial Model, Updated** in accordance with Section 16(a) (*Reporting Requirements – Updated Financial Model*).

“**Variable Interest Rate**” means a rate of interest on Bonds for any future period of time which is expressed to be calculated at a rate which is not susceptible of a precise determination.

“**Variable Rate Bonds**” means, as of any date of calculation, Bonds the terms of which on such date of calculation are such that interest thereon for any future period of time is expressed to be calculated at a rate which is not susceptible of a precise determination.

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

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

“**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 Account**” means the Series Subaccount in the Bond Service Account established for the benefit of the WIFIA Lender in accordance with the terms of the WIFIA Supplemental Indenture.

Commented [PB17]: Brad: Need to establish

“**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

\$[348,635,000] (excluding capitalized interest), to be used in respect of Eligible Project Costs paid or incurred by the Borrower.

“WIFIA Loan Documents” means this Agreement, the WIFIA Bond, the WIFIA Supplemental Indenture and the WIFIA Loan Authorizing Proceedings.

“WIFIA Loan Authorizing Proceedings” means, collectively, (i) Resolution No. [____], adopted by the Council of the City on [____], 2020, (ii) Resolution No. [____], adopted by the Council of the City on [____], 2020 and (iii) the public hearing held by the Council of the City on [____], 2020.

“WIFIA Supplemental Indenture” means the [Ninth] Supplemental Indenture, dated as of [____], 2020, by and between the Borrower and the Trustee, relating to the WIFIA Loan.

Commented [PB18]: Brad: may be 10th

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 “disbursement proceeds” shall be construed as meaning the same thing as “paying the purchase price of the WIFIA Loan

(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 mandatory or optional prepayment of the WIFIA Loan, it is intended that such prepayment be implemented through a prepayment of the WIFIA Bond.

Commented [GB19]: May be helpful to remove this phrasing?

ARTICLE II THE WIFIA LOAN

Section 3. WIFIA Loan Amount. The principal amount of the WIFIA Loan shall not exceed \$[348,635,000] (excluding any interest that is capitalized in accordance with the terms hereof). WIFIA Loan proceeds available to be drawn shall be disbursed from time to time in accordance with Section 4 (*Disbursement Conditions*) and Section 11(b) (*Conditions Precedent – Conditions Precedent to Disbursements*).

Section 4. Disbursement Conditions.

(a) WIFIA Loan proceeds shall be disbursed solely in respect of Eligible Project Costs paid or incurred and approved for payment by or on behalf of the Borrower in connection with the Project. If the Borrower intends to utilize the WIFIA Loan proceeds to make progress payments for Project construction work performed under the Principal Project Contracts, the Borrower shall demonstrate to the satisfaction of the WIFIA Lender that such progress payments are commensurate with the value of the work that has been completed. Each disbursement of the WIFIA Loan shall be made pursuant to a requisition and certification (a “**Requisition**”) in the form set forth in **Appendix One** (*Form of Requisition*) to **Exhibit D** (*Requisition Procedures*), along with all documentation and other information required thereby, submitted by the Borrower to, and approved by, the WIFIA Lender, all in accordance with the procedures of **Exhibit D** (*Requisition Procedures*) and subject to the requirements of this Section 4 and the conditions set forth in Section 11(b) (*Conditions Precedent – Conditions Precedent to Disbursements*); provided, that no disbursements of WIFIA Loan proceeds shall be made after the Final Disbursement Date.

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

(c) 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 succeeding Federal Fiscal Year, 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 or withheld in the WIFIA Lender's sole discretion.

Commented [TL20]: Do we need to conform our fiscal year plans as presented to match the Federal Fiscal Year?

a p p r o v a l

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 [_____] percent ([_____]%) per annum. Interest will accrue and be computed on the Outstanding WIFIA Loan Balance (as well as on any past due interest) 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 (if applicable) in accordance with the terms of this Agreement ~~and/or~~ (ii) the Outstanding WIFIA Loan Balance has been irrevocably paid in full in immediately available funds. For the avoidance of doubt, 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 WIFIA Lender) have been made available to the Borrower for use on the Project in accordance with Section 4 (*Disbursement Conditions*).

Commented [PB21]: Brad: Repayment in full? Just for a covenant default?

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 shall pledge, assign and grant to the WIFIA Lender for its benefit, Liens on the Pledged Collateral in accordance with the provisions of the Indenture and shall deliver to the WIFIA Lender, as the registered owner, the WIFIA Bond. The WIFIA Loan

shall be secured by the Liens on the Pledged Collateral on a parity with the Bonds and any Repayment Obligations and senior to all Subordinate Obligations. The WIFIA Bond shall be a Bond under the Indenture, entitled to all of the benefits of a Bond under the Indenture.

(b) Except (i) for Permitted Liens, or (ii) to the extent otherwise provided in Section 7(a), the Pledged Collateral will be free and clear of any pledge, Lien, charge or encumbrance thereon or with respect thereto, of equal rank with or senior to the pledge of the Borrower created under the Indenture, 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 Revenues to make any payments or satisfy any obligations other than in accordance with the provisions of this Section 7 and the Indenture and shall not apply any portion of the Revenues in contravention of this Agreement or the Indenture.

(d) The Indenture provides that all Revenues shall be deposited into the Revenue Fund and applied in accordance with the requirements specified in Section 5.05, Section 5.06, Section 5.07 and Section 5.08 of the Indenture, which requirements are hereby incorporated herein and a copy of such section, as of the Effective Date, is attached hereto as **Schedule V (Flow of Funds)**. For avoidance of doubt, amounts remaining in the Revenue Fund at the end of each month after payment of the amounts required by Section 5.05(a) of the Indenture may be applied by the Borrower, free and clear of the lien of the Indenture, to any one or more of the following, to the extent permitted by law, any other lawful purpose of the Borrower shall only be to any other lawful purpose of the Borrower relating to the System. Further, for avoidance of doubt, amounts remaining in the Revenue Fund at the end of each month not required to make any of the payments required by Section 5.05(a) of the Indenture or expended by the Borrower at any time as permitted by Section 5.05(b) shall remain in the Revenue Fund and remain subject to the pledge and lien provided in Section 7(a).

(e) Pursuant to the WIFIA Supplemental Indenture, the Borrower shall establish the WIFIA Debt Service Account as a Series Subaccount of the Bond Service Account for the payment of all WIFIA Debt Service. The Borrower shall maintain the WIFIA Debt Service Account throughout the term of the WIFIA Loan.

Section 8. Payment of Principal and Interest.

(a) Payment of WIFIA Debt Service.

(i) 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 the 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**

Commented [PB22]: Rusty: Section 7(c) seems like a broad statement seems to be potentially problematic

Commented [PB23R22]: Lisa: Revenues are defined on page 15 of the loan agreement. This definition is the same as the definition that begins on page 23 of the master indenture with the only exception being the loan indenture uses "City". We may change in language in our discussions with Hawkins.

Commented [PB24R22]: Boyd: I agree with Surely PU must be able to use Revenues to pay other contractual obligations.

Commented [PB25]: Rusty: [Lisa] are you ok with deposits into the revenue fund?

Commented [PB26R25]: Lisa: The language is similar to language in section 5.04 of the indenture – "(a) All Revenues shall be promptly deposited by the City to the credit of the Revenue Fund...". The section requirements of the indenture regarding the flow of funds and indicates that we can use the money for any lawful purpose relating to the System. All monies generated by public utilities that are defined as "revenues" are technically Funded.

Commented [GB27]: May be useful to add that amounts deposited shall be applied on a monthly basis in the order of priority described

Commented [PB28]: Brad: Interfund loans?

Commented [PB29]: Need to put in Supplement

Commented [PB30]: Brad: Not permitted by Indenture

Service), as the same may be revised pursuant to Section 8(e) (*Payment of Principal and Interest – Adjustments to Loan Amortization Schedule*), and shall be calculated by the WIFIA Lender in such manner that [each of such payments shall be approximately equal in amount], in order for the Outstanding WIFIA Loan Balance to be reduced to \$0 on the Final Maturity Date.

(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 WIFIA Loan and corresponding WIFIA Bond are subject to [mandatory redemption or prepayment prior to maturity thereof]).

(b) Capitalized Interest Period. No payment of the principal of or interest on the WIFIA Loan is required to be made during the Capitalized Interest Period. Interest on amounts capitalized pursuant to this Section 8(b) shall commence on the date such interest is added to the principal balance of the WIFIA Loan (and corresponding WIFIA Bond) during the Capitalized Interest Period. On each February 1 and August 1 occurring during the Capitalized Interest Period, interest accrued on the WIFIA Loan in the six (6) month period ending immediately prior to such date shall be capitalized and added to the Outstanding WIFIA Loan Balance. Within thirty (30) days after the end of the Capitalized Interest Period, the WIFIA Lender shall give written notice to the Borrower stating the Outstanding WIFIA Loan Balance as of the close of business on the last day of the Capitalized Interest Period, which statement thereof shall be deemed conclusive absent manifest error; provided, however, that no failure to give or delay in giving such notice shall affect any of the obligations of the Borrower hereunder or under any of the other WIFIA Loan Documents. Notwithstanding the foregoing, the Capitalized Interest Period shall end immediately upon written notification to the Borrower by the WIFIA Lender that an Event of Default has occurred, in which case the provisions of this Section 8(b) shall no longer apply and payments of principal and interest shall be currently due and payable in accordance with the terms hereof and interest shall no longer be capitalized. For purposes of this subsection, an Event of Default under Section 17(a)(v) (*Events of Default and Remedies – Cross Default with Other Financing Documents*) shall be deemed to have occurred upon the occurrence of any nonpayment of principal of, interest on or redemption price of Obligations when due, regardless of whether the holders of the applicable Obligations or the Trustee for the applicable obligations, or any legal order, has waived, permitted deferral of, or forgiven any such payment.

(c) 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 (excluding capitalized interest) of \$[348,635,000], 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.

(d) 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 may make any such payment or portion thereof (or direct the Trustee to make such payment) with funds then on deposit in the WIFIA Debt Service Account.

(e) Adjustments to Loan Amortization Schedule. (i) The Outstanding WIFIA Loan Balance will be (A) increased on each occasion on which the WIFIA Lender disburses loan proceeds hereunder, by the amount of such disbursement of loan proceeds; (B) increased on each occasion on which interest on the WIFIA Loan is capitalized pursuant to the provisions of Section 8(b) (*Payment of Principal and Interest – Capitalized Interest Period*), by the amount of interest so capitalized; and (C) 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, and its determination of such amount in any such notice shall be deemed conclusive absent manifest error.

Commented [PB31]: Brad: Statement that it is not a revolving link

(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(e), 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 the WIFIA Bond in inverse order of maturity, other than prepayments which shall be applied in accordance with Section 9(d) (*Prepayment – General Prepayment Instructions*). 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, however, 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, 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 Upon a Bankruptcy Related Event. The Borrower shall prepay one hundred percent (100%) of the Outstanding WIFIA Loan Balance in full in immediately available funds upon the occurrence of a Bankruptcy Related Event. Such mandatory prepayment 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 Obligations in respect of the WIFIA Loan, including fees and expenses, then due and payable. Upon the occurrence of a Bankruptcy Related Event, the Borrower shall promptly deliver to the WIFIA Lender a notice of such Bankruptcy Related Event; provided, that the Borrower's failure

Commented [PB32]: Brad: Acceleration do

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, however, 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, and shall further include payment of all other Obligations in respect of the WIFIA Loan, including fees and expenses, then due and payable. 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 Each prepayment pursuant to this Section 9 shall be effected pursuant to the WIFIA Bond and 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 mandatory or optional 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, however, 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 any other WIFIA Loan Document. All such partial prepayments of principal shall be applied to the WIFIA Loan 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 \$[20,820] (the **“Servicing Set-Up Fee”**), which shall be due and payable within thirty (30) days after receipt of an invoice from the WIFIA Lender with respect thereto (or, if earlier, the first disbursement date of the WIFIA Loan);

(ii) an annual construction period servicing fee equal to \$[20,820] (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 of an invoice from the WIFIA Lender with respect thereto (or, if earlier, the first disbursement date of the WIFIA Loan), in a pro-rated amount equal to \$[1,730]; and

(iii) an annual operating period servicing fee equal to \$[7,810] (the **“Operating Period Servicing Fee”**), which 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 of any invoice from the WIFIA Lender, for any and all fees, costs, charges, and expenses incurred by it (including the fees, costs, and expenses of its legal counsel, financial advisors, auditors and other consultants and advisors) in connection with the negotiation, preparation, execution, delivery, and performance of this Agreement and the other WIFIA Loan Documents and the transactions hereby and thereby contemplated, including attorneys’ and engineers’ fees and professional costs, including all such fees, costs, and expenses incurred as a result of or in connection with (i) the enforcement of or attempt to enforce, or the protection or preservation of any right or claim under, 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.

Commented [PB33]: Rusty: Section 10(c) contains a broad commitment to pay expenses of the WIFIA Lender. A proposal could be that they must first notify us of items for which they intend to seek reimbursement purposes. An exception could be if the loan is in default, then no notice is required.

Commented [PB34R33]: Lisa: This is an item that we can discuss with Hawkins and ask for clarification and notice. The EPA discloses a the LOI stage that the borrower is responsible for the costs as listed that are necessary to close the loan. Our loan application fee will be applied to these costs and then it is my understanding we will be invoiced for the balance. The language in this paragraph also conveys that if we do not close on the loan we are responsible for the costs incurred which seems reasonable to me.

(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, the WIFIA Bond, and the WIFIA Supplemental Indenture, 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 the Indenture, each Supplemental Indenture (including the WIFIA Supplemental Indenture) and any other Indenture Document authorizing Obligations in respect of the Project that has been entered into on or prior to the Effective Date, 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, 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, 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) a copy of its Organizational Documents, as in effect on the Effective Date (and certified by the Secretary of State of the State, to the extent applicable), along with a certification in the Closing Certificate that such Organizational Documents are in full force and effect, and (B) other than the WIFIA Supplemental Indenture, all further instruments and documents (including any resolutions, ordinances, and supplements) as are necessary for the Borrower to execute and deliver, and 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.

(v) 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

Commented [PB35]: Brad: Possible?

Commented [GB36]: To be discussed

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*)).

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

(vii) The Borrower shall have delivered to the WIFIA Lender the Non-Lobbying Certificate and the Preaward Compliance Review Report for All Applicants and Recipients Requesting EPA Financial Assistance on EPA FORM 4700-4.

(viii) 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 I** (*Form of Closing Certificate*) (**Closing Certificate**" (A) designating the Borrower Authorized Representative, (B) confirming such person's position and incumbency, and (C) certifying as to the satisfaction of the following conditions precedent:

(1) 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;

(2) 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);

(3) as of the Effective Date, (x) the maximum principal amount of the WIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), together with the amount of any other credit assistance provided under the Act to the Borrower, does not exceed forty-nine percent (49%) of reasonably anticipated Eligible Project Costs and (y) the total federal assistance provided to the Project, including the maximum principal amount of the WIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), does not exceed eighty percent (80%) of Total Project Costs;

(4) the Borrower is in compliance with NEPA and any applicable federal, state or local environmental review and approval requirements with respect to the Project, and, if requested by the WIFIA Lender, has provided evidence satisfactory to the WIFIA Lender of such compliance;

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

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

(7) the Borrower has obtained a CUSIP number for the WIFIA Loan for purposes of monitoring through EMMA;

(8) 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

(9) no Material Adverse Effect, or any event or condition that could reasonably be expected to have a Material Adverse Effect, has occurred or arisen since [February 26, 2020].

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

(x) The Borrower shall have provided evidence to the WIFIA Lender's satisfaction, no more than thirty (30) days prior to the Effective Date, of the assignment by at least two (2) Nationally Recognized Rating Agencies of a public Investment Grade Rating to the Bonds then Outstanding and any Bonds proposed to be issued for the Project (including the WIFIA Loan), along with a certification in the Closing Certificate that no such rating has been reduced, withdrawn or suspended as of the Effective Date.

(xi) 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 Net Revenues are sufficient to meet the Loan Amortization Schedule, (B) demonstrates compliance with the Rate Covenant Requirement 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.

(xii) The Borrower shall have delivered to the WIFIA Lender (A) (1) certificates of insurance or (2) if the Borrower is self-insured, a certificate of the Borrower's risk management department, and (B) a certificate of the Borrower's self

program, in each case reflecting the WIFIA Lender as an additional insured to the extent of its insurable interest, along with a certification in the Closing Certificate that such insurance certificate is true and correct and demonstrates compliance with the requirements of Section 14(f) (*Affirmative Covenants – Insurance*) and (B) at the WIFIA Lender’s request, copies of such insurance policies and/or, if applicable, documents pertaining to the Borrower’s insurance program and documents pertaining to the insurance program.

Commented [PB37]: This may not be possible.

Commented [PB38]: Boyd: This seems to require the City to make the WIFIA Lender and -a insurance. My understanding from Tamra T possible.

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

(xiv) 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.

(xv) 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.

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

(i) The Borrower shall have provided to the WIFIA Lender evidence satisfactory to the WIFIA Lender that (A) the aggregate amount of all disbursements of the WIFIA Loan (including the requested disbursement but excluding any interest that is capitalized in accordance with the terms hereof) shall not exceed (1) \$[348,635,000], (2) the amount of Eligible Project Costs paid or incurred by the Borrower, and (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 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 (excluding any interest that is capitalized in accordance with the terms hereof), does not exceed eighty percent (80%) of Total Project Costs.

(ii) The Borrower shall have provided an Updated Financial Model 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*) (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*)) 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 by the Borrower and by any applicable Principal Project Party in satisfaction of the conditions in Section 14(f) (*Affirmative Covenants – Insurance*) 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 shall have occurred and be continuing; (2) no event of default or default that, with the giving of notice or the passage of time or both, would constitute an event of default, in each case, under any other Related Document, shall have occurred and be continuing; and (3) no Material Adverse Effect, or any event or condition that could reasonably be expected to result in a Material Adverse Effect, shall have occurred since [February 26, 2020];

(D) (1) 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 without limitation 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); and (2) 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

(E) 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) No Material Adverse Effect, or any event or condition that could reasonably be expected to result in a Material Adverse Effect, shall have occurred since [February 26, 2020].

(v) To the extent not previously delivered to the WIFIA Lender, the Borrower shall have delivered to the WIFIA Lender copies of any Indenture Document (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 (including any amendment, 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.

(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.

ARTICLE IV REPRESENTATIONS AND WARRANTIES

Section 12. Representations and Warranties of Borrower. The Borrower hereby represents and warrants that, as of the Effective Date and, as to each of the representations and warranties below other than those contained in Section 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 political subdivision 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 all 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 (i) may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally and (ii) is subject to general principles of equity (regardless of whether enforceability is considered in equity or at law).

(d) Non-Contravention. The execution and delivery of the Related Documents to which the Borrower is a party, the consummation of the transactions contemplated by the Related Documents, and the fulfillment of or compliance with the terms and conditions of all of the Related Documents, will not (i) conflict with the Borrower's Organizational Documents, (ii) conflict in any material respect with, or constitute a material violation, breach or default (whether immediately or after notice or the passage of time or both) by the Borrower of or under, any applicable law, administrative rule or regulation, any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which the Borrower is a party or by which it or its properties or assets are otherwise subject or bound, or (iii) result in the creation or imposition of any prohibited Lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower.

(e) Consents and Approvals. No consent or approval of any trustee, holder of any indebtedness of the Borrower or any other Person, and no consent, permission, authorization, order or license of, or filing or registration with, any Governmental Authority is necessary in connection with (i) the execution and delivery by the Borrower of the Related Documents, except as have been obtained or made and as are in full force and effect, or (ii) (A) the consummation of any transaction contemplated by any 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)**, a][A]s of the Effective Date, there is no action suit, proceeding or, to the knowledge of the Borrower, any inquiry or investigation, in any case before or by any court or other Governmental Authority pending or, to the knowledge of the Borrower, threatened against or affecting the System (including the Project) or the ability of the Borrower to execute, deliver and perform its obligations under the Related Documents. As of the Effective Date and as of each other date on which the representations and warranties herein are made or confirmed, there is no action, suit, proceeding or, to the knowledge of the Borrower, any inquiry or investigation before or by any court or other Governmental Authority pending, or to the knowledge of the Borrower, threatened against or affecting the System (including the Project), the Borrower or the assets, properties or operations of the Borrower, that in any case could reasonably be expected to result in a Material Adverse Effect. To the Borrower's knowledge, there are no actions of the type described above pending or, threatened against or affecting any of the Principal Project Parties, except for matters arising after the Effective Date that could not reasonably be expected to (i) result in a Material Adverse Effect or (ii) adversely affect the Borrower's 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.

Commented [PB39]: Boyd: This doesn't use the bond litigation wording we use for other bond deals. For example, we limit the representation to "state of Utah of federal court" and limit it to suits "with merit."

(g) Security Interests. (i) The Indenture and the Bond Act establish, and (ii) the Borrower has taken all necessary action to pledge, assign, and grant, in each case to secure the Bonds (including the WIFIA Bond), 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 Indenture, irrespective of whether any Person has notice of the pledge and without the need for any physical delivery, recordation, filing, or further act, and the security interests created in the Pledged Collateral have been duly perfected under applicable State law. Such Liens are in full force and effect and are not subordinate or junior to any other Liens in respect of the Pledged Collateral except for the Permitted Liens arising by operation of law, and not *pari passu* with any obligations other than Bonds. There are no Obligations Outstanding under the Prior Lien Resolution, and the Prior Lien Resolution is closed. The Borrower is not in breach of any covenants set forth in Section 14(b) (*Affirmative Covenants – Securing Liens*) or in the Indenture 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, (A) all documents and instruments have been recorded or filed for record in such manner and in such places as are required and all other action as is necessary or desirable has been taken to establish a legal, valid, binding, and enforceable and perfected Lien on the Pledged Collateral in favor of the Trustee (for the benefit of the Secured Parties) to the extent contemplated by the Indenture and the WIFIA Loan Documents, and (B) all taxes and filing fees that are due and payable in connection with the execution, delivery or recordation of any documents related to the Indenture or any instruments, certificates or financing statements in connection with the foregoing, have been paid. Neither the attachment, perfection, validity, enforceability nor priority of the security interest in the Pledged Collateral granted pursuant to the Indenture is governed by Article 9 of the UCC. The State Cooperative Agreement is not secured by any Lien on or security interest in any portion of the Pledged Collateral and is an unsecured obligation of the Borrower.

(h) No Debarment. The Borrower has fully complied with its verification obligations under 2 C.F.R. § 180.320 and confirms, based on such verification, that, to its knowledge, neither the Borrower nor any of its principals (as defined in 2 C.F.R. § 180.995 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)(vi) (*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 all 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 without limitation 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 contractor(s) (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 without limitation 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, 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. The WIFIA Bond and the Bonds then Outstanding have received a public Investment Grade Rating from at least two (2) Nationally Recognized Rating Agencies, written evidence of such ratings has been provided to the WIFIA Lender prior to the Effective Date, and no such rating has been reduced, withdrawn or suspended as of the Effective Date.

Commented [PB40]: Brad: Rating agency letter needed?

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

(m) Governmental Approvals. All Governmental Approvals required as of the Effective Date and any subsequent date on which this representation is made (or deemed made) for the undertaking and completion by the Borrower of the Project, and for the operation and management thereof, have been obtained or effected and are in full force and effect and there is no

basis for, nor proceeding that is pending or threatened that could reasonably be expected to result in, the revocation of any such Governmental Approval.

(n) Principal Project Contracts. Attached as **Schedule 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 executed as of 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, including any amendments or modifications thereto and any related credit support instruments or side letters. No event has occurred that gives the Borrower or, to the Borrower's knowledge, any Principal Project Party, the right to terminate any such Principal Project Contract. The Borrower is not in breach of any material term in or in default under any of such Principal Project Contracts, and to the knowledge of the Borrower no party to any of such agreements or contracts is in breach of any material term therein or in default thereunder.

(o) Information. The information furnished by, 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) (c o l l e c t **Environmental Laws**"e).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.

Commented [PB41]: Rusty: Section 12(p) – Environmental Matters- this is something we need to watch carefully as we get close to the closing of the loan. The representation is broad and touches on many things we do related to sewer and storm water.

Commented [PB42R41]: Lisa: Agreed – we can also discuss examples with the EPA.

Commented [PB43R41]: Brad: Will this set forth the condition that gives rise to this project?

(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 to which it is a party.

(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 B o r r o w e - i n s u r a n c e p r o g r a m is actuarially sound and the Borrower has received an opinion from an accredited actuary within the last twelve (12) months, which opinion confirms that the B o r r o w e - i n s u r a n c e p r o g r a m is actuarially sound.

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

(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 as of the respective dates of the balance sheets included therein and the results of operations of the Borrower for the respective periods covered by the statements of income included therein. Except as reflected in such Financial Statements, there are no liabilities or obligations of the Borrower of any nature whatsoever for the period to which such Financial Statements relate that are required to be disclosed in accordance with GAAP.

(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 Indenture 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 any Governmental Authority.⁶

(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

⁶ Borrower to confirm.

construction of the Project and achieve Substantial Completion by the Projected Substantial Completion Date.

(x) Sovereign Immunity. The Borrower either has no immunity from the jurisdiction of any court of competent jurisdiction or from any legal process therein which could be asserted in any action to enforce the obligations of the Borrower under any of the Related Documents to which it is a party or the transactions contemplated hereby or thereby, including the obligations of the Borrower hereunder and thereunder, or, to the extent that the Borrower has such immunity, the Borrower has waived such immunity pursuant to Section 14(o) (*Affirmative Covenants – Immunity*).

(y) Patriot Act. The Borrower is not required to establish an anti-money laundering compliance program pursuant to the Patriot Act.⁷

(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).

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.

Commented [PB44]: Rusty: I don't thi
blanket representation. Furthermore, we'll
waiver of immunity under Section 14(o).

Commented [PB45R44]: Lisa: Discuss and propose alternative
language?

⁷ Borrower to confirm.

ARTICLE V COVENANTS

Section 14. Affirmative Covenants. The Borrower covenants and agrees as follows until the date the WIFIA Bond and the obligations of the Borrower under this Agreement (other than contingent indemnity obligations) are irrevocably paid in full in immediately available funds, unless the WIFIA Lender waives compliance in writing:

(a) Rate Covenant.

(i) The Borrower shall fix, establish, maintain and collect rates, fees, rents and charges for services of the System during each Borrower Fiscal Year which comply with the requirements specified in Section 6.13 of the Indenture, which requirements are hereby incorporated herein and a copy of such section, as of the Effective Date, is attached hereto as **Schedule VI** (*Rate Covenant*).

(ii) If the forecast furnished by the Borrower in the most recent Updated Financial Model delivered by the Borrower pursuant to Section 16(a) (*Reporting Requirements – Updated Financial Model*) demonstrates that projected Net Revenues may be inadequate to satisfy the Rate Covenant Requirement for any Borrower Fiscal Year covered by the Updated Financial Model, or if the Borrower fails to satisfy the Rate Covenant Requirement for the most recently ended Borrower Fiscal Year, the Borrower shall (A) within thirty (30) days after request by the WIFIA Lender, engage the Technical and Rate Consultant to review and analyze the operations of the System and recommend actions regarding revising the rates or changing the methods of operations, or any other actions to increase the Net Revenues so as to satisfy the Rate Covenant Requirement, (B) cause the Technical and Rate Consultant to issue its report, including any such recommended actions, no later than ninety (90) days following such engagement, and (C) either, within thirty (30) days, (1) implement the Technical and Rate Consultant recommendation or (2) undertake an alternative course of action after demonstrating to the WIFIA Lender's satisfaction that an alternative plan will increase to the Net Revenues so as to satisfy the Rate Covenant Requirement.

(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 Indenture, or intended so to be granted pursuant to the Indenture, or which the Borrower may become bound to grant, and 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 Indenture, other than as permitted by this Agreement, and all organizational, regulatory or other necessary action on the part of the Borrower to that end shall be duly and validly taken at all times. The Borrower shall at all times, to the extent permitted by law, defend, preserve and protect the Liens on the Pledged Collateral granted pursuant to the Indenture and for the benefit of the WIFIA

Commented [PB46]: Rusty: there are several references to liens in the agreement. It isn't something to discuss with bond counsel to make sure this is appropriate

Commented [PB47R46]: Lisa: Agreed – there are pledges of funds under the indenture so this provision may be language to maintain the pledge of revenues for the bonds (parity) and the loan. They would not want us to try and subordinate their debt. Gilmore and Bell can help us here

Lender under the Indenture 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 for purposes permitted by applicable law and as otherwise permitted under this Agreement and the other Related Documents.

(d) Prosecution of Work; Verification Requirements.

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

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

(iii) The Borrower shall comply with 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. The Borrower shall (i) operate and maintain the System (including, but not limited to, the Project) (A) in a reasonable and prudent manner and (B) substantially in accordance with the Updated Financial Model most recently approved by the WIFIA Lender (except as necessary to prevent or mitigate immediate threats to human health and safety or to prevent or mitigate physical damage to material portions of the System (including the Project) and (ii) maintain the System (including the Project) in good repair, working order and condition and in accordance with the requirements of all applicable laws and each applicable Related Document. The Borrower shall at all times do or cause to be done all things necessary to obtain, preserve, renew, extend and keep in full force and effect the Governmental Approvals and any other rights, licenses, franchises, and authorizations material to the conduct of its business.

(f) Insurance.

(i) The Borrower shall at all times procure and maintain or cause to be maintained insurance on the System and the construction of the Project, with responsible insurers, or as part of a reasonable system of self-insurance that is adequately funded, in such amounts and against such risks (including damage to or destruction of the System) as are customarily maintained with respect to works and properties of like character against accident to, loss of, or damage to such works or properties. All policies of insurance required to be maintained herein shall, to the extent reasonably obtainable, provide that the WIFIA Lender shall be given thirty (30) days written notice of any intended cancellation thereof or reduction of coverage provided thereby. The Borrower shall cause each Principal

Commented [PB48]: Rusty: There is a requirement for each Principal Project Party to have builders risk insurance. Sundt has it, but it may be unclear if other definitions make it difficult to make sure we are in compliance.

Commented [PB49R48]: Lisa: This can be discussed with Hawkins when we meet. I will also ask our consulting team how others are addressing this when using the CMGC approach. Sundt has done another WIFIA project so they likely have some type of system in place.

Project Party to obtain and maintain builders risk and casualty and liability insurance in accordance with the requirements of the applicable Principal Project Contract.

(ii) The Borrower shall (by self-insuring or maintaining with responsible insurers or by a combination thereof) provide for work insurance for Borrower's workers and insurance against damage to the System (including the Project) to the extent reasonably necessary to protect the Borrower and the WIFIA Lender.

(iii) The Borrower shall cause all liability insurance policies that it maintains (and, during the Construction Period, that are maintained by any Principal Project Party), other than workers' compensation insurance, to reflect the WIFIA Lender as an additional insured to the extent of its insurable interest.

Commented [GB50]: To be discussed

(iv) 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.

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

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

(h) System Accounts; Investment Securities.

(i) The Borrower shall maintain the Revenue Fund and all other System Accounts in accordance with the terms hereof and the Indenture. All Revenues received shall be deposited into the Revenue Fund when and as received in trust for the benefit of the holders of the Obligations, subject to the application of Revenues to Operation and Maintenance Costs of the System.

(ii) The Borrower shall use Revenues to pay for Capital Expenditures, including any costs of capital improvements to the System, solely following deposit in the Renewal and Replacement Fund in accordance with Section 5.08 of the Indenture or as otherwise specified in Section 5.05(b) of the Indenture. The Borrower shall not otherwise pay or treat any Capital Expenditure as an Operation and Maintenance Cost.

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

(i) 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 without limitation 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 contractor(s) (1) shall comply with all applicable laws, rules, regulations, and requirements set forth in this Section 14(i) 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(i) (including without limitation with respect to the Davis-Bacon Act requirements).

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

(k) Variable Rate Bonds.

(i) As a condition to the issuance of any Bonds that are to bear interest at a Variable Interest Rate, to the extent that such issuance would cause the principal amount of all Outstanding Variable Rate Bonds to exceed twenty-five percent (25%) of the principal amount of all Outstanding Bonds, the Borrower shall enter into a Qualified Hedge with respect to such Bonds, with an aggregate stated notional amount of at least ninety-eight percent (98%) and not more than one hundred two percent (102%) of the aggregate principal amount of such Bonds projected to be Outstanding, and shall maintain such Qualified Hedge in place until (and such Qualified Hedge shall not have a stated maturity or termination date earlier than) the earliest to occur of (i) the date on which such Bonds no longer bear interest at a Variable Interest Rate, (ii) the date on which the aggregate principal amount of all Outstanding Variable Rate Bonds no longer exceeds twenty-five percent (25%) of the aggregate principal amount of all Outstanding Bonds, (iii) the date such Bonds have been repaid in full in cash and (iv) the Final Maturity Date. Each such

Commented [PB51]: Bond counsel please comment if this is acceptable

Qualified Hedge shall have a payment profile that is reasonably consistent with the expected draw and repayment schedule of such Bonds.

(ii) Each Qualified Hedge required under this Section 14(k) shall provide for a fixed interest rate resulting in fixed payment amounts payable by the Borrower to the Qualified Hedge Provider. The Borrower's Hedging Obligations shall be payable pursuant to Section 5.05 of the Indenture with the priority specified for, or on a basis subordinate to the priority specified for, the Obligations with respect to which such Hedging Transaction is entered into. The Borrower's obligations to pay any Hedging Termination Obligations shall be payable pursuant to Section 5.05 of the Indenture at the payment priority specified in Section 5.05(b) of the Indenture. The Borrower shall ensure that, as of the date following the termination date of any Qualified Hedge required under this Section 14(k) that for any reason terminates before the earliest to occur of (i) the maturity date of the Variable Rate Bonds subject to such Qualified Hedge, (ii) the date on which the aggregate principal amount of all Outstanding Variable Rate Bonds no longer exceeds twenty-five percent (25%) of the aggregate principal amount of all Outstanding Bonds and (iii) the Final Maturity Date, then (A) a new Qualified Hedge is in full force and effect commencing no later than the termination date of the Qualified Hedge that is terminating or (B) the Variable Rate Bonds have been converted to a fixed rate, in each case in accordance with this Agreement and the Indenture.

(iii) The Borrower shall neither terminate (other than Permitted Hedging Terminations), transfer, nor consent to any transfer (other than to a Qualified Hedge Provider) of any existing Qualified Hedge without the WIFIA Lender's prior written consent as long as the Borrower is required to maintain a Qualified Hedge pursuant to this Agreement.

(iv) With respect to any Qualified Hedge required under this Section 14(k), if at any time a Hedging Bank no longer satisfies the requirements for a Qualified Hedge Provider, the Borrower shall, within ten (10) days (or such lesser number of days required by the applicable Hedging Agreement, including any credit support annex thereto) of the date on which such Hedging Bank failed to qualify as a Qualified Hedge Provider, either (A) cash collateralize the mark-to-market value of the Hedging Termination Obligations (in accordance with the credit support annex or similar requirements of the applicable Hedging Agreement) or provide a guarantee for such amount from an entity with an Acceptable Credit Rating, or (B) cause such disqualified Hedging Bank to be replaced by a Qualified Hedge Provider, whether by means of a transfer of the disqualified Hedging Bank's Hedging Agreement to a Qualified Hedge Provider or by means of a termination of such disqualified Hedging Agreement and replacement thereof by a Hedging Agreement with a Qualified Hedge Provider on terms and conditions that satisfy the requirements of this Section 14(k); provided, that if the disqualified Hedging Bank's highest credit Recognized Rating Agency is A3 or less, then (A) shall not apply and the Borrower shall be required to cause such disqualified Hedging Bank to be replaced by a Qualified Hedge Provider pursuant to clause (B).]

(l) SAM Registration. The Borrower shall (i) obtain 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) prior to the Effective Date and provide such registration information to the WIFIA Lender and (ii) within sixty (60) days prior to each anniversary of the Effective Date until the Final Disbursement Date, provide to the WIFIA Lender evidence of such active registration status with no active exclusions reflected in such registration.

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

(n) Events of Loss; Loss Proceeds. If an Event of Loss shall occur with respect to the System (including the Project) or any part thereof, the Borrower shall (i) diligently pursue all of its rights to compensation against all relevant insurers, reinsurers and Governmental Authorities, as applicable, in respect of such Event of Loss and (ii) apply all Net Loss Proceeds in respect of such Event of Loss to repair, reconstruct, and/or replace the portion of the System in respect of which the applicable Loss Proceeds were received. The Borrower shall begin such repair, reconstruction or replacement promptly after such damage or destruction shall occur, and shall continue and properly complete such repair, reconstruction or replacement as expeditiously as possible, and shall pay out of such Loss Proceeds all costs and expenses in connection with such repair, reconstruction or replacement so that the same shall be completed and the System shall be free and clear of all claims and Liens. If such Net Loss Proceeds exceed the costs of such repair, reconstruction or replacement, then the excess Net Loss Proceeds shall be deposited in the Revenue Fund and be available for other proper uses of funds deposited in the Revenue Fund. If such Net Loss Proceeds are insufficient to enable the Borrower to restore or replace the damaged portions of the System, the Borrower shall provide additional funds for that purpose.

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

(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, 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).

Commented [PB52]: Rusty: This is my biggest issue. We should try hard to strike this. Boyd tells me this is not typical in our ordinance bonds.

Commented [PB53R52]: Boyd: I agree that the governmental immunity provisions are a problem, although my understanding is that the Governmental Immunity Act indeed waives immunity for contractual obligations.

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 (i) 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 (ii) 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.

Commented [PB54]: Rusty: we should try to add that their requests for records need to be reasonable and that electronic copies will be acceptable

Commented [PB55R54]: Lisa: I have seen similar language in other federal awards. The lender has the right to examine the records at any time. They will also likely provide a comprehensive list of what must be retained for the files. It is normally very specific and failure to maintain the appropriate records may result in penalties and audit disclosures. Section (ii) indicates that we will retain all files until five years after the last payment. In this case is the requirement makes these essentially permanent until 2063 We should ask if the records can be maintained electronically.

Section 15. Negative Covenants. The Borrower covenants and agrees as follows until the date the WIFIA Bond and the obligations of the Borrower under this Agreement (other than contingent indemnity obligations) are irrevocably paid in full in immediately available funds, unless the WIFIA Lender waives compliance in writing:

(a) Indebtedness.

(i) Except for Permitted Indebtedness, the Borrower shall not without the prior written consent of the WIFIA Lender issue or incur any Obligation or indebtedness of any kind payable from, secured or supported by the Pledged Collateral; provided, that the Borrower shall not incur any Obligation or indebtedness of any kind payable from, secured or supported by the Pledged Collateral, including Permitted Indebtedness, without the prior written consent of the WIFIA Lender, while an Event of Default has occurred and is continuing.

(ii) The Borrower may not create, incur or suffer to exist (A) any Obligations the payments of which are senior or prior in right to the payment by the Borrower of the Bonds, (B) any Obligations the payments of which are *pari passu* in right of payment by the Borrower of the Bonds or (C) any indebtedness of any kind incurred in respect of the Project that are secured by a Lien on any assets or property of the Borrower other than the Pledged Collateral.

Commented [PB56]: Brad: Is this consistent [with Section 15(a)(i)?]

(iii) The Borrower shall not issue or incur any Additional Bonds except in accordance with all requirements and conditions set forth in Section 2.02, Section 2.03, Section 2.04, Section 2.05 and Section 2.06 of the Indenture, which requirements and conditions are hereby incorporated herein and a copy of each such section, as of the Effective Date, is attached hereto as **Schedule VII** (*Additional Bonds Test*). Notwithstanding the foregoing or the provisions of Section 2.03(d)(2) of the Indenture, the Borrower shall not issue or incur any Additional Bonds pursuant to or in reliance on Section 2.03(d)(2) of the Indenture without satisfaction of the provisions of Section 2.03(c)(3) of the Indenture except with the prior written consent of the WIFIA Lender.

Commented [PB57]: Add "or after" without "

(iv) The Borrower shall not create, incur or suffer to exist any Obligation that is subordinate to the WIFIA Bond or other Bonds without the prior written consent of the WIFIA Lender, unless such indebtedness satisfies the requirements under the definition of "Subordinate Obligation"; ~~provided that no issuing document or resolution pursuant to which such Subordinate Obligation is issued or incurred shall contain a right to accelerate without the consent of all of the Bondholders of the Bonds.~~

(v) Upon the incurrence of any Additional Bonds or Subordinate Obligations, the Borrower shall provide to the WIFIA Lender a certificate signed by the Borrower's ~~Author~~ (A) specifying the closing date with respect to such proposed Additional Bonds or Subordinate Obligations, as applicable, and (B) confirming that the incurrence of such proposed Additional Bonds or Subordinate Obligations, as applicable, is authorized pursuant to, and satisfies the conditions in, this Section 15(a) and satisfies the applicable requirements under the Indenture Documents.

(b) No Lien Extinguishment or Adverse Amendments. The Borrower shall not, and shall not permit any Person to, without the prior written consent of the WIFIA Lender, (i) extinguish or lower the Rate Covenant Requirement; (ii) extinguish or impair the Liens on the Pledged Collateral or any dedicated source of repayment of the WIFIA Loan or any other Obligations (the proceeds of which are applied to fund Total Project Costs), in each case granted pursuant to the Indenture, (iii) amend, modify, replace or supplement any Related Document or permit a waiver of any provision thereof in a manner that could adversely affect the WIFIA Lender or could reasonably be expected to result in a Material Adverse Effect, or (iv) terminate, assign or replace any Related Document (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.

(c) No Prohibited Liens. Except for Permitted Liens, the Borrower shall not create, incur, assume or permit to exist any Lien on the Project, the Pledged Collateral, the Revenues, or the Borrower's respective rights therein

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

(e) No Prohibited Sale, Lease or Assignment. The Borrower shall not sell, lease or assign its rights in and to the System, a substantial portion of the assets included in the System, or its rights and obligations under any Principal Project Contract, in each case unless such sale, lease or assignment (i) could not reasonably be expected to have a Material Adverse Effect and (ii) is made by the Borrower in the ordinary course of business.

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

(g) Mergers and Acquisitions. The Borrower shall not, and shall not agree to, reorganize, consolidate with or merge into another Person unless (i) such reorganization, merger or consolidation is with or into another entity established by State law and such reorganization, merger or consolidation is mandated by State law, and in each case, does not adversely affect or impair to any extent or in any manner (A) the Revenues or other elements of the Pledged Collateral or (B) the availability of the Revenues for the payment and security of the obligations of the Borrower under this Agreement; and (ii) the Borrower provides to the WIFIA Lender, no later than sixty (60) days prior to the date of reorganization, consolidation or merger, prior written notice of such reorganization, consolidation or merger and the agreements and documents authorizing the reorganization, consolidation or merger, satisfactory in form and substance to the WIFIA Lender. In addition, the Borrower shall provide all information concerning such reorganization, consolidation or merger as shall have been reasonably requested by the WIFIA Lender.

(h) No Defeasance. Notwithstanding anything to the contrary in the Indenture or document related thereto, 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.

(i) Hedging. The Borrower shall not enter into any Hedging Transaction with respect to or payable from the Revenues for any speculative purpose. The Borrower shall not create, incur, assume or permit to exist any Lien on the Pledged Collateral securing payment of any Hedging Obligations except a Lien on the Revenues on a parity with or on a basis subordinate in all respects to the pledge of and lien thereon securing the Obligations with respect to which such Hedging Transaction is entered into. The Borrower shall not create, incur, assume or permit to exist any Lien on the Pledged Collateral securing payment of any Hedging Termination Obligations except a Lien on the Revenues on a basis subordinate in all respects to all other Obligations and payable at the payment priority specified in Section 5.05(b) of the Indenture.

Section 16. Reporting Requirements.

(a) Updated Financial Model.

(i) The Borrower shall provide to the WIFIA Lender as soon as available, but no later than thirty (30) days after delivery of the annual audited financial statements required under Section 16(b) (*Reporting Requirements — Annual Financial Statements*), an updated Base Case Financial Model reflecting the then-current and projected conditions for a period not less than the lesser of (A) the duration of the B o r r o w e - c u r r e n t a d o p t e d f i v e - y e a r capital improvement plan period for the System and (B) the remaining term of the WIFIA Loan.

(ii) The Updated Financial Model shall demonstrate to the satisfaction of the WIFIA Lender that the Borrower has developed and identified adequate revenues to implement a plan for operating, maintaining and repairing the Project over its useful life, and shall include: (A) t h e B o r r o w e r ' s c a p i t a l i m p r o v e m e n t p l a n , m a j o r m a i n t e n a n c e p r o j e c t e d r a t e s a n d c h a r g e s , p r o j e c t e d d e b t o u t s t a n d i n g a n d a n n u a l d e b t s e r v i c e , p r o j e c t e d o p e r a t i o n a n d m a i n t e n a n c e c o s t s o f t h e S y s t e m ; (B) e v i d e n c e o f c o m p l i a n c e w i t h t h e R a t e C o v e n a n t R e q u i r e m e n t f o r t h e m o s t r e c e n t B o r r o w e r F i s c a l Y e a r a n d t h e p r o j e c t e d R a t e C o v e n a n t R e q u i r e m e n t c o v e r a g e s t h r o u g h t h e p e r i o d c o v e r e d b y t h e U p d a t e d F i n a n c i a l M o d e l i n a c c o r d a n c e w i t h t h i s S e c t i o n 1 6 (a) ; (C) a w r i t t e n n a r r a t i v e i d e n t i f y i n g a n y m a t e r i a l c h a n g e s t o t h e u n d e r l y i n g a s s u m p t i o n s f r o m t h e p r e v i o u s U p d a t e d F i n a n c i a l M o d e l a n d (D) a c e r t i f i c a t e s i g n e d b y t h e B o r r o w e r ' s A u t h o r i z e d R e p r e s e n t a t i v e t h a t (1) t h e U p d a t e d F i n a n c i a l M o d e l , i n c l u d i n g t h e a s s u m p t i o n s a n d s u p p o r t i n g d o c u m e n t a t i o n , a s o f i t s d a t e , i s a c c u r a t e a n d r e a s o n a b l e i n t h e B o r r o w e r ' s k n o w l e d g e a n d b e l i e f , (2) t h e a n n u a l p r o j e c t e d N e t R e v e n u e s w i l l b e s u f f i c i e n t t o m e e t t h e L o a n A m o r t i z a t i o n S c h e d u l e a n d t o s a t i s f y t h e R a t e C o v e n a n t R e q u i r e m e n t t h r o u g h t h e p e r i o d c o v e r e d b y t h e U p d a t e d F i n a n c i a l M o d e l i n a c c o r d a n c e w i t h t h i s S e c t i o n 1 6 (a) , a n d (3) t h e B o r r o w e r i s i n c o m p l i a n c e w i t h i t s o b l i g a t i o n s i n r e s p e c t o f t h e R a t e C o v e n a n t R e q u i r e m e n t p u r s u a n t t o S e c t i o n 1 4 (a) (*Affirmative Covenants – Rate Covenant*).

(iii) The Borrower represents and warrants that the Updated Financial Model r e f l e c t s t h e B o r r o w e r ' s r e a s o n a b l e e x p e c t a t i o n s , u s i n g t h e m o s t r e a s o n a b l e a n d c o n s e r v a t i v e a s s u m p t i o n s .

Borrower believes to be reasonable, of the System's ~~elements, including capital~~ costs, capital spending schedule, rates and revenues or charges (if applicable), Revenues, operating and maintenance 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:

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(i) a copy of the audited income statement and balance sheet of the Borrower as of the end of such Borrower Fiscal Year and the related audited statements of operations and of cash flow of the Borrower for such Borrower Fiscal Year, (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 chief executive officer or chief financial officer of the Borrower or 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;

provided, that the failure of the Borrower to deliver to the WIFIA Lender the annual audited financial statements required under this Section 16(b) during the period that is one hundred eighty (180) days after the end of the applicable Borrower Fiscal Year shall not constitute a Default or an Event of Default, so long as the Borrower provides such annual audited financial statements within thirty (30) days after the end of such period.

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(c) Final Design Specifications. The Borrower shall deliver to the WIFIA Lender, no later than thirty (30) days prior to (i) any bid advertisement related to the Project, a copy of the final specifications relating to the development and construction of the Project, and (ii) any notice to proceed for the Project, a copy of the executed construction contract related to such notice to proceed and the final Project specifications.

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(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 K** (*Form of Quarterly Report*). The report shall be executed by the Borrower's Authorized Representative and, for any quarter, shall be delivered to the WIFIA Lender within thirty (30) 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 that the new date could not reasonably be expected to result in a Material Adverse Effect. The Projected Substantial Completion Date shall automatically be adjusted to the date specified by the Borrower in its report unless the WIFIA Lender objects to the adjustment in writing to the Borrower within sixty (60) days following receipt of the report on a basis that the Borrower's statements specified in this Section 16 do not demonstrate the ma

(e) **Public Benefits Report.** The Borrower shall deliver to the WIFIA Lender a report, in the form of **Exhibit L** (*Form of Public Benefits Report*) (**"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 five percent (5%), 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 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

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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 after the Borrower learns of the occurrence, give the WIFIA Lender notice of any of the following events or receipt of any of the following notices, as applicable, setting forth details of such event:

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

(B) 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, against the Borrower before any arbitrator, Governmental Authority, alternative dispute resolution body, or other neutral third-party, or the receipt by the Borrower in writing of any threat of litigation, suit, action, or proceeding, or of any written claim against the Borrower that, in each case, could reasonably be expected to have a Material Adverse Effect, and any material changes in the status of such litigation, suit, action or claim, and (2) any judgments against the Borrower with award amounts in excess of \$[_____], either individually or in the aggregate;

(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;

(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: any material amendment of any Related Document, subject to Section 16(j) (*Reporting Requirements – Amendments*); provided, that such notice can be accomplished through an email to the WIFIA Lender that includes a link to the posting of the relevant documents on EMMA;

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(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 an email to the WIFIA Lender that includes a link to the posting of the relevant documents on EMMA;

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(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 Bonds, the WIFIA Loan or any Subordinate Obligations, in each case 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 an email to the WIFIA Lender that includes a link to the posting of the relevant documents on EMMA;

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(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) Additional Principal Project Contracts: the execution of any Additional Principal Project Contract, which notice shall include copies of any such contracts (together with any related contracts, side letters or other understandings);

(L) Issuance of Obligations: the issuance or incurrence of any Obligation, which notice shall include copies of any final issuing instrument (together with any continuing disclosure documents, ordinances, official statement, certifications or cash flow projections in connection therewith), prepared in connection with the issuance or incurrence of any such Obligation; provided that such notice can be accomplished through an email to the WIFIA Lender that includes a link to the posting of the relevant documents on EMMA;

(M) Postings on EMMA: the posting of any document on EMMA in accordance with the requirements of any Continuing Disclosure Agreement 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 an email to the WIFIA Lender that includes a link to the posting of the relevant document on EMMA;

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(N) Other Adverse Events: the occurrence of any other event or condition, including without limitation 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;

(O) Draws on Debt Service Reserve Account: the occurrence of any draws on the Debt Service Reserve Account to fund payments of interest on or principal of any Bonds or Repayment Obligations when due; and

(P) Approval of Rate Increases. any failure of the Council of the City to approve or consider annual rate increases contemplated by or necessary to satisfy the Rate Covenant Requirement prior to the beginning of the Borrower Fiscal Year for which such annual rate increases are applicable.

(ii) Within thirty (30) calendar 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*) or (I) (*Ratings Changes*) (in the case of a ratings upgrade), (K) (*Additional Principal Project Contracts*), (L) (*Issuance of Obligations*), and (M) (*Postings on EMMA*)), the Borrower's Authorized Representative shall provide a

statement to the WIFIA Lender setting forth the actions the Borrower proposes to take with respect thereto. 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 Project or the Revenues as the WIFIA Lender may from time to time reasonably request.

(j) Amendments. The Borrower shall furnish to the WIFIA Lender, except as otherwise agreed by the WIFIA Lender in writing, copies of (1) any proposed amendments to the provisions or definitions of the Indenture included in **Schedule V** (*Flow of Funds*), **Schedule VI** (*Rate Covenant*) and **Schedule VII** (*Additional Bonds Test*) or referenced in Section 1 (*Definitions*) at least thirty (30) days prior to the effective date thereof and (2) copies of fully executed amendments of any Related Document within ten (10) days following execution thereof.

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 (i) 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 (ii) 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, the WIFIA Bond 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 Requirement), 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 ~~provided; however, 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 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 from the date on which the Borrower first became aware (or reasonably should have become aware) of such misrepresentation.

(iv) Acceleration of Bonds. Any acceleration shall occur of the maturity of any Bond, or any such Bond shall not be paid in full upon the final maturity thereof.

(v) Cross Default with Other Financing Documents. Any default shall occur in respect of the performance of any covenant, agreement or obligation of the Borrower under the Related Documents (other than the Principal Project Contracts), and such default shall be continuing after the giving of any applicable notice and the expiration of any applicable grace period specified in the Related Documents (other than the Principal Project Contracts) (as the case may be) with respect to such default, and the Borrower shall have failed to cure such default or to obtain an effective written waiver thereof in accordance with the terms thereof.

(vi) Material Adverse Judgment. Any final, non-appealable judgment related to the Revenues, the System or the Project shall be entered against the Borrower which has a Material Adverse Effect.

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

(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, 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 Indenture 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 Trustee or any Secured Party, and with the priority purported to be created thereby; or (C) any event occurs that results in the material impairment in the perfection or priority of the WIFIA Lender's security interest in the value of such Pledged Collateral.

(ix) Failure to Satisfy Rate Covenant. The Borrower fails to satisfy the Rate Covenant Requirement 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, however, 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 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 Bonds (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, (i) 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, and (ii) the WIFIA Loan (and the related WIFIA Bond) shall be subject to mandatory prepayment as set forth in Section ~~10-9(a)~~ 10-9(a) (*Prepayment – Mandatory Prepayment Upon a Bankruptcy Related Event*). Following the

occurrence of a Bankruptcy Related Event, the WIFIA Lender shall have the right to inspect any and all records related to transfers of funds to and from the System Accounts, and the Borrower shall deliver to the WIFIA Lender (or give the WIFIA Lender access to) any such records as the WIFIA Lender may request so as to permit the WIFIA Lender to determine that the Borrower is treating the WIFIA Loan as a Bond in all respects, including in respect of priority of payments.

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(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 cease permitting interest on the WIFIA Loan to be capitalized;

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

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

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

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

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 Author. The Borrower shall at all times have appointed a Borrower's Authorized Representative by designation from time to time to act on behalf of the Borrower pursuant to a 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 Author. 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 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 and 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 shall in any event be effective without the 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. obligations hereunder nor any interest 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 reserved to the WIFIA Lender is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

Section 29. Delay or Omission Not Waiver. No delay or omission of the WIFIA Lender to exercise any right or remedy provided hereunder upon a default of the Borrower (except a delay or omission pursuant to a written waiver) shall impair any such right or remedy or constitute a waiver of any such default or acquiescence therein. Every right and remedy given by this Agreement or by law to the WIFIA Lender may be exercised from time to time, and as often as may be deemed expedient by the WIFIA Lender.

Section 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 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.

Commented [PB68]: Brad: Permit electronic signatures?

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: Salt Lake City Department of Public Utilities
1530 South West Temple
Salt Lake City, Utah 84115
Attention: Executive Director of Public Utilities
Email: [_____]

If to Trustee: U.S. Bank National Association, as Trustee
170 South Main Street, Suite 200
Salt Lake City, Utah 84101
Attention: Corporate Trust Services

Unless otherwise instructed by the Borrower'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 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, the WIFIA Bond 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 Indemnatee, be available to the extent that such losses, claims, damages, liabilities, fines, penalties,

Commented [PB69]: Bond counsel please confirm this section is consistent with other bond indemnifications

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 Indemnatee. In case any action or proceeding is brought against an Indemnatee by reason of any claim with respect to which such Indemnatee is entitled to indemnification hereunder, the Borrower shall be entitled, at its expense, to participate in the defense thereof; provided, that such Indemnatee has the right to retain its own counsel, at the Borrower's expense. The Borrower in the defense thereof shall not release the Borrower of any liability that it may have to such Indemnatee. Any Indemnatee 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 Indemnatee 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 Indemnatee. 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 Indemnatee 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 ~~if such damages are~~ indemnity obligation included in any third party claim in connection with which an Indemnatee is entitled to indemnification hereunder. All amounts due to any Indemnatee 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 Bond, the enforcement of any provision of this Agreement or the other Related Documents, any amendments, waivers (other than amendments or waivers in writing with respect to this Section 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. However, 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 ~~consummate such a sale of~~ WIFIA Lender's intention to reoffering; provided, however, 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 not (x) obligate the WIFIA Lender to sell nor (y) provide the Borrower with any rights or remedies in the event the WIFIA Lender, for any reason, does not sell the WIFIA Loan.

Section 34. Effectiveness. This Agreement shall be effective on the Effective Date.

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

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

SALT LAKE CITY CORPORATION
LAKE CITY, SALT LAKE COUNTY,
UTAH,
by its authorized representative

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By: _____
Name:
Title:

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

By: _____
Name: Andrew R. Wheeler
Title: Administrator

[Signature page to Salt Lake City Water Reclamation Facility Nutrient Project – WIFIA Loan Agreement]

3457795.4 044207 CTR

SCHEDULE I
PROJECT BUDGET⁸

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		

⁸ To be completed by Borrower.

SCHEDULE II
CONSTRUCTION SCHEDULE

*[To be provided by Borrower]*⁹

⁹ The schedule should clearly specify the projected substantial completion date, which should match up with the WL A's definition of "Projected Substantial Completion Date" and also be r Financial Model.

SCHEDULE III
EXISTING INDEBTEDNESS¹⁰

A. Bonds

	Agreement/Series	Outstanding Principal ¹¹
1.	Series 2009 Bonds, issued pursuant to the 4th Supplemental Indenture, dated 11/1/2009, maturing on 2/1/2031	\$3,465,000
2.	Series 2010 Bonds, issued pursuant to the 5th Supplemental Indenture, dated 10/1/2010, maturing on 2/1/2031	7,110,000
3.	Series 2011 Bonds, issued pursuant to the 6th Supplemental Indenture, dated 10/1/2011, maturing on 2/1/2027	3,805,000
4.	Series 2012 Bonds, issued pursuant to the 7th Supplemental Indenture, dated 12/1/2012, maturing on 2/1/2027	11,155,000
5.	Series 2017 Bonds, issued pursuant to the 8th Supplemental Indenture, dated 03/1/2017, maturing on 2/1/2037	69,705,000

B. Subordinate Obligations

	Agreement/Series	Outstanding Principal ¹²
1.		
2.		
3.		
4.		
5.		

C. Unsecured Obligations

	Agreement/Series	Outstanding Principal ¹³
1.	State Loan Repayment, maturing on FY 2021	\$2,125,000
2.		
3.		

Commented [PB70]: Lisa please Verify

¹⁰ To be completed by Borrower.

¹¹ As of Effective Date

¹² As of Effective Date

¹³ As of Effective Date

4.		
5.		

SCHEDULE IV

WIFIA PAYMENT INSTRUCTIONS

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. 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](#).
2. 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
 - Other Description: please note the reference number from the Fee Notice letter
3. Follow the remaining on-screen instructions to successfully process the payment.
4. Send an email to OCFO-OC-ACAD-WIFIA@epa.gov and wifia_portfolio@epa.gov informing that a payment has been made.

Option 2 FEDWIRE

Wire transfers made through FedWire are an alternative electronic wire transfer initiated between the borrower and its organization's financial institution (bank) and EPA. FedWire is typically used to initiate financial institution (bank) generated electronic payments.

Borrowers 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 a Federal Reserve Bank (FRB) must use the services of correspondent banks that do have an FRB account. 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.

Option 3 CHECK PAYMENTS (Not allowed for payment of Principal or Interest)

1. Send checks to:


USPS Mailing Address	Courier Address (e.g., FEDEX, UPS)
Laura Collier	Courier Address
USEPA Headquarters	Laura Collier
William Jefferson Clinton Building	Ronald Reagan Building
1200 Pennsylvania Avenue, N. W.	1300 Pennsylvania Ave., N.W.
Mail Code: 2733R	Rm # 81164
Washington, DC 20460	Washington, DC 20004
2. Provide the following information on your check payment to ensure proper credit please:
 - Company/remitter's name (borrower name as it appears on EPA document)
 - Complete address, including city, state, zip

- Remitter's point of contact person and phone number
 - EPA WIFIA Loan # (NOT the remitter's number)
 - Payment Type/Reason for payment from the Fee Notice letter
 - Reference number from the Fee Notice letter.
3. Send an email to OCFO-OC-ACAD-WIFIA@epa.gov and wifia_portfolio@epa.gov informing that a payment has been submitted.

NOTES:

1. When checks are provided as payment, you authorize the EPA to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. When the EPA uses information from your check to make an electronic fund transfer, funds may be withdrawn from your account as soon as the same day we receive your payment, and you will not receive your check back from your financial institution.
2. As of the Effective Date, EPA is temporarily unable to accept paper checks due to the COVID-19 response. Prior to sending any paper check, contact EPA to determine whether paper checks are acceptable for payment at the 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	<p>To ensure proper credit please include the following information on your payment:</p> <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.)
*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.	

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

SCHEDULE V
FLOW OF FUNDS

All terms used in this Schedule V shall have the meaning assigned to such terms as provided in the Indenture. All section references used in this Schedule V shall be references to the appropriate section in the Indenture. All references to this Indenture in this Schedule V shall be references to the Indenture.

Section 5.05. Flow of Funds. (a) On or before the fourth Business Day prior to the end of each month, after payment of unpaid Operation and Maintenance Costs then due, the City shall transfer from the Revenue Fund, to the extent of moneys available therein, and deposit, in the following order:

- (1) [Reserved], and
- (2) into the following Funds and Accounts, the amounts set forth below:

(A) Into the Principal and Interest Fund:

(i) for credit to the Bond Service Account, the amount, if any, required so that the balance in each of the Series Subaccounts in the Bond Service Account shall equal the Accrued Debt Service on the Series of Bonds and, to the extent required by the Supplemental Indenture creating such Series Subaccount, on any Security Instrument Obligations for which such Series Subaccount was established; provided that if there are not sufficient moneys to satisfy the requirements of this subsection (A) with respect to all Series Subaccounts in the Bond Service Account, all moneys available for distribution among such Series Subaccounts shall be deposited into the Bond Service Account and distributed on a pro rata basis to the deficient Series Subaccounts in the Bond Service Account, such distribution to be determined by multiplying the amount available for distribution by the proportion that the deficiency for each Series Subaccount bears to the total deficiency for all Series Subaccounts; and provided further, that in the event and to the extent moneys have been deposited in any Project Account pursuant to Section 2.03(b)(2), such moneys shall be transferred from the appropriate Project Account and deposited into the appropriate Series Subaccount in the Bond Service Account in an amount sufficient to cause the balance in such Series Subaccount to equal the interest component of Accrued Debt Service on the Series of Bonds; and

(ii) for credit to the Debt Service Reserve Account, without priority or preference as between subsections (A) or (B):

(A) if, after the issuance of a Series of Bonds, an amount equal to the Debt Service Reserve Requirement is not on deposit in the Series Subaccount established in the Debt Service Reserve Account for such Series of Bonds because sufficient moneys for that purpose were not required by a Supplemental Indenture to be deposited into the Debt Service Reserve Account

pursuant to the provisions of Section 2.02(a)(10), such amount as shall be required by the Supplemental Indenture authorizing such Series of Bonds, in not to exceed sixty (60) approximately equal monthly installments commencing no later than the business day immediately preceding the first interest payment date of such Series of Bonds, computed as of the contemplated date of issuance of such Series of Bonds, necessary to cause the balance in such Series Subaccount to equal the Debt Service Reserve Requirement;

(B) if moneys shall ever have been paid out of any Series Subaccount in the Debt Service Reserve Account for the purpose specified in Section 5.07(b) or if for any other reason moneys in any Series Subaccount in the Debt Service Reserve Account shall have been removed and in either case if such moneys shall not have been replaced from any source, such amount as shall be necessary to cause either the amount so paid out of or removed from such Series Subaccount in the Debt Service Reserve Account to be replaced, or the amount to be on deposit in such Series Subaccount to be equal to the Debt Service Reserve Requirement attributable to the corresponding Series of Bonds, whichever is less; and

(C) with respect to a Series of Bonds for which a Debt Service Reserve Requirement has been established pursuant to a Supplemental Indenture and for which the Debt Service Reserve Requirement has been increased because of a decline in the amount by which Net Revenues exceeded Aggregate Debt Service, such amount, in monthly installments, as shall be required by the Supplemental Indenture authorizing such Series of Bonds to cause the balance in such Series Subaccount to equal the Debt Service Reserve Requirement then existing for such Series of Bonds;

provided that if there are not sufficient moneys in the Revenue Fund to satisfy the requirements of this subsection (ii), all moneys available for distribution among the Series Subaccounts in the Debt Service Reserve Account shall be deposited into the Debt Service Reserve Account and distributed pro rata based on the amount of the deficiencies to the deficient Series Subaccounts in the Debt Service Reserve Account.

(B) Into the Renewal and Replacement Fund:

(i) if the Renewal and Replacement Fund Reserve Requirement shall ever be increased in accordance with the provisions of paragraph (d) of Section 5.08, the amount specified in a Written Certificate of the City identifying a schedule of sixty (60) approximately equal monthly deposits into the Renewal and Replacement Fund sufficient to cause the balance in the Renewal and Replacement Fund to equal the increased Renewal and Replacement Fund Reserve Requirement as required in paragraph (d) of Section 5.08; and

(ii) if moneys shall ever have been paid out of the Renewal and Replacement Fund and shall not have been replaced from any source, the amount of money necessary, in not to exceed one hundred twenty (120) approximately equal monthly installments, to cause the amount so paid out of the Renewal and Replacement Fund to be replaced, or to cause to be on deposit in the Renewal and Replacement Fund an amount equal to the Renewal and Replacement Fund Reserve Requirement, whichever is less;

provided, however, that so long as there shall be held in the Principal and Interest Fund, excluding any Reserve Instrument Coverage, an amount sufficient to pay in full all Outstanding Bonds and all outstanding Repayment Obligations in accordance with their terms (including Principal or applicable sinking fund Redemption Price and interest thereon), no deposits shall be required to be made into the Principal and Interest Fund.

(b) Amounts remaining in the Revenue Fund at the end of each month after payment of the amounts required by subsection (a) of this Section may be applied by the City, free and clear of the lien of the Indenture, to any one or more of the following, to the extent permitted by law: (1) the purchase or redemption of any Bonds and payment of expenses in connection therewith; (2) payments of principal or redemption price of and interest on any bonds, including general obligation or junior lien revenue bonds of the City, issued to acquire improvements or extensions to the System; (3) payments into any Project Account or Accounts established in the Construction Fund for application to the purposes of such Accounts; (4) payment of the costs of capital improvements to the System; and (5) any other lawful purpose of the City.

(c) Upon any purchase or redemption, pursuant to subsection (b) of this Section, of Bonds of any Series and maturity for which Sinking Fund Installments shall have been established, the principal amount of such Bonds shall be credited toward such Sinking Fund Installments in such order of their due dates as directed by the City, unless the City shall elect to have the Sinking Fund Installments next due credited as provided in Section 5.06(c).

Section 5.06. Principal and Interest Fund - Bond Service Account. (a) Each Supplemental Indenture providing for the issuance of a Series of Bonds shall establish a separate Series Subaccount in the Bond Service Account for each such Series of Bonds issued *provided, however*, that such a separate Series Subaccount need not be established in the Principal and Interest Fund for a Series of Bonds if such Series of Bonds is secured by Series Subaccount in the Debt Service Reserve Account that also secures one or more other Series of Bonds as contemplated by Section 5.07(a) (in which case the Supplemental Indenture may provide for the payment of principal and interest on such Series of Bonds from the same Series Subaccount in the Principal and Interest Fund as the principal and interest on such other Series of Bonds are payable from). There shall be deposited into each Series Subaccount the amounts required to be so deposited pursuant to Section 5.05(a)(A)(i). Any payments made by a Security Instrument Issuer with respect to a Series of Bon shall be deposited into the Series Subaccount in the Bond Service Account relating to such Series of Bonds, subject to the provisions of the Supplemental Indenture authorizing the issuance of such Series of Bonds.

(b) The Trustee shall pay out of the appropriate Series Subaccount in the Bond Service Account to the respective Paying Agent (1) on or before each interest payment date for each Series of Bonds, the amount required for the interest payable on such date; (2) on or before each Principal Installment due date, the amount required for the Principal Installment payable on such due date; and (3) on or before any redemption date for each Series of Bonds, the amount required for the payment of Redemption Price of and accrued interest on such Bonds then to be redeemed. Such amounts shall be applied by the Paying Agents to pay Principal Installments and Redemption Price of, and interest on the related Series of Bonds. The Trustee shall pay out of the appropriate Series Subaccount in the Bond Service Account to the Security Instrument Issuer, if any, that has issued a Security Instrument with respect to such Series of Bonds an amount equal to any Security Instrument Repayment Obligation then due and payable to such Security Instrument Issuer. If payment is so made on Pledged Bonds held for the benefit of the Security Instrument Issuer, a corresponding payment on the Security Instrument Repayment Obligation shall be deemed to have been made (without requiring an additional payment by the City) and the Trustee shall keep its records accordingly.

(c) Except as otherwise provided in a Supplemental Indenture authorizing a Series of Bonds, amounts accumulated in any Series Subaccount in the Bond Service Account with respect to any Sinking Fund Installment (together with amounts accumulated therein with respect to interest on the Bonds for which such Sinking Fund Installment was established) shall, if so directed by the City in a Written Request not less than 30 days before the due date of such Sinking Fund Installment, be applied by the Trustee to (1) the purchase of Bonds of the Series and maturity for which such Sinking Fund Installment was established, (2) the redemption at the applicable sinking fund Redemption Price of such Bonds, if then redeemable by their terms, or (3) any combination of (1) and (2). All purchases of any Bonds pursuant to this subsection (c) shall be made at prices not exceeding the applicable sinking fund Redemption Price of such Bonds plus accrued interest, and such purchases shall be made in such manner as the City shall direct the Trustee. The applicable sinking fund Redemption Price (or Principal amount of maturing Bonds) of any Bonds so purchased or redeemed shall be deemed to constitute part of the Bond Service Account until such Sinking Fund Installment date for the purpose of calculating the amount of such Account. As soon as practicable after the 60th day preceding the due date of any such Sinking Fund Installment, the Trustee shall proceed to call for redemption on such due date, by giving notice as required by the Indenture, Bonds of the Series and maturity for which such Sinking Fund Installment was established (except in the case of Bonds maturing on a Sinking Fund Installment date) in such amount as shall be necessary to complete the retirement of the unsatisfied balance of such Sinking Fund Installment. The Trustee shall pay out of the appropriate Series Subaccount in the Bond Service Account to the appropriate Paying Agents, on or before such redemption date (or maturity date), the amount required for the redemption of the Bonds so called for redemption (or for the payment of such Bonds then maturing), and such amount shall be applied by such Paying Agents to such redemption (or payment). All expenses in connection with the purchase or redemption of Bonds shall be paid by the City as an Operation and Maintenance Cost.

Section 5.07 Principal and Interest Fund - Debt Service Reserve Account. (a) Each Supplemental Indenture providing for the issuance of a Series of Bonds may establish in the Debt Service Reserve Account a separate Series Subaccount for each such Series of Bonds issued and, if established, shall specify the Debt Service Reserve Requirement to be on deposit in such Series Subaccount.

(b) If on the third Business Day prior to the end of any month, after the deposit of moneys required by Section 5.05(a)(A)(i) the amount in any Series Subaccount in the Bond Service Account shall

be less than the amount required to be in such Series Subaccount, the Trustee shall (1) apply amounts from the corresponding Series Subaccount, if any, in the Debt Service Reserve Account to the extent necessary to make good the deficiency; and (2) to the extent that moneys and investments available in the corresponding Series Subaccount, if any, in the Debt Service Reserve Account are not sufficient to eliminate the deficiency in the Series Subaccount in the Bond Service Account and Reserve Instruments are in effect for the corresponding Series of Bonds, immediately make a demand for payment on all such Reserve Instruments, to the maximum extent authorized by such Reserve Instruments, in the amount necessary to make up such deficiency, and immediately deposit such payment upon receipt thereof in the appropriate Series Subaccount in the Bond Service Account.

(c) Whenever the moneys on deposit in a Series Subaccount in the Debt Service Reserve Account, including investment earnings and Reserve Instrument Coverage with respect thereto, shall exceed the Debt Service Reserve Requirement for such Series Subaccount, such excess shall be transferred by the Trustee to the corresponding Series Subaccount in the Bond Service Account and shall be used to pay Debt Service on the related Bonds, subject to any limitations contained in the Tax Certificate relating to such Bonds.

(d) Whenever the amount in a Series Subaccount in the Debt Service Reserve Account, excluding any Reserve Instrument Coverage, together with the amount in the corresponding Series Subaccount in the Bond Service Account for a Series of Bonds, is sufficient to pay in full all Outstanding Bonds of such Series and related Repayment Obligations in accordance with their terms (including Principal or applicable sinking fund Redemption Price and interest thereon), the funds on deposit in such Series Subaccount in the Debt Service Reserve Account shall be transferred to the corresponding Series Subaccount in the Bond Service Account and no deposits shall be required to be made into such Series Subaccount in the Debt Service Reserve Account.

(e) Unless otherwise provided in a Supplemental Indenture authorizing a Series of Bonds, in calculating the amount on deposit in a Series Subaccount in the Debt Service Reserve Account, the amount of the Reserve Instrument Coverage for the corresponding Series of Bonds will be treated as an amount on deposit in such Series Subaccount in the Debt Service Reserve account. So long as any Series of Bonds rated by a Rating Agency is Outstanding, the City agrees that it will not invest moneys held in a Series Subaccount in the Debt Service Reserve Account in a Reserve Instrument without providing notice of such investment to such Rating Agency.

(f) Unless otherwise specified in the Supplemental Indenture authorizing a Series of Bonds, no Reserve Instrument for such Series of Bonds shall be allowed to expire unless and until cash has been deposited into the appropriate Series Subaccount in the Debt Service Reserve Account, or a new Reserve Instrument has been issued in place of the expiring Reserve Instrument, in an amount or to provide coverage at least equal to the Debt Service Reserve Requirement for the corresponding Series of Bonds.

Section 5.08. Renewal and Replacement Fund. (a) The amounts in the Renewal and Replacement Fund shall, from time to time, be applied by the City to the payment of extraordinary Operation and Maintenance Costs, and contingencies, including the prevention or correction of any unusual loss or damage to the System to the extent not covered by the proceeds of insurance or other moneys recoverable as a result thereof.

(b) If on the third Business Day prior to the end of any month the amount in any Series Subaccount in the Bond Service Account shall be less than the amount required to be in such Series Subaccount in the Bond Service Account pursuant to Section 5.05(a)(A)(i), and there shall not be on deposit in the corresponding Series Subaccount in the Debt Service Reserve Account sufficient moneys to cure such deficiency, the Trustee shall request that the City transfer from the Renewal and Replacement Fund and deposit into such Series Subaccount in the Bond Service Account the amount necessary (or all the moneys in the Renewal and Replacement Fund, if less than the amount necessary) to make up such deficiency; provided that to the extent that such deficiencies occur in more than one Series Subaccount in the Bond Service Account and there are insufficient moneys available in the Renewal and Replacement Fund to make up such deficiencies, the amount transferred and deposited from the Renewal and Replacement Fund shall be distributed on a pro rata basis to the deficient Series Subaccounts in the Bond Service Account based on the proportion that the total funds available to remedy the total deficiency bears to the deficiency for each Series of Bonds.

(c) At the end of each Fiscal Year any balance of moneys or Investment Securities in the Renewal and Replacement Fund in excess of the Renewal and Replacement Fund Reserve Requirement and not required to meet any deficiency in the Bond Service Account or needed for any of the purposes for which the Renewal and Replacement Fund was established, shall be transferred by the City and deposited into the Revenue Fund.

SCHEDULE VI

RATE COVENANT

All terms used in this Schedule VI shall have the meaning assigned to such terms as provided in the Indenture. All section references used in this Schedule VI shall be references to the appropriate section in the Indenture. All references to this Indenture in this Schedule VI shall be references to the Indenture.

Section 6.13. Rates and Charges. (a) In order to assure full and continuous performance of the covenants contained in Sections 6.01 and 6.08 with a margin for contingencies and temporary unanticipated reduction in Revenues, the City covenants and agrees to establish, fix, prescribe, continue and collect (directly or through leases, use agreements or other agreements, or licenses or ordinances) rates and charges for the sale or use of the System services furnished by the City which, together with other income, are reasonably expected to yield Net Revenues at least equal to the Rate Covenant Requirement for the forthcoming Fiscal Year. The term “*Rate Covenant Requirement*” shall mean an amount equal to at least (1) 125% of the Aggregate Debt Service excluding amounts payable on Repayment Obligations for the Fiscal Year, (2) 100% of the Repayment Obligations, if any, which will be due and payable during the forthcoming Fiscal Year and (3) 100% of the amounts, if any, then required by the Indenture to be deposited into the Debt Service Reserve Account during the forthcoming Fiscal Year.

(b) if the annual financial statement made in accordance with the provisions of Section 6.12(b) relating to Revenues discloses that during the period covered by such financial statement the Net Revenues were not at least equal to the Rate Covenant Requirement, the City shall not be in default under this Section if, within 60 days after the date of such financial statement (1) the City obtains recommendations from a Qualified Engineer as to the revision of the rates, charges and fees necessary to produce Net Revenues at least equal to the Rate Covenant Requirement and (2) the City, on the basis of such recommendations, revises the schedule of rates, charges and fees insofar as is practicable and revises Operation and Maintenance Costs so as to produce Net Revenues at least equal to the Rate Covenant Requirement.

SCHEDULE VII

ADDITIONAL DEBT TEST

All terms used in this Schedule VII shall have the meaning assigned to such terms as provided in the Indenture. All section references used in this Schedule VII shall be references to the appropriate section in the Indenture. All references to this Indenture in this Schedule VII shall be references to the Indenture.

Section 2.02. General Provisions for the Issuance of Bonds. (a) Whenever the City shall determine to issue any Series of Bonds, the City shall execute and deliver a Supplemental Indenture which shall specify the following:

- (1) The purpose for which such Series of Bonds is to be issued, which shall be for a purpose set forth in Section 2.03, Section 2.04 or Section 2.05, or a combination of such purposes;
- (2) The authorized Principal amount and Series designation of such Series of Bonds;
- (3) The Issue Date and the maturity date or dates of the Bonds of such Series;
- (4) The interest rate or rates (including a zero interest rate) of the Bonds of such Series, or the manner of determining such rate or rates, *provided* that the Supplemental Indenture shall specify the maximum rate that the Bonds of such Series may bear if such Bonds are Variable Rate Bonds, and the interest payment dates of the Bonds of such Series;
- (5) The authorized denominations of the Bonds of such Series;
- (6) Any Paying Agents and the places of payment of the Principal and Redemption Prices, if any, of, and interest on, the Bonds of such Series, and, if other than the Trustee, any Transfer Agents and the places where Bonds may be registered for transfer or exchange;
- (7) The Redemption Prices, if any, and subject to Article IV, the redemption terms, if any, for the Bonds of such Series;
- (8) The amount and due date of each Sinking Fund Installment, if any, for the Bonds of such Series;
- (9) The Record Date for the Bonds of such Series;
- (10) Any Debt Service Reserve Requirement for such series of Bonds pursuant to Section 5.07(a) and the amount, if any, to be deposited from the proceeds of such Series of Bonds into any Series Subaccount in the Debt Service Reserve Account established for such Series of Bonds;

(11) The amount, if any, to be deposited from any legally available source into the Construction Fund;

(12) The amount, if any, to be deposited from any legally available source into the Renewal and Replacement Fund;

(13) The forms of the Bonds of such Series;

(14) To the extent applicable, the obligations payable under any Security Instrument Agreement or Reserve Instrument Agreement entered into in connection with the issuance of the Bonds of such Series which, when outstanding, shall constitute Security Instrument Repayment Obligations or Reserve Instrument Repayment Obligations, as the case may be, and which portions of such Security Instrument Repayment Obligations or Reserve Instrument Repayment Obligations, as the case may be, are to be attributed to principal of and to interest on such Repayment Obligations; and

(15) Any further covenants by the City required by any Security Instrument Issuer, Reserve Instrument Issuer or purchaser of Bonds deemed necessary or desirable by the City in connection with the sale of such Series of Bonds.

(b) The Bonds of any Series shall be executed by the City for issuance under the Indenture and delivered to the Trustee and thereupon shall be authenticated by the Trustee and by it delivered to the City or upon the Written Request of the City but only upon receipt by the Trustee of the following documents or moneys or securities, all of such documents dated or certified, as the case maybe, as of the date of such delivery by the Trustee (unless the Trustee shall accept any of such documents bearing a prior date):

(1) A certified copy of the Supplemental Indenture relating to the issuance of the Bonds of such Series;

(2) A Written Request of the City as to the delivery of the Bonds of such Series;

(3) An Opinion of Bond Counsel to the effect that (i) the City has the power under the Act, as amended to the date of such Opinion, to issue the Bonds of such Series and to execute and deliver the Indenture, and the Indenture has been duly and lawfully executed and delivered by the City, is in full force and effect and is valid and binding upon the City and enforceable in accordance with its terms, and no other authorization for the Indenture is required; (ii) the Indenture creates the valid pledge which it purports to create of the Revenues, Funds, moneys, securities and funds held or set aside under the Indenture, subject to the application thereof to the purposes and on the conditions permitted by the Indenture; (iii) the Bonds of such Series are valid and binding special obligations of the City, enforceable in accordance with their terms and the terms of the Indenture and are entitled to the benefits of the Indenture .and the Act, as amended to the date of such Opinion; and (iv) the Bonds of such Series have been duly and validly authorized and issued in accordance with law and the Indenture; provided that such Opinion of Counsel may contain limitations acceptable to the purchaser of such Series of Bonds, including

limitations as to enforcement by bankruptcy or similar laws, equity principles, sovereign police powers, and federal powers;

(4) A Written Certificate of the City setting forth (A) the Debt Service for each Fiscal Year of the Bonds of such Series or (B) the Aggregate Debt Service, including such Series of Bonds being issued, for each Fiscal Year, whichever is applicable, and containing such additional statements as may be reasonably necessary to show compliance with the requirements of the Indenture;

(5) The amounts, if any, necessary for deposit into the Construction Fund, the Revenue Fund, and any Series Subaccount in the Debt Service Reserve Account for such Series of Bonds; and

(6) Such further documents, moneys and securities as are required by the provisions of Section 2.03, Section 2.04 or Section 2.05, or of any Supplemental Indenture.

(c) The City may authorize by Supplemental Indenture the delivery to the Trustee of one or more Security Instruments with respect to any Series of Bonds and the execution and delivery of any Security Instrument Agreements deemed necessary in connection therewith.

(d) The City may authorize by Supplemental Indenture the issuance and delivery to the Trustee of one or more Reserve Instruments and the execution and delivery of any Reserve Instrument Agreements deemed necessary in connection therewith.

(e) The City may authorize by Supplemental Indenture the issuance of Put Bonds; provided that any obligation of the City to pay the purchase price of any such Put Bonds shall not be secured by a pledge of Revenues on a parity with the pledge contained in Section 5.01. The City may provide for the appointment of such Remarketing Agents, indexing agents or other agents as the City may determine.

(f) The City may authorize by Supplemental Indenture such other provisions relating to a Series of Bonds as are permitted by law and are consistent with the provisions of the Indenture.

(g) After the original issuance of the Bonds of any Series, no Bonds of such Series shall be issued except in lieu of or in substitution for other Bonds of such Series pursuant to Article III, Section 4.04 or Section 8.06.

(h) Notwithstanding any provision of this Section 2.02 to the contrary, a Supplemental Indenture may provide for the delivery of a Series of Bonds, issued in the form of a single Bond, in installments to be noted by the Trustee in a delivery schedule on the reverse side thereof or attached thereto.

Section 2.03. Special Provisions for the Issuance of Construction Bonds. (a) One or more Series of Construction Bonds may be authenticated and delivered upon original issuance from time to time in such Principal amount for each such Series as may be determined by the City for the purpose of paying or providing for the payment of all or a portion of (i) the Cost of Construction

of a Project, (ii) Principal, Redemption Price and interest on Bond Anticipation Notes or (iii) any combination of (i) and (ii). Each such Series shall be in such Principal amount which, when taken together with other funds legally available for such Project, will provide the City with sufficient funds to pay the estimated Cost of Construction of such Project, as set forth in the Written Certificate of the City furnished pursuant to Section 2.03(c)(1).

(b) Each Supplemental Indenture authorizing the issuance of a Series of Construction Bonds:

(1) Shall specify the Project for which the proceeds of such Series of Construction Bonds were applied; and

(2) May require the City to deposit a specified amount of money from the proceeds of the sale of such Series of Construction Bonds or from other legally available sources into the applicable Project Account sufficient to pay when due all or a portion of the interest on such Series of Construction Bonds to accrue up to 12 months following the Estimated Completion Date set forth in the Written Certificate of the City delivered with respect to such Series of Construction Bonds pursuant to Section 2.03(c)(1), plus interest to accrue on such Series of Construction Bonds after the Estimated Completion Date for up to one Year (or such different period as may then be permitted by law).

(c) Each Series of Construction Bonds shall be authenticated and delivered by the Trustee only upon receipt by the Trustee (in addition to the documents required by Section 2.02) of the following documents, all dated as of the date of such delivery (unless the Trustee shall accept any of such documents bearing a prior date):

(1) A Written Certificate of the City setting forth the then Estimated Completion Date and the then estimated Cost of Construction of the Project being financed by such Series of Bonds.

(2) A Written Certificate of the City to the effect that, upon the authentication and delivery of the Bonds of such Series, no event will have occurred which, with the passage of time or the giving of notice, or both, would give rise to an Event of Default under the Indenture.

(3) Either:

(A) A Written Certificate of the City either for the City's most recent Fiscal Year or for any Year during the most recent eighteen (18) months showing that, the Net Revenues for such period would not be less than the Rate Covenant Requirement with respect to all Bonds to be Outstanding at any time during the Year next following the issuance of the proposed Series of Bonds and to the Repayment Obligations to be outstanding at any time during the Year next following the issuance of the proposed Series of Bonds; or

(B) (I) (x) A Certificate of the City, (y) an Engineer's Certificate (z) any combination of (x) and (y) setting forth the Estimated Net Revenues (assuming the completion of the Project on its then Estimated Completion Date) for whichever of the following periods shall extend until the latest date:

(i) If the Supplemental Indenture authorizing the Series of Bonds being issued requires that interest on the Series of Bonds be capitalized until a certain date in accordance with Section 2.03(b)(2), for each of the two Fiscal Years succeeding such date, or

(ii) If the Supplemental Indenture authorizing the Series of Bonds being issued does not require that interest on the Series of Bonds be capitalized, for the then current Fiscal Year and each succeeding Fiscal Year to and including the third Fiscal Year succeeding the date of issuance of such Series of Bonds; and

(II) A Written Certificate of the City showing the Aggregate Debt Service for each of the Fiscal Years set forth in the certificate or certificates delivered pursuant to clause (I) above and showing that the Estimated Net Revenues as shown in such certificate or certificates for each of such Fiscal Years are not less than the Rate Covenant Requirement for each of such Fiscal Years with respect to all Series of Bonds to be Outstanding after the issuance of the proposed Series of Construction Bonds and to the Repayment Obligations to be outstanding after the issuance of the proposed Series of Construction Bonds.

(d) Notwithstanding any other provision of the Indenture, the provisions of Section 2.03(c)(3) shall not apply:

(1) to the first Series of Construction Bonds issued under the Indenture;

(2) to any Series of Construction Bonds all of the proceeds of which are to be applied to pay the Cost of Construction of a Project necessary, as expressed in an Engineer's Certificate delivered to the Trustee, to keep condition or to prevent a loss of Revenues therefrom, or to comply with requirements of any governmental agency having jurisdiction over the System;

(3) to any Series of Bonds, the aggregate Principal amount of which, together with the aggregate Principal amount of all other Outstanding Bonds issued pursuant to this paragraph (3) during any Fiscal Year, does not exceed 10% of Revenues for the most recent Fiscal Year prior to the issuance of such Series of Bonds for which audited financial statements are available, all as expressed in a Written Certificate of the City; provided that the Trustee shall have received a Written Certificate of the City showing that the Estimated Net Revenues for the next succeeding Fiscal Year are not less than the Rate Covenant Requirement for such Fiscal Year with respect to all Series of Bonds to be Outstanding at any time during such Fiscal Year and to the Repayment Obligations to be outstanding at any time during such Fiscal Year; or

(4) to any Series of Bonds issued to pay the Cost of Construction necessary to complete any Project for which Construction Bonds have previously been issued, provided that the Trustee shall have received:

(A) A Written Certificate of the City stating that the nature and purpose of such Project has not materially changed since the initial Written Certificate of the City was filed pursuant to Section 2.03(c)(1); and

(B) A Written Certificate of the City to the effect that (i) all of the proceeds (including investment earnings) of Construction Bonds (or Bond Anticipation Obligations) previously issued to finance such Project have been or will be used to pay Costs of Construction of the Project, (ii) the then estimated Costs of Construction of the Project as contained in the Written Certificate of the City delivered pursuant to Section 2.03(c)(1) exceeds the sum of the Costs of Construction already paid plus moneys available in the Project Account established for the Project (including unspent proceeds of Bonds previously issued for such purpose), (iii) the issuance of such Series of Bonds is necessary to provide funds to pay Costs of Construction necessary for the Project and (iv) the Principal amount of such Series of Bonds does not exceed fifteen percent of the Principal amount of all Construction Bonds previously issued to finance such Project.

(e) The proceeds, including accrued interest, of the Construction Bonds of each Series shall be deposited simultaneously with the delivery of such Bonds in the Construction Fund and, to the extent permitted by law and the provisions of the Indenture, in any other Funds or such other funds or accounts as may be established by the Supplemental Indenture, in such amounts, if any, as may be provided in the Supplemental Indenture authorizing the issuance of such Series of Construction Bonds.

(f) There may also be deposited from any legally available source, to the extent permitted by law and the provisions of the Indenture, in the Funds, including, but not limited to the Renewal and Replacement Fund, or such other funds or accounts as may be established by the Supplemental Indenture, such amounts, if any, as may be provided in the Supplemental Indenture authorizing the issuance of such Series of Construction Bonds.

Section 2.04. Special Provisions for the Issuance of Refunding Bonds. (a) One or more Series of Refunding Bonds may be issued in such Principal amount which, when taken together with other legally available funds, will provide the City with funds sufficient to accomplish the refunding of all or a part of the Outstanding Bonds of one or more Series or all or part of any other borrowing of the City payable in whole or in part from the Revenues, including in each case the payment of all expenses in connection with such refunding. As used in this Section, the term “ R e f u n d e d D e b t ” s h a l l r e f e r t o s u c h B o n d s o r o t h e r d e b t t o b e

(b) Each Supplemental Indenture authorizing the issuance of a Series of Refunding Bonds shall specify the Refunded Debt to be refunded.

(c) Each Series of Refunding Bonds shall be authenticated and delivered by the Trustee only upon receipt by the Trustee (in addition to the documents required by Section 2.02) of the following documents or moneys or securities (or if such documents or moneys or securities are to be delivered as hereinafter provided to the lender for other borrowings, to such lender, with a copy or other evidence of such delivery to the Trustee), all of such documents dated as of the date of such delivery (unless the Trustee or lender, as appropriate, shall accept any of such documents bearing a prior date):

(1) A Written Certificate of the City stating that the issuance of such Series of Refunding Bonds complies with the requirements of the Indenture and either:

(A) A Written Certificate of the City setting forth the Aggregate Debt Service for each Fiscal Year to and including the Fiscal Year in which occurs the latest maturity of the Refunded Debt to be refunded or such Series of Refunding Bonds, whichever is later, (i) with respect to the Refunded Debt to be refunded and (ii) with respect to the Series of Refunding Bonds to be authenticated and delivered, and stating that the Aggregate Debt Service for any Fiscal Year set forth pursuant to clause (ii) of this subparagraph (A) is no greater than the Aggregate Debt Service for any Fiscal Year set forth pursuant to clause (i) of this subparagraph (A); or

(B) An Accountant's Certificate Fiscal Year) setting forth for t
preceding the authentication and delivery of such Series of Bonds for which Fiscal Year an audited financial report is available, the Net Revenues for such period, and (II) showing that such Net Revenues for such Year would not be less than the Rate Covenant Requirement (for each Fiscal Year to and including the Fiscal Year in which occurs the latest maturity of such Series of Refunding Bonds) with respect to all Bonds to be Outstanding at any time during the Year next following the issuance of the proposed Series of Bonds and to the Repayment Obligations to be outstanding at any time during the Year next following the issuance of the proposed Series of Bonds.

(2) Irrevocable instructions to the Trustee (or the lender or its designee), satisfactory to it, to give due notice of redemption of all the Refunded Debt to be refunded on the redemption date or dates specified in such instructions;

(3) If the Refunded Debt to be refunded is not by its terms subject to redemption within the next succeeding 60 days, irrevocable instructions to the Trustee (or the lender or its designee for other borrowings), satisfactory to it, to mail the notice provided for in Section 11.01(b) (or any similar provision for other borrowings) to the Refunded Debt being refunded;

(4) Either (i) moneys in an amount sufficient to effect payment at the applicable redemption price of the Refunded Debt to be refunded, together with accrued interest to the redemption date, which moneys shall be held by the Trustee or any one or more of the Paying Agents (or the lender or its designee for other borrowings) in a separate account irrevocably in trust for and assigned to the respective holders of the Refunded Debt to be refunded, or (ii) Investment Securities (or similar investments as provided in the other

document relating to other borrowings) in such principal amounts, of such maturities, bearing such interest, and otherwise having such terms and qualifications and any moneys, as shall be necessary to comply with the provisions of Section 11.01(b) (or any similar provision for other borrowings), which Investment Securities and moneys shall be held in trust and used only as provided in such Section; and

(5) If the Refunding Bonds to be issued are Cross-over Refunding Bonds, the Supplemental Indenture providing for the issuance of the Refunding Bonds shall, in addition to all other requirements of this Section 2.04, provide:

(A) That until the Cross-over Date neither Principal of nor interest on the Cross-over Refunding Bonds shall be payable from or secured by a pledge of the Revenues, but shall be payable solely from the escrow provided for in Section 11-27-3, Utah Code Annotated 1953, as amended; and

(B) there shall be filed with the Trustee an Accountant's Certificate demonstrating the sufficiency of the moneys and investments in the escrow provided for in Section 11-27-3, Utah Code Annotated 1953, as amended, to pay Principal of and interest on the Cross-over Refunding Bonds to the Cross-over Date (which Cross-over Date may, at the option of the City, be extended as provided in the Supplemental Indenture providing for the issuance of the Cross-over Refunding Bonds, but only upon filing a revised Accountant's Certificate which demonstrates that the moneys in the escrow will be sufficient to pay Principal of and interest on the Cross-over Refunding Bonds to the extended Cross-over Date).

(d) A Series of Refunding Bonds may be combined with a Series of Construction Bonds.

Section 2.05. Conditions for Issuance of Bond Anticipation Notes. (a) One or more Series of Bond Anticipation Notes, payable on a parity with all Outstanding Bonds (except as provided in Section 2.05(b)(2) below), may be authenticated and delivered upon original issuance from time to time in such Principal amount for each such Series as may be determined by the City for the purpose of paying or providing for the payment of all or a portion of the Cost of Construction of a Project, or the refunding of Bond Anticipation Notes, or a combination of such purpose. Each such Series shall be in such Principal amount which, when taken together with funds previously used or to be provided by the City for such Project, will provide the City with sufficient funds to pay the estimated Cost of Construction of such Project, as set forth in the Written Certificate of the City furnished pursuant to Section 2.05(c)(1). The City hereby covenants to apply so much of the proceeds of the Bonds in anticipation of which such Bond Anticipation Notes have been issued as shall be necessary to provide for the payment of all Principal Installments on such Bond Anticipation Notes.

(b) (1) Each Supplemental Indenture authorizing the issuance of a Series of Bond Anticipation Notes (i) shall specify the Project for which the proceeds of such Series of Bond Anticipation Notes will be applied, and (ii) may require the City to deposit a specified amount of money from the proceeds of the sale of such Series of Bond Anticipation Notes into a Project

Account in the Construction Fund to pay when due all or a portion of the interest on such Series of Bond Anticipation Notes accrued and to accrue to the Estimated Completion Date set forth in the Written Certificate of the City delivered with respect to such Series of Bond Anticipation Notes pursuant to Section 2.05(c)(1), plus interest to accrue on such Series of Bond Anticipation Notes after the Estimated Completion Date for up to one Year (or such different period as may then be permitted by law). Such Supplemental Indenture may also contain such limitations and restrictions on, and covenants and agreements of, the City and such rights and remedies for the holders of such Series of Bond Anticipation Notes, as deemed necessary and desirable by the City; provided, however, that such limitations, restrictions, covenants, agreements, rights and remedies shall not be contrary to or inconsistent with the limitations, restrictions, covenants, agreements, rights and remedies contained in this Indenture for the payment and security of any Bonds then Outstanding.

(2) If so provided in the Supplemental Indenture providing for the issuance of any Series of Bond Anticipation Notes, the payment of the Principal Installments on such Bond Anticipation Notes shall be subject to the prior lien and charge created herein for the payment of the Bonds out of the Principal and Interest Fund. In such case, such Supplemental Indenture shall provide that each of such Bond Anticipation Notes shall state on its face that the payment of Principal Installments thereof is so subordinated.

(3) No Bond Anticipation Note shall mature later than ten years from its date, including all refundings thereof by other Bond Anticipation Notes (whether such refundings occur by reason of exchanges of Bond Anticipation Notes or by reason of payment of such Bond Anticipation Notes from refunding Bond Anticipation Notes, or otherwise).

(c) Each Series of Bond Anticipation Notes shall be authorized and delivered by the Trustee only upon receipt by the Trustee (in addition to the documents required by Section 2.02 and Section 2.05(d) below) of the following documents, all dated as of the date of such delivery (unless the Trustee shall accept any of such documents bearing a prior date):

(1) a Written Certificate of the City setting forth the then Estimated Completion Date and the then estimated Cost of Construction of the Project being financed by such Series of Bond Anticipation Notes; and

(2) a Written Certificate of the City to the effect that, upon the authentication and delivery of the Bond Anticipation Notes of such Series, no event will have occurred which, with the passage of time or the giving of notice, or both, would give rise to an Event of Default under the Indenture; provided, however, that in the case of refunding Bond Anticipation Notes, the Principal Installments of which have been subordinated pursuant to Section 2.05(b)(2) above, the City need not so certify with respect to such Principal Installments . '

(d) As of the date of issuance of any Series of Bond Anticipation Notes, the aggregate Principal amount of all outstanding Bond Anticipation Notes (including such Series) shall never exceed the Principal amount of a hypothetical Series of Bonds which could be issued by the City on such date in compliance with Section 2.03(c)(3), having an assumed final maturity of 30 years,

bearing an assumed rate of interest equal to the highest rate then borne by any outstanding Bond Anticipation Notes and having Debt Service due in each Fiscal Year in approximately equal amounts; provided that if no Series of Bond Anticipation Notes are then Outstanding under the Indenture, the interest rate used for purposes of the calculation set forth in this Section 2.05(d) shall be the interest rate borne by the Series of Bond Anticipation Notes to be issued. Each Series of Bond Anticipation Notes shall be authenticated and delivered by the Trustee only upon receipt by the Trustee (in addition to the documents required by Section 2.02 and Section 2.05(c) above) of a Written Certificate of the City, together with a supporting Accountant's Certificate or a supporting Engineer's Certificate, as appropriate, all dated and the Trustee shall accept any of such documents bearing a prior date), stating that the person signing each such certificate has reviewed and is familiar with the provisions of paragraph Section 2.05(d) and that, in the opinion of such signer, the Bond Anticipation Notes then proposed to be issued by the City can be duly and validly issued by the City pursuant to the provisions hereof, assuming for purposes of compliance with Section 2.03(c)(3) as required by the preceding sentence, that the Debt Service on the proposed Series of Bond Anticipation Notes is calculated on the basis of the hypothetical Series of Bonds as set forth in this Section 2.05(d).

Section 2.06. Provisions Regarding Bonds Secured by a Security Instrument. (a) The City may include such provisions in a Supplemental Indenture authorizing the issuance of a Series of Bonds secured by a Security Instrument as the City deems appropriate, including:

(1) So long as the Security Instrument is in full force and effect, and payment on the Security Instrument is not in default, (A) the Security Instrument Issuer shall be deemed to be the Holder of the Outstanding Bonds of such Series when the approval, consent or action of the Bondholders for such Series of Bonds is required or may be exercised under the Indenture and following an Event of Default and (B) the Indenture may not be amended in any manner which affects the rights of such Security Instrument Issuer without its prior written consent.

(2) In the event that the Principal and Redemption Price, if applicable, and interest due on any Series of Bonds Outstanding shall be paid under the provisions of a Security Instrument, all covenants, agreements and other obligations of the City to the Bondholders of such Series of Bonds shall continue to exist and such Security Instrument Issuer shall be subrogated to the rights of such Bondholders in accordance with the terms of such Security Instrument.

(b) In addition, such Supplemental Indenture may establish such provisions as are necessary to provide relevant information to the Security Instrument Issuer and to provide a mechanism for paying Principal Installments and interest on such Series of Bonds from the Security Instrument.

SCHEDULE 12(f)

LITIGATION¹⁴

No.	Parties	Date Initiated	Description	Venue

¹⁴ To be completed by Borrower, if applicable.

SCHEDULE 12(n)
PRINCIPAL PROJECT CONTRACTS¹⁵

A. Existing Principal Project Contracts

Contract	Date	Parties	Description
Sundt/PLC, A Joint Venture - Construction Manager/General Contractor Agreement for Preconstruction and Construction Services	August 13, 2019	Salt Lake City Corporation Sundt Corporation, Inc PLC Construction, Inc	Construction Manager/General Contractor Agreement for Preconstruction and Construction Services

Commented [PB71]: We should ask Brian which contracts from the application should go in each table. Should all contracts already signed be added to table A or only the primary construction contract?

B. Additional Principal Project Contracts

Contract	Expected Effective Date (if known)	Parties	Description

¹⁵ To be completed by Borrower.

SCHEDULE 12(p)

ENVIRONMENTAL MATTERS

[To be provided by Borrower, if applicable]

EXHIBIT A

FORM OF WIFIA BOND¹⁶

SALT LAKE CITY CORPORATION, SALT LAKE CITY, SALT LAKE COUNTY, UTAH

SALT LAKE CITY WATER RECLAMATION FACILITY NUTRIENT PROJECT

(WIFIA – [N____])
WIFIA BOND

Maximum Principal Amount: \$ [Maximum Amount of WIFIA Loan]
(including the maximum amount of capitalized interest that has been authorized)

Effective Date: _____ Due: _____

SALT LAKE CITY CORPORATION, SALT LAKE CITY, SALT LAKE COUNTY, UTAH, a municipal corporation and political subdivision created under the laws of the State of Utah (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, together with any interest that is capitalized and added to principal in accordance with the provisions of the WIFIA Loan Agreement (as defined below), 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) on the Outstanding Principal Sum and all fees, costs and other amounts payable in connection therewith, all 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, however, 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.

¹⁶ This will need to be harmonized with the Borrower’s form of bond, but the to be addressed in the WIFIA Bond.

The interest rate on this WIFIA Bond shall be [____] percent ([____]%) per annum. Interest will accrue and be computed on the Outstanding Principal Sum (as well as on any past due interest) 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 Principal Sum at the Default Rate (as defined in the WIFIA Loan Agreement to be the sum of (a) the WIFIA Interest Rate set forth above plus (b) [____] basis points) in accordance with Section 6 (*Interest Rate*) of the WIFIA Loan Agreement.

Payments hereon are to be made in accordance with Section 8(d) (*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. [If the Final Maturity Date is amended in connection with an update to the Updated Financial Model approved by the WIFIA Lender pursuant to Section 16(a) (*Reporting Requirements – Updated Financial Model*) of the WIFIA Loan Agreement, the due date of this WIFIA Bond shall be deemed to be amended to change the due date to such revised Final Maturity Date without any further action required on the part of the Borrower or the WIFIA Lender and such amendment shall in no way amend, modify or affect the other provisions of this WIFIA Bond without the prior written agreement of the WIFIA Lender. Any such amendment shall be reflected in a revised **Exhibit F**.]¹⁷

This WIFIA Bond has been executed under and pursuant to that certain WIFIA Loan Agreement, dated as of the date hereof, 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 loan 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 all 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, however, 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.

¹⁷ To be included when the WIFIA Lender has agreed to a Final Maturity Date that is a defined anniversary of the Substantial Completion Date. Pursuant to the Act, the Final Maturity Date cannot be later than the 35th anniversary of the Substantial Completion Date. The actual number of years will be determined as part of the WIFIA Lender’s underwriting process.

Payment of the obligations of the Borrower under this WIFIA Bond is secured pursuant to the Indenture referred to in the WIFIA Loan Agreement.

This WIFIA Bond, including the interest hereon, is payable from the Revenues and other funds of the Borrower pledged for the payment hereof and this WIFIA Bond does not constitute a debt of the Borrower within the meaning of any constitutional or statutory limitations or provisions.

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, ~~SALT LAKE CITY CORPORATION SALT LAKE CITY, SALT LAKE COUNTY, UTAH~~ 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 set forth above.

Formatted: Font: Not Bold

~~SALT LAKE CITY CORPORATION SALT LAKE CITY, SALT LAKE COUNTY, UTAH,~~
by its authorized representative

(SEAL)

By _____
Name: _____
Title: _____

ATTEST:

Secretary

CERTIFICATE OF AUTHENTICATION

This WIFIA Bond is the WIFIA Bond described in the within-mentioned Indenture.

[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 within ~~note~~-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 within ~~note~~-bond in every
particular, without alteration or enlargement or
any change whatever.

EXHIBIT B
ANTICIPATED WIFIA LOAN DISBURSEMENT SCHEDULE

<u>Federal Fiscal Year</u>	<u>Amount</u>
	\$

EXHIBIT C

FORM OF NON-DEBARMENT CERTIFICATE

The undersigned, on behalf of SALT LAKE CITY CORPORATION~~SALT LAKE CITY, SALT LAKE COUNTY, UTAH,~~ hereby certifies that SALT LAKE CITY CORPORATION~~SALT LAKE CITY, SALT LAKE COUNTY, UTAH,~~ has fully complied with its verification obligations under 2 C.F.R. § 180.320 and hereby further confirms, based on such verification, that, to its knowledge, the Borrower and its principals (as defined in 2 C.F.R. § 180.995 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.

Dated: _____

SALT LAKE CITY CORPORATION~~SALT LAKE CITY, SALT LAKE COUNTY, UTAH,~~
by its authorized representative

By: _____
Name:
Title:

EXHIBIT D

REQUISITION PROCEDURES

This **Exhibit D** 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. The form of Requisition is attached as **Appendix One** (*Form of Requisition*) to this **Exhibit D**.

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 (**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 such short-term interim financing in respect of which the proceeds were used to pay such documented Eligible Project Costs. The WIFIA Lender shall review the Eligible Project Costs Documentation 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** 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

A u t h o r i z e d R e p r e s e n t

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 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*) and Section 11(b) (*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 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 Agency¹⁸
1200 Pennsylvania Avenue NW
WJC-W 6201A
Washington, D.C. 20460
Attention: WIFIA Director

Re: Salt Lake City Water Reclamation Facility Nutrient Project (WIFIA — N19109UT)

Ladies and Gentlemen:

Pursuant to Section 4 (*Disbursement Conditions*) of the WIFIA Loan Agreement, dated as of [____], 2020 (the “**WIFIA Loan Agreement**”), by and between SALT LAKE CITY CORPORATION SALT LAKE CITY, SALT LAKE COUNTY, UTAH (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~~ Authorized Representative, hereby represents and certifies the following:

1.	Project name	Salt Lake City Water Reclamation Facility Nutrient Project
2.	Borrower name	Salt Lake City, <u>Salt Lake County, Utah Corporation</u>
3.	WIFIA reference number	[__]
4.	Requisition number	[__]
5.	Requested disbursement amount	\$[__]

¹⁸ If there is a Servicer for the WIFIA Loan, provide a copy to the Servicer as well and include its notice details here.

3. The Borrower has sufficient available funds committed to the Project, which together with funds that remain available and not yet drawn under the WIFIA Loan, will be sufficient to pay the reasonably anticipated remaining Total Project Costs.
4. The total federal assistance provided to the Project, including the maximum principal amount of the WIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), does not exceed eighty percent (80%) of Total Project Costs.
5. 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).
6. Each of the insurance policies obtained by the Borrower in satisfaction of Section 11(a)(xvi) (*Conditions Precedent – Conditions Precedent to Effectiveness*) 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.
7. As of the date hereof and on the Disbursement Date (immediately after giving effect to the above-requested disbursement of WIFIA Loan proceeds), (i) no Default or Event of Default and (ii) no event of default under any other Related Document and no event that, with the giving of notice or the passage of time or both, would constitute an event of default under any Related Document, in each case, has occurred and is continuing. No Material Adverse Effect, or any event or condition that could reasonably be expected to have a Material Adverse Effect, has occurred or arisen since [February 26, 2020].
8. 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 without limitation 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.
9. The representations and warranties of the Borrower set forth in the WIFIA Loan Agreement and in each other Related Document are true and correct as of the date hereof and as of the Disbursement Date, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).

10. Each Indenture Document and each Principal Project Contract that has been delivered by the Borrower to the WIFIA Lender pursuant to Section 11(b) (*Conditions Precedent – Conditions Precedent to Disbursements*) is complete, fully executed and in full force and effect.
11. 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.²⁰
12. All documentation evidencing the Eligible Project Costs to be reimbursed to the Borrower [or to be used to pay Eligible Project Costs previously paid from proceeds of Other Debt] by the above-requested disbursement has been delivered by the Borrower to the WIFIA Lender at the times and in the manner specified by the WIFIA Loan Agreement, including the details set forth [in the attachment hereto, which is in form satisfactory to the WIFIA Lender][below:

Vendor or Contractor Name ²¹	Invoice Number ²²	Invoice Date	Payment Date	Invoice Amount	WIFIA Requested Amount ²³	Activity Type ²⁴	Description of Activity ²⁵	WIFIA USE ONLY	
								Approved Amount	Notes

²⁰ The most recent quarterly progress report should set out a summary of the progress of construction of the Project, as well as a general description of the work done for which the funds being requisitioned are being applied and a summary of any material changes/risks. If not, PM should request additional information (including a risk register, if applicable).

²¹ If seeking reimbursement for internal costs, enter “Internally financed activities.”

²² Vendor’s number indicated on the invoice sent to the Borrower.

²³ 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.

²⁴ 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.

²⁵ 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.

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.

Date: _____

SALT LAKE CITY CORPORATION
LAKE CITY, SALT LAKE COUNTY,
UTAH,

By its authorized representative

By: _____

Name:

Title: _____

APPENDIX TWO TO EXHIBIT D

[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,]²⁶ by the WIFIA Lender (as defined herein) pursuant to Section 4
(*Disbursement Conditions*) of the WIFIA Loan Agreement, dated as of [_____] , 2020, by
and between ~~Salt Lake City, Salt Lake County, Utah~~ Salt Lake City Corporation (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:

²⁶ 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 E

FORM OF NON-LOBBYING CERTIFICATE

The undersigned, on behalf of SALT LAKE CITY CORPORATIONSALT LAKE CITY,
SALT LAKE COUNTY, UTAH, 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-L L L , “ D i s c l o s u r e F o r m t o R e p o r t L o b b y i n g , ” i n a c c o r d a n c e w i

(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 [____], 2020 (the “ W I F I A L o a n A g r e e m e n t ”) , b y a n d b e t w e e n t h e U n i t e d S t a t e s E n v i
a c t i n g b y a n d t h r o u g h t h e A d m i n i s t r a t o r (t h e “ W I F I A L e n d e r ”) ,
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: _____

SALT LAKE CITY CORPORATIONSALT LAKE
CITY, SALT LAKE COUNTY, UTAH,
by its authorized representative

By: _____

Exhibit E-1

3457795.4 044207 CTR

Name:
Title:

Exhibit E-2

3457795.4 044207 CTR

EXHIBIT F
WIFIA DEBT SERVICE²⁷

²⁷ WIFIA Underwriting to work with Borrower to provide an initial amortization schedule. This will need to be finalized on the day of closing to account for the final interest rate.

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:

(a) the Borrower is duly formed, validly existing, and in good standing under the laws of the jurisdiction of its organization;

(b) the Borrower has all requisite power and authority to conduct its business and to execute and deliver, and to perform its obligations under the Related Documents to which it is a party;

(c) the execution and delivery by the Borrower of, and the performance of its respective obligations under, the Related Documents to which it is a party, have been duly authorized by all necessary organizational or regulatory action;

(d) the Borrower has duly executed and delivered each Related Document to which it is a party and each such Related Document constitutes the legal, valid and binding obligation of such party; enforceable against such party in accordance with their respective terms;

(e) no authorization, consent, or other approval of, or registration, declaration or other filing with any governmental authority of the United States of America or of the State is required on the part of the Borrower for the execution and delivery by such party of, and the performance of such party under, any Related Document to which it is a party other than authorizations, consents, approvals, registrations, declarations and filings that have already been timely obtained or made by the Borrower;

(f) the execution and delivery by the Borrower of, and compliance with the provisions of, the Related Documents to which it is a party in each case do not (i) violate the Organizational Documents of the Borrower, (ii) violate the law of the United States of America or of the State or (iii) conflict with or constitute a material breach of or material default under any material agreement or other instrument known to such counsel to which the Borrower is a party, or to the best of such counsel's knowledge, after reasonable review, any court order, consent decree, statute, rule, regulation or any other law to which the Borrower is subject;

(g) the Borrower is not an investment company required to register under the Investment Company Act of 1940, as amended;

(h) to our knowledge after due inquiry, there are no actions, suits, proceedings or investigations against the Borrower by or before any court, arbitrator or any other Governmental Authority in connection with the Related Documents or the Project that are pending; and

(i) the Borrower is not entitled to claim governmental immunity in any breach of contract action under the WIFIA Loan Agreement or the WIFIA Bond or by the Trustee under the Indenture.

Commented [PB72]: This doesn't use the bond litigation wording SLC typically uses for other bond deals. For example, SLC limits the representation to "state of Utah of federal court" and limit it to suits "with merit."

EXHIBIT G-2

OPINIONS REQUIRED FROM BOND COUNSEL

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

(a) The Borrower has been duly created and validly exists as a municipal corporation and political subdivision created under and pursuant to the laws of the State of Utah (including the Bond Act as amended to the date hereof) (**the Borrower Act**), with good right and power to issue the WIFIA Bond.

(b) The Borrower has the right and power under the laws of the State, including the Borrower Act, to enter into the Indenture, the Related Documents and the WIFIA Bond, and each has been duly authorized, executed and delivered by the Borrower, is in full force and effect, and constitutes a legal, valid and binding agreement of the Borrower enforceable against the Borrower in accordance with its respective terms and conditions;

(c) The WIFIA Bond is (i) secured by the Pledged Collateral, (ii) a Bond entitled to the benefits of a Bond under the Indenture, (iii) enforceable under the laws of the State without any further action by the Borrower or any other Person, and (iv) rank *pari passu* in right of payment and right of security with all Bonds and are senior in right of payment and right of security to all Subordinate Obligations;

(d) The Indenture creates the valid and binding assignment and pledge of the Pledged Collateral to secure the payment of the principal of, interest on, and other amounts payable in respect of, the WIFIA Bond, irrespective of whether any party has notice of the pledge and without the need for any physical delivery, recordation, filing or further act;

(e) All actions by the Borrower that are required for the application of Revenues as required under the Indenture and under the WIFIA Loan Agreement have been duly and lawfully made;

(f) The Borrower has complied with the requirements of State law to lawfully pledge the Pledged Collateral and use the Revenues as required by the terms of the Indenture and the WIFIA Loan Agreement; and

(g) The Borrower is not eligible to be a debtor in either a voluntary or involuntary case under the United States Bankruptcy Code.

EXHIBIT H

FORM OF CERTIFICATE OF TRUSTEE

SALT LAKE CITY CORPORATIONSALT LAKE CITY, SALT LAKE COUNTY, UTAH

**WIFIA Bond,
Salt Lake City Water Reclamation Facility Nutrient Project
(WIFIA – N19109UT)**

The undersigned, U.S. Bank National Association (the “**Trustee**”), by its duly appointed, qualified and acting [____], certifies with respect to the above referenced bond (the “**WIFIA Bond**”) dated as of [____], 2020, as follows (capitalized terms used in this Certificate which are not otherwise defined shall have the meanings given to such terms in the Indenture (as defined below)):

1. That the Trustee is a national association duly organized and validly existing under the laws of the United States of America and [is duly licensed and] in good standing under the laws of [_____].

2. All approvals, consents and orders of any governmental authority or agency having jurisdiction in the matter which would constitute a condition precedent to the performance by the Trustee of its duties and obligations under the documents pertaining to the issuance of the WIFIA Bond have been obtained by the Trustee and are in full force and effect.

3. That the documents pertaining to the issuance of the WIFIA Bond to which the Trustee is a party were executed by the Trustee and the WIFIA Bond was authenticated on behalf of the Trustee by one or more of the persons whose names and offices appear on Annex One attached hereto and made part hereof, that each person was at the time of the execution of such documents and the authentication of the WIFIA Bond and now is duly appointed, qualified and acting incumbent of his or her respective office, that each such person was authorized to execute such documents and to authenticate the WIFIA Bond, and that the signature appearing after the name of each such person is a true and correct specimen of that person’s genuine signature.

4. That the undersigned is authorized to act as Trustee and accept the trusts conveyed to it under the Indenture (“**Trusts**”), has accepted the Trusts so conveyed and in so accepting the Trusts and so acting is in violation of no provision of its articles of association or bylaws, any law, regulation or court or administrative order or any agreement or other instrument to which it is a party or by which it may be bound.

5. That attached to this Certificate as Annex [One][Two]²⁸ is a full, true and correct copy of excerpts from [resolutions of the board of directors][the bylaws] of the Trustee and other applicable documents that evidence the Trustee’s trust powers and the authority of the officers referred to above to act on behalf of the Trustee; and that these excerpts and other applicable documents were in effect on the date or dates such officers acted and remain in full force and effect

²⁸ If the Trustee’s authorizing documents (e.g., US Bank NA), refer to and attach one annex. If separate documents, refer here to and attach as a second annex.

today, and such excerpts and documents have not been amended since the date of the last amendment thereto shown on any such copy, as applicable.

6. That receipt is acknowledged of all instruments, certifications and other documents or confirmations required to be received by the Trustee pursuant to Section [_____] of that certain Master Trust Indenture (the “**Indenture**”), dated as of January 1, 2004, between Salt Lake City, ~~Salt Lake County, Utah Corporation~~ (the “**Borrower**”) and the Trustee.

7. That receipt is also acknowledged of that certain WIFIA Loan Agreement, dated as of [_____] 2020 (the “**WIFIA Loan Agreement**”), between the Borrower and the United States Environmental Protection Agency, acting by and through the Administrator (the “**WIFIA Bondholder**”).

8. That the Trustee also accepts its appointment and agrees to perform the duties and responsibilities of Trustee [and of Bond Registrar and Paying Agent] for and in respect of the WIFIA Bond as set forth in the Indenture and the WIFIA Loan Agreement, including from time to time redeeming all or a portion of the WIFIA Bond as provided in Section [_____] of the Indenture. In accepting such duties and responsibilities, the Trustee shall be entitled to all of the privileges, immunities, rights and protections set forth in Section [_____] of the Indenture.

9. That all funds and accounts for the payment of the WIFIA Bond pursuant to the Indenture (including, but not limited to, the Bond Service Account) have been established as provided in the Indenture.

Dated: [_____] 2020

U.S. BANK NATIONAL ASSOCIATION

By: _____
Name:
Title:

ANNEX ONE TO EXHIBIT H

[See attached]

EXHIBIT I

FORM OF CLOSING CERTIFICATE

Reference is made to that certain WIFIA Loan Agreement, dated as of [____], 2020 (the “**WIFIA Loan Agreement**”), by and among Salt Lake City, ~~Salt Lake County, Utah Corporation~~ (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 B o r r o ~~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)(viii), 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 a p p o i n t e d a s a B o r r o w e r ' s A u t h o r i z e d R e p r e s e n t a t i v e i n 21 (*Borrower's Authorized Representative*) of the WIFIA Loan Agreement;
- (b) pursuant to Section 11(a)(ii), attached hereto as Annex B are copies of the Indenture and each Supplemental Indenture (including the WIFIA Supplemental Indenture) and any other Indenture Document authorizing Obligations in respect of the Project that has been entered into on or prior to the Effective Date, together with any amendments, waivers or modifications thereto, 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, 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), attached hereto as Annex D is a copy of the B o r r o ~~Organizational~~ Documents, as in effect on the Effective Date (and certified by the Secretary of State of the State, to the extent applicable), which Organizational Documents are in full force and effect. Other than the WIFIA Supplemental Indenture, there are no additional 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;

- (e) pursuant to Section 11(a)(viii)(1), 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;
- (f) pursuant to Section 11(a)(viii)(2), 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);
- (g) pursuant to Section 11(a)(viii)(3), (i) the maximum principal amount of the WIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), together with the amount of any other credit assistance provided under the Act to the Borrower, does not exceed forty-nine percent (49%) of reasonably anticipated Eligible Project Costs and (ii) the total federal assistance provided to the Project, including the maximum principal amount of the WIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), does not exceed eighty percent (80%) of Total Project Costs;
- (h) pursuant to Section 11(a)(viii)(4), the Borrower is in compliance with NEPA and any applicable federal, state or local environmental review and approval requirements with respect to the Project, and, if requested by the WIFIA Lender, has provided evidence satisfactory to the WIFIA Lender of such compliance;
- (i) pursuant to Section 11(a)(viii)(5), the Borrower has developed, and identified adequate revenues to implement, a plan for operating, maintaining and repairing the Project during its useful life;
- (j) pursuant to Section 11(a)(viii)(6), (i) the Borrower's Federal Employer Identification Number is 87-60000279, (ii) the Borrower's Data Universal Numbering System number is 028442379, 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 is attached hereto as Annex [];
- (k) pursuant to Section 11(a)(viii)(7), the CUSIP number for the WIFIA Loan is [];
- (l) pursuant to Section 11(a)(viii)(8), 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;

- (m) pursuant to Section 11(a)(viii)(9), no Material Adverse Effect, or any event or condition that could reasonably be expected to have a Material Adverse Effect, has occurred or arisen since [February 26, 2020];
- (n) pursuant to Section 11(a)(x), none of the rating letters delivered to the WIFIA Lender pursuant to such Section 11(a)(x) has been reduced, withdrawn or suspended as of the Effective Date;
- (o) pursuant to Section 11(a)(xi), [the Borrower has delivered to the WIFIA Lender][attached hereto as Annex [] is] the Base Case Financial Model, which (i) demonstrates that projected Net Revenues are sufficient to meet the Loan Amortization Schedule, (ii) demonstrates compliance with the Rate Covenant Requirement 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)(xi); [and]
- (p) pursuant to Section 11(a)(xii), attached hereto as Annex [] [are certificates of insurance][is a certificate of the Borrower's risk management program]; and such insurance certificate is true and correct and demonstrates compliance with the requirements of Section 14(f) (*Affirmative Covenants – Insurance*) of the WIFIA Loan Agreement[; and][.]
- (q) [any other attachments and provisions, as may apply to the specific WIFIA Loan Agreement].

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

SALT LAKE CITY CORPORATION
SALT LAKE CITY, SALT LAKE COUNTY, UTAH,

by its authorized representative

By: _____
Name:
Title:

ANNEX A TO EXHIBIT I
INCUMBENCY CERTIFICATE

The undersigned certifies that he/she is the [City Clerk/Recorder] of Salt Lake City, ~~Salt Lake County~~, Utah, a municipal corporation and political subdivision of the State of Utah (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 as the Borrower's Authorized Representative 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):

Commented [PB73]: Boyd: We also need to be certain that the listed people in fact have authority to sign documents on behalf of the City.

<u>Name</u>	<u>Title</u>	<u>Signature</u>
[_____]	[_____]	_____
[_____]	[_____]	_____
[_____]	[_____]	_____
[_____]	[_____]	_____
[_____]	[_____]	_____

IN WITNESS WHEREOF, the undersigned has executed this certificate as of this [_____] day of [_____], 2020.

SALT LAKE CITY CORPORATION
SALT LAKE CITY, SALT LAKE COUNTY, UTAH,
by its authorized representative

By: _____
Name:
Title:

EXHIBIT J

FORM OF CERTIFICATE OF SUBSTANTIAL COMPLETION

[Letterhead of Borrower]

[Date]

WIFIA Program Office
[Insert Proper Address]
Attention: Administrator

Project: Salt Lake City Water Reclamation Facility Nutrient Project *[WIFIA Project Reference Number]*

Dear Director:

This Notice is provided pursuant to Section 16(a)(i)(A) (*Affirmative Covenants – Notice – Substantial Completion*) of that certain WIFIA Loan Agreement (~~the WIFIA Loan Agreement~~), dated as of [_____], 2020, by and between Salt Lake City, ~~Salt Lake County, Utah Corporation~~ (the “**Borrower**”) and the United States Environmental Protection Agency, acting by and through its Administrator (the “**WIFIA Lender**”).

Unless otherwise defined herein, all capitalized terms in this Notice have the meanings assigned to those terms in the WIFIA Loan Agreement.

I, the undersigned, in my capacity as the Borrower’s ~~Authorized Representative~~ ~~and its~~ ~~representative~~ 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 concession agreement, design-build or similar agreement 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.

SALT LAKE CITY CORPORATION
SALT LAKE CITY, SALT LAKE COUNTY, UTAH,
by its authorized representative

By: _____
Name:

Title:

EXHIBIT K

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: Salt Lake City Water Reclamation Facility Nutrient Project (WIFIA – N19109UT)

This Quarterly Report for the period of [] is provided pursuant to Section 16(d) (*Reporting Requirements – Construction Reporting*) of the WIFIA Loan Agreement, dated as of [], 2020 (the “**WIFIA Loan Agreement**”), by and for Salt Lake City, Salt Lake County, Utah Corporation (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 in this Quarterly Report, all capitalized terms have the meanings assigned to those terms in the WIFIA Loan Agreement.

(i) Amount Expended

Principal Project Contract (PPC)	Original Contract Amount	Change Orders to Date	Total Estimated Costs	Estimated Costs to Complete	Costs Earned or Paid Through Previous Reporting period	Current Reporting Period Costs Earned or Paid	Total Costs Earned or Paid to date	% Costs Earned or Paid to Date
TOTAL								

(ii) Construction Progress, Governmental Approvals, Updated Schedule

Assessment of overall construction progress:

Notice of receipt of relevant Governmental Approvals since the Effective Date and since the prior Quarterly Report:

Assessment of construction progress compared to Construction Schedule provided in the prior Quarterly Report:

Principal Project Contract (PPC)	NTP Effective Date	Original Time for Completion (days)	Original Contract Completion (date)	Time Added to Date (days)	Current Contract Completion (date)	Days Elapsed	% Contract Duration

(iii) Substantial Completion Date

Current projection for the 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:

(iv) Material Problems (if any)

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

(v) Proposed or pending change orders that exceed the threshold set out in Section 16(f) (*Modifications to Total Project Costs*) or could reasonably be expected to result in a Material Adverse Effect

(vi) Other matters related to the Project

Date: _____

SALT LAKE CITY CORPORATIONSALT LAKE CITY, SALT LAKE COUNTY, UTAH,
by its authorized representative

By: _____
Name: _____
Title: _____

EXHIBIT L

FORM OF PUBLIC BENEFITS REPORT

Pursuant to [Section 11(a)(xiv)] [and] [Section 16(e)] of the WIFIA Loan Agreement, Salt Lake City, Salt Lake County, Utah Corporation (the "**Borrower**") is providing this Public Benefits Report in connection with the Salt Lake City Water Reclamation Facility Nutrient Project (WIFIA – N19109UT):

- (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 anniversary of the Substantial Completion Date], the number of jobs projected to be created by the Project during the period between the Effective Date and the Substantial Completion Date:**

The Borrower projects [] jobs to be created by the Project during the period between [[(1)] the Effective Date and the Substantial Completion Date]²⁹ [and] [[(2)] the Substantial Completion Date and the fifth anniversary of the Substantial Completion Date]³⁰.

- (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 [assist the Borrower (measured by percent annually) in reducing levels of Nitrogen, Phosphorus, biochemical oxygen demand (BOD) and total suspended solids (TSS)][increase the volume of potable water produced (measured in MGD annually)][increase the volume of water recycled, recharged or redirected (measured in MGD annually)][increase Class [A][B] biosolids (measured in tons annually)]³¹:**

[].

²⁹ Include for both the reports delivered (i) prior to the Effective Date and (ii) 90 days following the Substantial Completion Date.

³⁰ 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.

³¹ Include one of the bracketed items as applicable.

Salt Lake City Corp - Salt Lake City Water Reclamation Facility Nutrient Project - 19109UT
WIFIA Loan Amortization Schedu

Closing Date 8/15/2020
 Loan Amount \$ 348,635,000.00
 Interest rate 1.30% SLGS estimate as of 7/15/20
 Weight Average Life (year-month) 23-1
 Maturity 2/1/2058

Period Start Date	Period End Date	Period Payment Date	Disbursements in Period	Capitalized Interest	Interest Payment	Principal Repayment	Semi-annual Debt Service Payment	Ending Balance
8/15/2020	1/31/2021	2/1/2021	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2/1/2021	7/31/2021	8/1/2021	\$93,210,000.00	\$151,466.25	\$0.00	\$0.00	\$0.00	\$93,361,466.25
8/1/2021	1/31/2022	2/1/2022	\$0.00	\$606,849.54	\$0.00	\$0.00	\$0.00	\$93,968,315.79
2/1/2022	7/31/2022	8/1/2022	\$93,890,000.00	\$763,365.31	\$0.00	\$0.00	\$0.00	\$188,621,681.10
8/1/2022	1/31/2023	2/1/2023	\$0.00	\$1,226,040.93	\$0.00	\$0.00	\$0.00	\$189,847,722.03
2/1/2023	7/31/2023	8/1/2023	\$70,465,000.00	\$1,348,515.83	\$0.00	\$0.00	\$0.00	\$261,661,237.86
8/1/2023	1/31/2024	2/1/2024	\$0.00	\$1,700,798.05	\$0.00	\$0.00	\$0.00	\$263,362,035.91
2/1/2024	7/31/2024	8/1/2024	\$64,017,000.00	\$1,815,880.87	\$0.00	\$0.00	\$0.00	\$329,194,916.78
8/1/2024	1/31/2025	2/1/2025	\$0.00	\$2,139,766.96	\$0.00	\$0.00	\$0.00	\$331,334,683.74
2/1/2025	7/31/2025	8/1/2025	\$24,356,000.00	\$2,193,253.95	\$0.00	\$0.00	\$0.00	\$357,883,937.69
8/1/2025	1/31/2026	2/1/2026	\$0.00	\$2,326,245.60	\$0.00	\$0.00	\$0.00	\$360,210,183.29
2/1/2026	7/31/2026	8/1/2026	\$2,697,000.00	\$2,345,748.83	\$0.00	\$0.00	\$0.00	\$365,252,932.12
8/1/2026	1/31/2027	2/1/2027	\$0.00	\$2,374,144.06	\$0.00	\$0.00	\$0.00	\$367,627,076.18
2/1/2027	7/31/2027	8/1/2027	\$0.00	\$2,389,576.00	\$0.00	\$0.00	\$0.00	\$370,016,652.18
8/1/2027	1/31/2028	2/1/2028	\$0.00	\$2,405,108.24	\$0.00	\$0.00	\$0.00	\$372,421,760.42
2/1/2028	7/31/2028	8/1/2028	\$0.00	\$0.00	\$2,420,741.45	\$0.00	\$2,420,741.45	\$372,421,760.42
8/1/2028	1/31/2029	2/1/2029	\$0.00	\$0.00	\$2,420,741.45	\$10,229,779.31	\$12,650,520.76	\$362,191,981.11
2/1/2029	7/31/2029	8/1/2029	\$0.00	\$0.00	\$2,354,247.88	\$0.00	\$2,354,247.88	\$362,191,981.11
8/1/2029	1/31/2030	2/1/2030	\$0.00	\$0.00	\$2,354,247.88	\$10,362,766.44	\$12,717,014.32	\$351,829,214.67
2/1/2030	7/31/2030	8/1/2030	\$0.00	\$0.00	\$2,286,889.90	\$0.00	\$2,286,889.90	\$351,829,214.67
8/1/2030	1/31/2031	2/1/2031	\$0.00	\$0.00	\$2,286,889.90	\$10,497,482.40	\$12,784,372.30	\$341,331,732.27
2/1/2031	7/31/2031	8/1/2031	\$0.00	\$0.00	\$2,218,656.26	\$0.00	\$2,218,656.26	\$341,331,732.27
8/1/2031	1/31/2032	2/1/2032	\$0.00	\$0.00	\$2,218,656.26	\$10,633,949.67	\$12,852,605.93	\$330,697,782.60
2/1/2032	7/31/2032	8/1/2032	\$0.00	\$0.00	\$2,149,535.59	\$0.00	\$2,149,535.59	\$330,697,782.60
8/1/2032	1/31/2033	2/1/2033	\$0.00	\$0.00	\$2,149,535.59	\$10,772,191.02	\$12,921,726.61	\$319,925,591.58
2/1/2033	7/31/2033	8/1/2033	\$0.00	\$0.00	\$2,079,516.35	\$0.00	\$2,079,516.35	\$319,925,591.58
8/1/2033	1/31/2034	2/1/2034	\$0.00	\$0.00	\$2,079,516.35	\$10,912,229.50	\$12,991,745.85	\$309,013,362.08
2/1/2034	7/31/2034	8/1/2034	\$0.00	\$0.00	\$2,008,586.86	\$0.00	\$2,008,586.86	\$309,013,362.08
8/1/2034	1/31/2035	2/1/2035	\$0.00	\$0.00	\$2,008,586.86	\$11,054,088.48	\$13,062,675.34	\$297,959,273.60
2/1/2035	7/31/2035	8/1/2035	\$0.00	\$0.00	\$1,936,735.28	\$0.00	\$1,936,735.28	\$297,959,273.60
8/1/2035	1/31/2036	2/1/2036	\$0.00	\$0.00	\$1,936,735.28	\$11,197,791.63	\$13,134,526.91	\$286,761,481.97
2/1/2036	7/31/2036	8/1/2036	\$0.00	\$0.00	\$1,863,949.64	\$0.00	\$1,863,949.64	\$286,761,481.97
8/1/2036	1/31/2037	2/1/2037	\$0.00	\$0.00	\$1,863,949.64	\$11,343,362.93	\$13,207,312.57	\$275,418,119.04
2/1/2037	7/31/2037	8/1/2037	\$0.00	\$0.00	\$1,790,217.78	\$0.00	\$1,790,217.78	\$275,418,119.04
8/1/2037	1/31/2038	2/1/2038	\$0.00	\$0.00	\$1,790,217.78	\$11,490,826.64	\$13,281,044.42	\$263,927,292.40
2/1/2038	7/31/2038	8/1/2038	\$0.00	\$0.00	\$1,715,527.41	\$0.00	\$1,715,527.41	\$263,927,292.40
8/1/2038	1/31/2039	2/1/2039	\$0.00	\$0.00	\$1,715,527.41	\$11,640,207.39	\$13,355,734.80	\$252,287,085.01
2/1/2039	7/31/2039	8/1/2039	\$0.00	\$0.00	\$1,639,866.06	\$0.00	\$1,639,866.06	\$252,287,085.01
8/1/2039	1/31/2040	2/1/2040	\$0.00	\$0.00	\$1,639,866.06	\$11,791,530.09	\$13,431,396.15	\$240,495,554.92
2/1/2040	7/31/2040	8/1/2040	\$0.00	\$0.00	\$1,563,221.11	\$0.00	\$1,563,221.11	\$240,495,554.92
8/1/2040	1/31/2041	2/1/2041	\$0.00	\$0.00	\$1,563,221.11	\$11,944,819.98	\$13,508,041.09	\$228,550,734.94
2/1/2041	7/31/2041	8/1/2041	\$0.00	\$0.00	\$1,485,579.78	\$0.00	\$1,485,579.78	\$228,550,734.94
8/1/2041	1/31/2042	2/1/2042	\$0.00	\$0.00	\$1,485,579.78	\$12,100,102.64	\$13,585,682.42	\$216,450,632.30
2/1/2042	7/31/2042	8/1/2042	\$0.00	\$0.00	\$1,406,929.11	\$0.00	\$1,406,929.11	\$216,450,632.30
8/1/2042	1/31/2043	2/1/2043	\$0.00	\$0.00	\$1,406,929.11	\$12,257,403.97	\$13,664,333.08	\$204,193,228.33
2/1/2043	7/31/2043	8/1/2043	\$0.00	\$0.00	\$1,327,255.99	\$0.00	\$1,327,255.99	\$204,193,228.33
8/1/2043	1/31/2044	2/1/2044	\$0.00	\$0.00	\$1,327,255.99	\$12,416,750.22	\$13,744,006.21	\$191,776,478.11
2/1/2044	7/31/2044	8/1/2044	\$0.00	\$0.00	\$1,246,547.11	\$0.00	\$1,246,547.11	\$191,776,478.11
8/1/2044	1/31/2045	2/1/2045	\$0.00	\$0.00	\$1,246,547.11	\$12,578,167.98	\$13,824,715.09	\$179,198,310.13
2/1/2045	7/31/2045	8/1/2045	\$0.00	\$0.00	\$1,164,789.02	\$0.00	\$1,164,789.02	\$179,198,310.13
8/1/2045	1/31/2046	2/1/2046	\$0.00	\$0.00	\$1,164,789.02	\$12,741,684.16	\$13,906,473.18	\$166,456,625.97
2/1/2046	7/31/2046	8/1/2046	\$0.00	\$0.00	\$1,081,968.07	\$0.00	\$1,081,968.07	\$166,456,625.97
8/1/2046	1/31/2047	2/1/2047	\$0.00	\$0.00	\$1,081,968.07	\$12,907,326.05	\$13,989,294.12	\$153,549,299.92
2/1/2047	7/31/2047	8/1/2047	\$0.00	\$0.00	\$998,070.45	\$0.00	\$998,070.45	\$153,549,299.92
8/1/2047	1/31/2048	2/1/2048	\$0.00	\$0.00	\$998,070.45	\$13,075,121.29	\$14,073,191.74	\$140,474,178.63
2/1/2048	7/31/2048	8/1/2048	\$0.00	\$0.00	\$913,082.17	\$0.00	\$913,082.17	\$140,474,178.63
8/1/2048	1/31/2049	2/1/2049	\$0.00	\$0.00	\$913,082.17	\$13,245,097.87	\$14,158,180.04	\$127,229,080.76
2/1/2049	7/31/2049	8/1/2049	\$0.00	\$0.00	\$826,989.03	\$0.00	\$826,989.03	\$127,229,080.76

8/1/2049	1/31/2050	2/1/2050	\$0.00	\$0.00	\$826,989.03	\$13,417,284.14	\$14,244,273.17	\$113,811,796.62
2/1/2050	7/31/2050	8/1/2050	\$0.00	\$0.00	\$739,776.68	\$0.00	\$739,776.68	\$113,811,796.62
8/1/2050	1/31/2051	2/1/2051	\$0.00	\$0.00	\$739,776.68	\$13,591,708.83	\$14,331,485.51	\$100,220,087.79
2/1/2051	7/31/2051	8/1/2051	\$0.00	\$0.00	\$651,430.58	\$0.00	\$651,430.58	\$100,220,087.79
8/1/2051	1/31/2052	2/1/2052	\$0.00	\$0.00	\$651,430.58	\$13,768,401.05	\$14,419,831.63	\$86,451,686.74
2/1/2052	7/31/2052	8/1/2052	\$0.00	\$0.00	\$561,935.97	\$0.00	\$561,935.97	\$86,451,686.74
8/1/2052	1/31/2053	2/1/2053	\$0.00	\$0.00	\$561,935.97	\$13,947,390.26	\$14,509,326.23	\$72,504,296.48
2/1/2053	7/31/2053	8/1/2053	\$0.00	\$0.00	\$471,277.93	\$0.00	\$471,277.93	\$72,504,296.48
8/1/2053	1/31/2054	2/1/2054	\$0.00	\$0.00	\$471,277.93	\$14,128,706.34	\$14,599,984.27	\$58,375,590.14
2/1/2054	7/31/2054	8/1/2054	\$0.00	\$0.00	\$379,441.34	\$0.00	\$379,441.34	\$58,375,590.14
8/1/2054	1/31/2055	2/1/2055	\$0.00	\$0.00	\$379,441.34	\$14,312,379.52	\$14,691,820.86	\$44,063,210.62
2/1/2055	7/31/2055	8/1/2055	\$0.00	\$0.00	\$286,410.87	\$0.00	\$286,410.87	\$44,063,210.62
8/1/2055	1/31/2056	2/1/2056	\$0.00	\$0.00	\$286,410.87	\$14,498,440.45	\$14,784,851.32	\$29,564,770.17
2/1/2056	7/31/2056	8/1/2056	\$0.00	\$0.00	\$192,171.01	\$0.00	\$192,171.01	\$29,564,770.17
8/1/2056	1/31/2057	2/1/2057	\$0.00	\$0.00	\$192,171.01	\$14,686,920.18	\$14,879,091.19	\$14,877,849.99
2/1/2057	7/31/2057	8/1/2057	\$0.00	\$0.00	\$96,706.03	\$0.00	\$96,706.03	\$14,877,849.99
8/1/2057	1/31/2058	2/1/2058	\$0.00	\$0.00	\$96,706.03	\$14,877,849.99	\$14,974,556.02	\$0.00
Total			\$348,635,000.00	\$23,786,760.42	\$79,716,105.42	\$372,421,760.42	\$452,137,865.84	

