

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

WIFIA CREDIT AGREEMENT

With

CITY OF MORRO BAY

and

CITY OF MORRO BAY PUBLIC FACILITIES CORPORATION

For the

Wastewater System Portion of the

**MORRO BAY WATER RECLAMATION FACILITY
(WIFIA – N17108CA)**

Dated as of March 9, 2020

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WIFIA CREDIT AGREEMENT

(Wastewater System Portion of the
Morro Bay Water Reclamation Facility)

THIS WIFIA CREDIT AGREEMENT (this “**Agreement**”), dated as of March 9, 2020, is by and among the **CITY OF MORRO BAY**, a municipal corporation and general law city duly organized and existing under the Constitution and laws of the State of California (the “**State**”), with an address at 595 Harbor Street, Morro Bay, CA 93442 (the “**City**”), the **CITY OF MORRO BAY PUBLIC FACILITIES CORPORATION**, a nonprofit public benefit corporation duly organized and existing under the laws of the State of California (the “**Corporation**”) 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 Credit Provider**”).

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 Credit Provider to enter into agreements with one or more eligible entities to provide financial assistance with appropriate security features to finance a portion of the eligible costs of projects eligible for assistance;

WHEREAS, in connection with the City undertaking the Project (as defined herein), the City determined that certain Project costs are attributable to the City’s wastewater system and certain Project costs are attributable to the City’s water system, and the City has determined that Project costs will be allocated among the two systems accordingly;

WHEREAS, the City has requested that the WIFIA Credit Provider make proceeds available for the wastewater system portion of the Project and for the water system portion of the Project through separate agreements in a principal amount not to exceed (i) \$25,183,810.80 for the wastewater system portion of the Project and (ii) \$36,516,525.66 for the water system portion of the Project, in each case, excluding interest that is capitalized in accordance with the terms hereof and to be used to pay a portion of the Eligible Project Costs (as defined herein) related to the Project pursuant to the application submitted by the City for WIFIA financial assistance dated July 12, 2018 (the “**Application**”);

WHEREAS, the Corporation has been formed for the purpose, among others, of assisting the City in financing capital improvements, including providing financing for the Project;

WHEREAS, in order to finance the Project (i) the City has entered into two installment sale agreements with the Corporation, pursuant to which the City will purchase part of the wastewater system portion of the Project and all of the water system portion of the Project from the Corporation and (ii) in exchange for these sales of portions of the Project, the City will pay installment payments to the Corporation, such payments being secured by, among other thing, the net revenues of the wastewater system and the water system, all as further described in the respective installment sale agreements;

WHEREAS, the City has determined that installment payments due under the ISA (as defined herein) reflect the portion of the costs of the Wastewater System Project (as defined herein) to be funded by the WIFIA Credit Provider pursuant to this Agreement and will be secured by, among other things, Net Revenues (as defined herein) of the Wastewater System (as defined herein);

WHEREAS, the City has determined that installment payments due under the Water System Project ISA (as defined herein) reflect the portion of the costs of the Water System Project (as defined herein) to be funded by the WIFIA Credit Provider pursuant to the Water System Project Credit Agreement (as defined herein) and will be secured by, among other things, pledged revenues of the Water System;

WHEREAS, as of the date hereof, the Administrator has approved WIFIA financial assistance for the Project to be provided in the form of this Agreement and the Water System Project Credit Agreement, subject to the terms and conditions contained in this Agreement and in the Water System Project Credit Agreement, respectively;

WHEREAS, based on the Application and the representations, warranties and covenants set forth herein, the WIFIA Credit Provider proposes to make funding available under this Agreement to the City Related Parties (as defined herein) by purchasing the interests of the Corporation in the ISA (as defined herein), with such purchase proceeds being made available to the City for Eligible Project Costs, and the City has structured the Installment Payments (as defined herein) paid by it pursuant to the ISA to reflect the portion of the wastewater system portion of the Project to be funded by the WIFIA Credit Provider;

WHEREAS, in exchange for the WIFIA Credit Provider making funding available under this Agreement, the Corporation has agreed to assign all of its right, title and interest in and to the ISA (excepting only the Corporation's rights to Additional Payments under Section 4.4(f) (*Additional Payments*) of the ISA and rights of indemnification under Section 5.2 (*Release and Indemnification Covenants*) of the ISA) to the WIFIA Credit Provider, as the initial Assignee, pursuant to the Assignment Agreement (as defined herein); and

WHEREAS, the WIFIA Credit Provider has entered into this Agreement in reliance upon, among other things, the information and representations of the City set forth in the Application and the supporting information provided by the City Related Parties.

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 City, the Corporation and the WIFIA Credit Provider 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 repurchase agreement, ‘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 Payments**” means the payments to be made by the City to the Corporation or to the Assignee pursuant to the ISA (other than the Installment Payments) or the payments to be made by the City to the WIFIA Credit Provider pursuant to this Agreement, including, but not limited to, payments to be made pursuant to Section 10 (*Fees and Expenses*).

“**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 City after the Effective Date with respect to the design and construction of the Project, in the case of this clause (b), (i) pursuant to which the City has payment obligations in excess of two and one half percent (2.5%) of the Project Budget 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, (B) Governmental Approvals and (C) agreements, documents and instruments (1) providing for, governing or evidencing any Permitted Debt and any related Permitted Lien for such Permitted Debt, or (2) entered into to consummate any Permitted Investment.

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

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

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

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

“**Anticipated Disbursement Schedule**” means the schedule set forth in **Exhibit B** (*Anticipated Disbursement Schedule*), reflecting the anticipated disbursement of proceeds of this Agreement, 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.

“**Assignee**” means, initially, the WIFIA Credit Provider or such other entity as has been assigned the rights of the Corporation under the ISA pursuant to the Assignment Agreement, and any further successors or assigns.

“**Assignment Agreement**” means the Assignment Agreement (Wastewater System Project), dated as of the Effective Date, between the Corporation and the WIFIA Credit Provider, as the initial Assignee, assigning all of the Corporation’s right, title and interest in the ISA (excepting only the Corporation’s rights to Additional Payments under Section 4.4(f) (*Additional Payments*) of the ISA and rights of indemnification under Section 5.2 (*Release and Indemnification Covenants*) of the ISA) to the WIFIA Credit Provider.

“**Authorizing Resolutions**” means the Resolution, and each resolution that authorizes the issuance of additional Obligations or that amends the terms of the Resolution or such other resolution.

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

“**Bankruptcy Related Event**” means, with respect to a City Related Party: (a) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of a City Related Party 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 a City Related Party 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) a

City Related Party 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) make a general assignment for the benefit of creditors, (iv) 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, (v) 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, (vi) file an answer admitting the material allegations of a petition filed against it in any proceeding referred to in the foregoing subclauses (i) through (iv), inclusive, of this clause (b), or (vii) 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) the City shall fail to make an Installment Payment in accordance with Section 8 (*Payment of Installment Payments and Additional Payments*) of this Agreement and Section 4.4 (*Installment Payments*) of the ISA and such failure is not cured within thirty (30) days following notification by the WIFIA Credit Provider of failure to make such payment; (d) (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 Senior Obligations, or (ii) any Person shall commence a process pursuant to which all or a substantial part of the Pledged Collateral may be sold or otherwise disposed of pursuant to a sale or disposition of such Pledged Collateral in lieu of foreclosure; or (e) any receiver, trustee, liquidator, custodian, sequestrator, conservator or similar official shall transfer, pursuant to directions issued by the Holders, 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 Financing Documents for application to the prepayment of any principal amount of the Senior Obligations other than in accordance with the provisions of the Financing Documents or this Agreement.

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

“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 the City of Morro Bay, California.

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

“Capitalized Interest” means an aggregate amount equal to the amount of the Interest Components of the Installment Payments accruing at the WIFIA Interest Rate during the Capitalized Interest Period based on aggregate unpaid Principal Components of the Installment Payments equal to the then current amounts advanced by the WIFIA Credit Provider under this Agreement permitted to be capitalized pursuant to Section 4.4(c)(ii) (*Installment Payments ó Initial Installment Payment Schedule; Adjustments to Installment Payment Schedule*) of the ISA and Section 8(c) (*Payment of Installment Payments and Additional Payments ó Capitalized Interest Period*) of this Agreement.

“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(c) (*Payment of Installment Payments and Additional Payments ó Capitalized Interest Period*) of this Agreement and in Section 4.4(c)(iii) (*Installment Payments ó Initial Installment Payment Schedule; Adjustments to Installment Payment Schedule*) of the ISA.

“Cayucos Joint Powers Agreement” means the Joint Powers Agreement for the Ownership, Operation and Maintenance of Wastewater Treatment Facilities, entered into October 25, 1982, by and between the City and the Cayucos Sanitary District, as amended, with respect to the operation of the Cayucos Joint Powers Agreement Wastewater Treatment Plant.

“Cayucos Joint Powers Agreement Payment Period” means, for any payments of an allocable share of operation and maintenance costs of the Cayucos Joint Powers Agreement Wastewater Treatment Plant pursuant to the Cayucos Joint Powers Agreement paid by the City less frequently than monthly, the number of months between payment dates for payments required to be made by the City pursuant to the Cayucos Joint Powers Agreement. With respect to the last payment of such allocable share of operation and maintenance costs, the Cayucos Joint Powers Agreement Payment Period shall be such shorter period between the penultimate payment date and the last payment date.

“Cayucos Joint Powers Agreement Wastewater Treatment Plant” means the existing wastewater treatment plant jointly owned by the City and the Cayucos Sanitary District and operated pursuant to the Cayucos Joint Powers Agreement.

“City” has the meaning provided in the preamble hereto.

“City Fiscal Year” means (a) as of the Effective Date, a fiscal year of the City 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 City may hereafter adopt after giving thirty (30) days’ prior written notice to the WIFIA Credit Provider in accordance with Section 15(f) (*Negative Covenants ó Fiscal Year*).

“City’s Authorized Representative” means any Person who shall be designated as such pursuant to Section 21 (*City’s Authorized Representative*).

“City Related Party” means, individually or collectively, the City and the Corporation.

“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 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 ó 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 Credit Provider pursuant to Section 16(d) (*Reporting Requirements ó Construction Reporting*) most recently approved by the WIFIA Credit Provider.

“**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.

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

“**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**” means, with respect to any Obligations, for any period, as of any date of calculation, an amount equal to the sum of all interest and principal of Obligations accruing and payable in respect of such period or, if such Obligation is an installment sale agreement, the amount of installment payments accruing and payable in respect of such period.

“**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) 200 basis points.

“**Development Default**” means (a) the City abandons work or fails, in the reasonable judgment of the WIFIA Credit Provider, to diligently prosecute the work related to the Project or (b) the City fails to achieve Substantial Completion of the Project within twenty-four (24) months following the Projected Substantial Completion Date, unless delayed due to Uncontrollable Force or unless the WIFIA Credit Provider has consented in writing to such delay for a period of time.

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

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

“Eligible Project Costs” means, in reference to the entire Project, amounts in the Project Budget approved by the WIFIA Credit Provider, which are paid by or for the account of the City 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 those due to the WIFIA Credit Provider) necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction;

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

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

“End of the Validation Period” means the sixtieth (60th) day following the adoption of the Resolution by the City Council of the City on January 14, 2020, which day is the last day for any interested person to bring an action in the superior court of the County of San Luis Obispo pursuant to California Code of Civic Procedure Section 863.

“Environmental Laws” has the meaning provided in Section 12(p) (*Representations and Warranties of the City Related Parties ó 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 Wastewater 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 or other financing arrangements (including installment sale arrangements) of the City that has been issued or incurred prior to the Effective

Date that are payable from System Revenues, as listed and described in **Schedule III** (*Existing Indebtedness*).

“Existing Principal Project Contract” means each contract of the City 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 amounts available under this Agreement have been disbursed in full; (b) the last anticipated date of disbursement set forth in the then-current Anticipated Disbursement Schedule; (c) the date on which the City has certified to the WIFIA Credit Provider that it will not request any further disbursements under this Agreement; (d) the date on which the WIFIA Credit Provider terminates its obligations relating to disbursements of any undisbursed amounts under this Agreement 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 Installment Payment Date” means the earlier of (a) November 1, 2058 or such earlier date as is set forth in a revised Installment Payment Schedule; and (b) the Installment 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 the City Related Parties ó Financial Statements*).

“Financing Documents” means (a) the ISA, (b) the Assignment Agreement, (c) this Agreement, (d) the Water System Project ISA, (e) the Water System Project Assignment Agreement, (f) the Water System Project Credit Agreement, (g) the Authorizing Resolutions, (h) all Senior Obligation Documents, and (i) each other agreement, instrument and document executed and delivered pursuant to or in connection with any of the foregoing.

“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 U.S. state and local governments), 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.

“**Holder**” means, when used with respect to the ISA, the WIFIA Credit Provider, as the initial Assignee (and any subsequent Assignee) and, when used with respect to any other Obligation, the obligee, holder or registered owner of such Obligation, as applicable.

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

“**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.

“**Installment Payment**” individually, means with respect to any Installment Payment Date occurring on or after the Installment Payment Commencement Date, the sum of the Principal Component and the Interest Component (as adjusted to include interest at the Default Rate as set forth in Section 6 (*Interest Rate*) of this Agreement and Section 4.4(b) (*Installment Payments ó Calculation of Interest Components*) of the ISA) of such Installment Payment due and payable on such Installment Payment Date as set forth on the Installment Payment Schedule and “**Installment Payments**” collectively, means all payments required to be paid by the City on any date under Section 8 (*Payment of Installment Payments and Additional Payments*) of this Agreement and Section 4.4 (*Installment Payments*) of the ISA, including any adjustments to include interest at the Default Rate as set forth in Section 6 (*Interest Rate*) of this Agreement and Section 4.4(b) (*Installment Payments ó Calculation of Interest Components*) of the ISA).

“**Installment Payment Commencement Date**” means the earliest to occur of (a) November 1, 2024; (b) if the Capitalized Interest Period ends pursuant to Section 8(c) (*Payment of Installment Payments and Additional Payments ó Capitalized Interest Period*) due to the occurrence of an Event of Default, the first Installment Payment Date immediately following the end of the Capitalized Interest Period; or (c) the Installment Payment Date falling closest to, but not later than, the fifth anniversary of the Substantial Completion Date.

“**Installment Payment Date**” means May 1 and November 1 in each year, commencing on the Installment Payment Commencement Date.

“**Installment Payment Schedule**” means the Installment Payment Schedule reflected in **Exhibit F** (*Installment Payment Schedule*), as amended from time to time in accordance with Section 8(f) (*Payment of Installment Payments and Additional Payments ó Adjustments to Installment Payment Schedule*) of this Agreement and in **Appendix A** (*Installment Payment Schedule*) of the ISA, as amended from time to time in accordance therewith.

“**Interest Component**” means (a) with respect to an Installment Payment, the interest component (as adjusted to include interest at the Default Rate as set forth in Section 6 (*Interest Rate*) of this Agreement and Section 4.4(b) (*Installment Payments ó Calculation of Interest Components*) of the ISA) of such Installment Payment due and payable on the applicable Installment Payment Date as set forth on the Installment Payment Schedule and (b) with respect to the aggregate Installment Payments, all payments of the interest components of the Installment

Payments required to be paid by the City on any date under Section 8 (*Payment of Installment Payments and Additional Payments*) of this Agreement and Section 4.4 (*Installment Payments*) of the ISA, as adjusted to include interest at the Default Rate as set forth in Section 6 (*Interest Rate*) of this Agreement and Section 4.4(b) (*Installment Payments ó Calculation of Interest Components*) of the ISA).

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

“ISA” means that Installment Sale Agreement (Wastewater System Project), dated as of the Effective Date, between the City and the Corporation, pursuant to which the City purchased the Wastewater System Portion of the Project.

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

“Loss Proceeds” means any proceeds of builders’ risk or casualty insurance (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.

“Major Maintenance” means all reasonably necessary periodic major overhaul and repair (excluding any maintenance or repair of a routine or ordinary course nature) of the Wastewater System.

“Major Maintenance Costs” means all expenses incurred or to be incurred by the City relating to Major Maintenance and paid or to be paid from System Revenues.

“Material Adverse Effect” means a material adverse effect on (a) the Wastewater System, the Project or the System Revenues, (b) the business, operations, properties, condition (financial or otherwise) or prospects of the City, (c) the legality, validity or enforceability of any material provision of any Financing Document, (d) the ability of the City to enter into, perform or comply with any of its material obligations under any Financing Document, (e) the validity, enforceability or priority of the Liens provided under the Financing Documents on the Pledged Collateral in favor of the Secured Parties, (f) the validity and enforceability of the assignment provided by the Corporation to the WIFIA Credit Provider as initial Assignee under the Assignment Agreement, or (g) the WIFIA Credit Provider’s or the Assignee’s rights or remedies available under any Financing Document.

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

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

“**NEPA Determination**” means the Finding of No Significant Impact for the Project issued by EPA on March 4, 2020 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 City to third parties.

“**Net Revenues**” means, for any period, an amount equal to all of the System Revenues received during such period minus the 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 Certification Regarding Debarment, Suspension and other Responsibility Matters*).

“**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 obligations, including any bonds, notes, other evidences of indebtedness, installment sale arrangements, financing lease arrangements, or similar obligations that are secured by a pledge and Lien on all or a portion of the System Revenues, including the ISA, any other Senior Obligations, and any 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 ó Fees*).

“**Operation and Maintenance Costs**” means all actual maintenance and operation costs (excluding Major Maintenance Costs and Capital Expenditures) incurred and paid from System Revenues (or, if applicable, forecasted to be incurred and paid from System Revenues) in connection with the operation and maintenance of the Wastewater System in any particular time period to which said term is applicable, including payments for taxes (excluding income taxes), insurance, consumables, advertising, marketing, payments pursuant to any agreements for the management, operation or maintenance of the Wastewater System, reasonable legal fees and expenses paid by the City in connection with the management, maintenance or operation of the Wastewater System, fees paid in connection with obtaining, transferring, maintaining or amending any Governmental Approvals, fees of the paying agent, Technical and Rate Consultant and other entities relating to administration of the Financing Documents, costs incurred in connection with the performance of environmental mitigation work to be carried out by the City (but only to the

extent such work has a useful life of less than twelve (12) months), amounts required for reasonable general and administrative expenses (including employee salaries and benefits, but excluding unbudgeted extraordinary payments to pension funds and post-employment benefit funds), but exclusive in all cases of rebates or grants, debt payments, noncash charges, including depreciation or obsolescence charges or reserves therefor, amortization of intangibles or other bookkeeping entries of a similar nature.

“Organizational Documents” means: (a) the constitutional and statutory provisions that are the basis for the existence and authority of the City Related Parties, including any enabling statutes, ordinances or public charters and any other organic laws establishing the City Related Parties 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 City Related Parties by which the City Related Parties, their powers, operations or procedures or its securities, bonds, notes or other obligations are governed or from which such powers are derived.

“Outstanding” means, with respect to: (i) the ISA, Installment Payments that have not been paid, in full, in immediately available funds; and (ii) all other Obligations, Obligations that have not been fully repaid, cancelled or legally defeased or discharged pursuant to Section 5.15(e) (*Covenants Regarding Other Obligations ó Defeasance of Other Obligations*) of the ISA.

“Outstanding Balance” means, with respect to the Installment Payments (i) the initial Principal Components of the Installment Payments (equal to the sum of the aggregate amount then advanced by the WIFIA Credit Provider under this Agreement plus the Capitalized Interest added thereto pursuant to Section 4.4(c)(ii) (*Installment Payments ó Initial Installment Payment Schedule; Adjustments to Installment Payment Schedule*) of the ISA and Section 8(c) (*Payment of Installment Payments and Additional Payments ó Capitalized Interest Period*) of this Agreement) minus (ii) the aggregate Principal Components of the Installment Payments paid or prepaid by the City pursuant to Article VII (*Prepayment of Installment Payments*) of the ISA and Section 9 (*Prepayment*) of this Agreement.

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

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

“Payment Period” means the six (6) month period beginning on May 1, 2024 and ending on October 31, 2024, and each succeeding six (6) month period thereafter; provided, however, that if the Installment Payment Commencement Date occurs earlier than November 1, 2024, the first Payment Period shall be the six (6) month period ending on the date immediately prior to the Installment Payment Commencement Date.

“Permitted Debt” means:

- (a) until December 31, 2020, the SRF Planning Loan;

- (b) other Existing Indebtedness;
- (c) the ISA;
- (d) Additional Senior Obligations that satisfy the requirements of Section 15(a) (*Negative Covenants ó Indebtedness*) and the Financing Documents; and
- (e) Additional Subordinate Obligations that satisfy the requirements of Section 15(a) (*Negative Covenants ó Indebtedness*) and the Financing Documents.

“**Permitted Investments**” means any investments in which the City may invest its funds, as listed in Section 53601 of the California Government Code, in compliance with the City’s investment policy then in effect.

“**Permitted Liens**” means:

- (a) Liens imposed pursuant to the WIFIA Credit Documents;
- (b) Liens imposed pursuant to the Resolution Documents;
- (c) Liens imposed on Net Revenues as security for Permitted Debt;
- (d) 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 ó Material Obligations*);
- (e) 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 ó Material Obligations*);
- (f) pledges and deposits made in the ordinary course of business in compliance with workers’ compensation, unemployment insurance, and other social security laws or regulations;
- (g) 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;
- (h) judgment Liens in respect of judgments that do not constitute an Event of Default under Section 17(a)(vi) (*Events of Default and Remedies ó Material Adverse Judgment*); and
- (i) 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 City.

“**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, collectively, (a) the Net Revenues, (b) the WIFIA Payment Account and all proceeds deposited therein from time to time, (c) the WIFIA Reserve Account and all proceeds deposited therein from time to time, (d) available amounts in the Subordinate Obligation Payment Accounts, the Subordinate Obligation Reserve Accounts and the general reserve account from which the City shall make the required deposits of System Revenues as set forth in Section 4.5(c)(3) (*Pledge and Application of Net Revenues ó Flow of Funds ó Deposit of System Revenues Into Revenue Account; Flow of Funds- Deposits in the Event of Deficiency*) of the ISA, and (e) such other amounts as are pledged or available as set forth in Section 4.5 (*Pledge and Application of Net Revenues ó Flow of Funds*) of the ISA.

“**Principal Component**” means (a) with respect to an Installment Payment, the principal component of such Installment Payment due and payable on the applicable Installment Payment Date as set forth on the Installment Payment Schedule and (b) with respect to the aggregate Installment Payments, all payments of the principal components of the Installment Payments required to be paid by the City on any date under Section 8 (*Payment of Installment Payments and Additional Payments*) of this Agreement and Section 4.4 (*Installment Payments*) of the ISA and which amount is equal to the aggregate amount then drawn pursuant to this Agreement plus the Capitalized Interest permitted to be capitalized pursuant to Section 8(c) (*Payment of Installment Payments and Additional Payments ó Capitalized Interest Period*) of this Agreement and Section 4.4(c)(ii) (*Installment Payments ó Initial Installment Payment Schedule; Adjustments to Installment Payment Schedule*) of the ISA.

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

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

“**Project**” means the design and construction of a new water reclamation facility, sewage pump station and pipeline, new injection wells for groundwater storage, recycled water pipeline and waste discharge pipeline, located within the City and in an unincorporated area of the County of San Luis Obispo adjacent to the City boundaries.

“**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 November 1, 2023, as such date may be adjusted in accordance with Section 16(d) (*Reporting Requirements ó Construction Reporting*).

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

“**Purchase Price**” means the aggregate purchase price payable by the City to the Corporation for the purchase of the Wastewater System Portion of the Project, payable by the City in Installment Payments as set forth in Section 4.4 (*Installment Payments*) of the ISA.

“**Rate Consultant**” means a single individual or firm, not related to the City and considered independent with respect to the City (i.e., not an employee of the City or any affiliate of the City or having other material business relationships with the City) authorized to do business in and qualified to practice in the areas required to provide the services required of the Rate Consultant, that has expertise in the technical requirements for establishing rates and charges for governmental water or wastewater systems similar in size and scope to the Wastewater System, selected by the City.

“**Rate Covenant**” has the meaning set forth in Section 14(a) (*Affirmative Covenants ó Rate Covenant*).

“**Related Documents**” means the Financing Documents, the WIFIA Credit Documents and the Principal Project Contracts.

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

“**Resolution**” means Resolution No. 04-20, adopted by the City Council on January 14, 2020 and authorizing, among other things, the City to enter into the ISA, the Assignment Agreement and this Agreement and to create the pledge and security interest established under the ISA.

“**Resolution Documents**” means (i) the Authorizing Resolutions and (ii) each other agreement, instrument and document executed and delivered pursuant to or in connection with any of the foregoing.

“**Revenue Account**” means the account so designated and established within the Wastewater Fund pursuant to the ISA.

“**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 Obligations**” means the Senior Obligations (including the obligations of the City under this Agreement and the ISA, the Subordinate Obligations, and any other obligation secured by all or a portion of the Pledged Collateral).

“Secured Parties” means the WIFIA Credit Provider, as the initial Assignee, and any other Holders of Secured Obligations.

“Senior Debt Service Coverage Ratio” means, for each City Fiscal Year, the ratio of: (a) Net Revenues during such City Fiscal Year to (b) Debt Service on all Outstanding Senior Obligations for such City Fiscal Year.

“Senior Obligation Documents” means, collectively, (i) the ISA, (ii) the Assignment Agreement, (iii) this Agreement, (iv) the SRF Planning Loan Agreement, and (v) the indenture of trust, trust agreement, supplemental installment sale agreement, installment sale agreement, lease, loan agreement or other document (including resolutions or ordinances) authorizing the issuance of any Senior Obligations or any securities which evidence Senior Obligations.

“Senior Obligation Interest Payment Date” means, with respect to any Senior Obligation, any date on which an interest payment on the applicable bonds, or a payment of the interest component of the applicable installment sale agreement or capital lease agreement, is regularly scheduled to be paid to holders of the applicable Senior Obligation.

“Senior Obligation Payment Accounts” means the payment accounts within the Wastewater Fund established pursuant to the Senior Obligation Documents for purposes of making payments of principal of and interest on Senior Obligations.

“Senior Obligation Payment Period” shall mean, for any Senior Obligation, (i) with respect to interest payments (or interest components of an installment payment), the number of months between the applicable Senior Obligation Interest Payment Dates and (ii) with respect to principal payments, including sinking fund installment redemptions (or the principal components of an installment payment or capital lease payment), the number of months between the applicable Senior Obligation Principal Payment Dates. With respect to the first interest payment and principal payment for any Senior Obligation, the applicable number of months determined as set forth above before the initial interest payment or principal payment, as applicable, shall also be a Senior Obligation Payment Period.

“Senior Obligation Principal Payment Date” means, with respect to any Senior Obligation, any date on which a principal payment or mandatory sinking fund redemption payment is due on the applicable bonds, or principal component of the applicable installment sale payment or capital lease payment, is regularly scheduled to be paid to holders of the applicable Senior Obligation.

“Senior Obligation Reserve Accounts” means the reserve accounts within the Wastewater Fund established pursuant to the Senior Obligation Documents.

“Senior Obligations” means (i) all Installment Payments due under the ISA, (ii) the payments due under the SRF Planning Loan, and (iii) Additional Senior Obligations.

“Servicer” means such entity or entities as the WIFIA Credit Provider shall designate from time to time to perform, or assist the WIFIA Credit Provider 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 ó Fees*).

“**SRF Planning Loan**” and “**SRF Planning Loan Agreement**” means the existing Wastewater Planning Loan, Water Reclamation Facilities Project-Phase I Clean Water State Revolving Project No. C-06-8185-110, Agreement No. D-16-01016, dated January 20, 2017, in the initial amount of \$10,300,000, by and between the City and the California State Water Resources Control Board; provided however, that this defined term does not include any debt facility that refinances the planning loan.

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

“**Subordinate Obligation Documents**” means the indenture of trust, trust agreement, supplemental installment sale agreement, installment sale agreement, lease, loan agreement or other document (including resolutions or ordinances) authorizing the issuance of any Subordinate Obligations or any securities which evidence Subordinate Obligations.

“**Subordinate Obligation Payment Accounts**” means the payment accounts within the Wastewater Fund established pursuant to the Subordinate Obligation Documents for purposes of making payments of principal of and interest on Subordinate Obligations.

“**Subordinate Obligation Reserve Accounts**” means the reserve accounts within the Wastewater Fund established pursuant to the Subordinate Obligation Documents.

“**Subordinate Obligations**” means any Obligation that is fully subordinated to the City’s payment obligations under the ISA in priority of payment (as to both principal and interest, installment payments, lease payments or similar payments due with respect to Obligations), voting and priority of security interest in the Net Revenues, 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 both the Wastewater System and the Water System) for which the Project is designed.

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

“**System Accounts**” means all funds, accounts or subaccounts holding System Revenues, including the Wastewater Fund and the Revenue Account, Senior Obligation Payment Accounts (including the WIFIA Payment Account), the Senior Obligation Reserve Accounts (including the WIFIA Reserve Account), the Subordinate Obligation Payment Accounts, the Subordinate Obligation Reserve Accounts and the general reserve account therein and such additional funds, accounts or sub-accounts that may be established in connection with the Wastewater System for System Revenues.

“System Revenues” means (a) all rates, fees, charges, rents, taxes or assessments dedicated to pay costs of the Wastewater System, and other income and receipts received by the City from the ownership or operation of the Wastewater System, (b) Loss Proceeds from business interruption insurance, (c) interest received on any moneys or securities held in System Accounts, and (d) the moneys and securities of any entity that is acquired by the City and that is deposited in the Revenue Account to the extent such moneys are applied to pay liabilities incurred by the acquired company prior to the date of acquisition.

System Revenues shall not include (i) proceeds of the issuance of Obligations, (ii) the proceeds for any insurance pertaining to loss or damage to persons and the property of others or to loss or damage to the Wastewater System, or the proceeds of condemnation or the sale or other disposition of any part of the Wastewater System, except to the extent any such proceeds are applied by the City to pay Operation and Maintenance Costs, (iii) transfers to the Revenue Account from any other fund or account, unless approved by the WIFIA Credit Provider, (iv) any amount received or receivable from the United States or the State (or any agency of either thereof) or from any other sources as or on account of a grant or contribution for or with respect to the construction, acquisition, improvement, extension, renewal or other development of any part of the Wastewater System, (v) customers’ deposits or any other deposits subject to refund until such deposits have become the property of the City, (vi) any proceeds of ad valorem property taxes, or (vii) any proceeds of taxes or assessments restricted by law to be used by the City to pay bonds or other obligations heretofore or hereafter issued. “System Revenues” shall not include any amounts on deposit in the general fund of the City except to the extent such amounts constitute payment for fees and charges for the services and facilities furnished by the Wastewater System to the City.

“Technical and Rate Consultant” means a single individual or firm, or a combination of one or more individuals or firms, not related to the City and considered independent with respect to the City (i.e., not an employee of the City or any affiliate of the City or having other material business relationships with the City) 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 Wastewater System and delivering the services provided by the Wastewater System, and establishing rates and charges for governmental water or wastewater systems similar in size and scope to the Wastewater System, selected by the City and reasonably acceptable to the WIFIA Credit Provider.

“Total Project Costs” means (a) the costs paid or incurred or to be paid or incurred by the City 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 Financing Documents or the WIFIA Credit Documents to be paid into any fund or account upon the incurrence of any Senior Obligations 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 City, in each case in connection with the Project (other than the Installment Payments); and (d) costs of equipment and supplies and initial working capital and reserves required by the City for the commencement of operation of the Project, including general administrative expenses and overhead of the City.

“Uncontrollable Force” means any cause beyond the control of the City, 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 City shall not be required to settle any strike or labor disturbance in which it may be involved) or (b) the order or judgment of any federal, state or local court, administrative agency or governmental officer or body, if it is not also the result of willful or negligent action or a lack of reasonable diligence of the City and the City 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 City.

“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 ó Updated Financial Model*).

“Wastewater Fund” means the fund or funds established and held by the City with respect to the Wastewater System.

“Wastewater System” means any and all properties and assets, real and personal, tangible and intangible, of the City, now or hereafter existing, used or pertaining to the disposal or reuse of wastewater, including the Wastewater System Project, sewage treatment plants, intercepting and collecting sewers, outfall sewers, force mains, pumping stations, ejector stations, pipes, valves, machinery and all other appurtenances necessary, useful or convenient for the collection, treatment, purification or disposal of sewage, and any necessary lands, rights of way and other real or personal property useful in connection therewith, and all additions, extensions, expansions, improvements and betterments thereto and equipping thereof, including the Project.

“Wastewater System Portion of the Project” means 20% of the Eligible Project Costs, all of which Eligible Project Costs are financed by the ISA and this Agreement.

“Wastewater System Project” means the portion of the Project that is allocable to the Wastewater System equal to 71% of the Project costs.

“Water System” means any and all properties and assets, real and personal, tangible and intangible, of the City, now or hereafter existing, used or pertaining to the treatment and distribution of potable water, including the Water System Project, water treatment plants, transmission and distribution mains, storage tanks, pumping mains, pumping stations, pipes, valves, machinery and all other appurtenances necessary, useful or convenient for the treatment, purification and distribution of water, and any necessary lands, rights of way and other real or personal property useful in connection therewith, and all additions, extensions, expansions, improvements and betterments thereto and equipping thereof, including the Project.

“Water System Portion of the Project” means 29% of the Eligible Project Costs, all of which Eligible Project Costs are financed by the Water System Project ISA and the Water System Project Credit Agreement.

“**Water System Project**” means the portion of the Project that is allocable to the Water System equal to 29% of the Project costs.

“**Water System Project Assignment Agreement**” means the Assignment Agreement (Water System Project), dated as of the Effective Date, between the Corporation and the WIFIA Credit Provider, as the initial assignee thereunder.

“**Water System Project Credit Agreement**” means the WIFIA Credit Agreement, dated as of the Effective Date, by and among the WIFIA Credit Provider, the Corporation and the City relating to the Water System Portion of the Project.

“**Water System Project Credit Agreement Documents**” means (a) the Water System Project Credit Agreement, (b) the Water System Project ISA, (c) the Water System Project Assignment Agreement and (d) the Financing Documents.

“**Water System Project ISA**” means that Installment Sale Agreement (Water System Project), dated as of the Effective Date, between the City and the Corporation, pursuant to which the City purchased the Water System Portion of the Project.

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

“**WIFIA Credit Documents**” means (a) this Agreement, (b) the ISA, and (c) the Assignment Agreement.

“**WIFIA Credit Facility**” means the proceeds made by the WIFIA Credit Provider to the City on the terms and conditions set forth herein, pursuant to the Act, in a principal amount not to exceed \$25,183,810.80 (excluding capitalized interest), to be used in respect of Eligible Project Costs paid or incurred by the City for the Wastewater System Project and to pay for the purchase price of the Corporation’s interests in the ISA.

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

“**WIFIA Credit Provider’s Authorized Representative**” means the Administrator and any other Person who shall be designated as such pursuant to Section 22 (*WIFIA Credit Provider’s Authorized Representative*).

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

“**WIFIA Payment Account**” means the account so designated and established within the Wastewater Fund pursuant to the ISA, which will be used to accumulate Net Revenues to ensure timely payment of Installment Payments and from which Installment Payments will be paid.

“**WIFIA Reserve Account**” means the account so designated and established within the Wastewater Fund pursuant to the ISA, which will be used to accumulate amounts equal to the WIFIA Reserve Account Requirement to ensure timely payment of Installment Payments.

“**WIFIA Reserve Account Requirement**” means, as of the date of calculation, an amount equal to fifty percent (50%) of the maximum annual aggregate amount (without duplication) of

Installment Payments that will become due on any two consecutive Installment Payment Dates on the Installment Payment Schedule.

“**WIFIA Reserve Event**” means, as of the final day of the City Fiscal Year, failure of the City to maintain a Senior Debt Service Coverage Ratio of at least 1.30 to 1.00.

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 a City Related Party’s knowledge is implicated in this Agreement or the phrase “to the City’s knowledge”, “to the Corporation’s knowledge, or a similar phrase is used in this Agreement, the relevant City Related Party’s knowledge or such phrase(s) shall be interpreted to mean to the best of that City Related Party’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 ordinance, 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) Whenever this Agreement requires a change in principal amount, interest rate or payment schedule of the Installment Payments, it is intended that such change be reflected in the ISA.

ARTICLE II THE WIFIA CREDIT FACILITY

Section 3. WIFIA Credit Facility Amount. The principal amount available under this Agreement shall not exceed \$25,183,810.80 (excluding any interest that is capitalized in accordance with the terms hereof). Proceeds available to be drawn under this Agreement shall be disbursed from time to time in accordance with Section 4 (*Disbursement Conditions*) and Section 11(b) (*Conditions Precedent ó Conditions Precedent to Disbursements*).

Section 4. Disbursement Conditions.

(a) Pursuant to the ISA, the Corporation has appointed the City as its agent to request funds from time to time under this Agreement and the City has accepted such appointment and assumed all rights, liabilities, duties and responsibilities of the Corporation under this Agreement regarding the requisition of funds from time to time under this Agreement. Subject to Section 4(d) below, proceeds shall be disbursed under this Agreement solely in respect of Eligible Project Costs paid or incurred and approved for payment by or on behalf of the City in connection with the Project and in consideration for the assignment by the Corporation of its interests in the ISA pursuant to the Assignment Agreement. If the City intends to utilize the disbursed proceeds to make progress payments for Project construction work performed under the Principal Project Contracts, the City shall demonstrate to the satisfaction of the WIFIA Credit Provider that such progress payments are commensurate with the value of the work that has been completed. Each disbursement of available amounts under this Agreement 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 City to, and approved by, the WIFIA Credit Provider, 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 ó Conditions Precedent to Disbursements*); provided, that no disbursements of proceeds under this Agreement shall be made prior to the End of the Validation Period nor after the Final Disbursement Date.

(b) The City shall deliver copies of each Requisition (which shall include all costs of the Project for which the City seeks funding, whether through this Agreement or through the Water System Project Credit Agreement) to the WIFIA Credit Provider on or before the first (1st) Business Day of each month for which a disbursement is requested. If the WIFIA Credit Provider 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 Credit Provider approval or denial shall be substantially in the form annexed hereto as **Appendix Two** (*[Approval/Disapproval] of the WIFIA Credit*

Provider) 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 proceeds under this Agreement 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 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 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 Disbursement Schedule without need for the WIFIA Credit Provider's approval. The City may also amend the Anticipated Disbursement Schedule by submitting a revised version thereof to the WIFIA Credit Provider 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 Disbursement Schedule shall become effective upon the WIFIA Credit Provider's approval thereof, which approval shall be granted in the WIFIA Credit Provider's sole discretion.

(d) With respect to each Requisition (i) the Eligible Project Costs relating to the Project in its entirety shall be allocated pro rata between the Wastewater System Project and the Water System Project based on the following percentages: 40.82% for the Wastewater System Project and 59.18% for the Water System Project; and (ii) proceeds available under this Agreement shall be disbursed hereunder only if there is a concurrent disbursement under the Water System Project Credit Agreement.

Section 5. Term. The term of this Agreement shall extend from the Effective Date to the Final Installment Payment Date or to such earlier date as all amounts due or to become due to the WIFIA Credit Provider hereunder have been irrevocably paid in full in immediately available funds.

Section 6. Interest Rate. The interest rate with respect to the Outstanding Balance (and the corresponding unpaid Principal Components of the Installment Payments) (the "**WIFIA Interest Rate**") shall be eighty-three hundredths percent (0.83%) per annum. Interest will accrue and be computed on the Outstanding Balance (as well as on any past due interest) (and the corresponding unpaid Interest Component of the Installment Payments will accrue) 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 City shall pay interest on the Outstanding Balance (and the corresponding Interest Components of the Installment Payments shall be calculated based on the unpaid Principal Components of the Installment Payments) at the Default Rate for the period (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 occurrence of such Event of Default 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 (ii) the Purchase Price has been irrevocably paid in full to the Corporation (and upon the assignment by the Corporation pursuant to the Assignment Agreement, the WIFIA Credit Provider as the initial Assignee) in immediately available funds. For the avoidance of doubt, Capitalized Interest shall accrue and be added to the Outstanding Balance (and

the corresponding unpaid Principal Components of the Installment Payments), and interest on the Outstanding Balance (and the corresponding unpaid Interest Components of the Installment Payments) shall accrue and be calculated, only on the amounts advanced by the WIFIA Credit Provider under this Agreement as and to the extent so advanced in accordance with Section 4 (*Disbursement Conditions*).

Section 7. Security and Priority; Assignment by the Corporation; Flow of Funds; WIFIA Reserve Event.

(a) Pledge of Security. As security for the City's obligation to pay the Installment Payments pursuant to the ISA, and concurrently with the issuance and delivery of this Agreement, the City has granted, pledged and assigned pursuant to the ISA to the Corporation (and upon the assignment by the Corporation pursuant to the Assignment Agreement, the WIFIA Credit Provider, as the initial Assignee), a Lien on and security interest in the Pledged Collateral. The City's obligation to pay the Installment Payments is secured by the Lien on and security interest in the Net Revenues on a parity with the Senior Obligations and senior to all Subordinate Obligations. The Lien and security interest granted to the Corporation (and upon the assignment by the Corporation pursuant to the Assignment Agreement, the WIFIA Credit Provider, as the initial Assignee) in the ISA is effective, valid, binding and perfected, in all cases, irrespective of whether any Person has notice of the granting of such Lien and security interest shall attach, be perfected and be valid and binding immediately without the need for any physical delivery, recordation, filing, or further act. All organizational, regulatory or other necessary action on the part of the City and the Corporation with respect to the foregoing has been duly and validly taken. The Pledged Collateral shall not be used for any other purpose while any of the Installment Payments remain unpaid, except that out of the System Revenues there may be apportioned such sums, for such purposes, as are expressly permitted by this Agreement and the ISA. The Lien on and security interest in the Pledged Collateral is in full force and effect and is not subordinate or junior to any other Lien on or security interest in the Pledged Collateral. The Lien on and security interest in the Net Revenues and the collateral described in clause (d) of the definition of "Pledged Collateral" granted hereby is on a parity with the pledge and lien which secures the payment of the Senior Obligations. The Lien on and security interest in the WIFIA Payment Account and all proceeds deposited therein from time to time and the WIFIA Reserve Account and all proceeds deposited therein from time to time is not subject to any other Lien or security interest. In addition, with respect to the Lien on and security interest in amounts in the WIFIA Payment Account and the WIFIA Reserve Account, such Lien and security interest is solely for the benefit of the Corporation (and upon the assignment by the Corporation pursuant to the Assignment Agreement, the WIFIA Credit Provider, as the initial Assignee), and the Holders of other Senior Obligations shall have no Lien on or claim to funds in the WIFIA Payment Account or the WIFIA Reserve Account following deposit therein. The City's obligation with respect to funds drawn under this Agreement is evidenced by the obligation of the City to pay to the Corporation the Installment Payments pursuant to the ISA. THIS AGREEMENT SHALL NOT ITSELF BE A DEBT INSTRUMENT.

(b) Priority of Liens. Except (i) for Permitted Liens and (ii) to the extent otherwise provided in Section 7(a) (*Security and Priority; Assignment by Corporation; Flow of Funds; WIFIA Reserve Event ó Pledge of Security*), the Pledged Collateral will be free and clear of any pledge, Lien, charge or encumbrance thereon or with respect thereto, that is of equal rank

with or senior to the pledge of the City created under the WIFIA Credit Documents, without priority or preference and notwithstanding that Senior Obligations may be issued at different times and under different financing documentation. All necessary action or approvals on the part of the City Related Parties with respect to the foregoing has been duly and validly taken.

(c) Special Limited Obligations. The City's obligation to pay the Installment Payments and any other amounts coming due and payable hereunder constitute a special, limited obligation of the City payable solely from the Pledged Collateral and the other funds provided herein for the payment of the Installment Payments or for the performance of any other agreements or covenants required to be performed by it contained herein. Under no circumstances is the City required to advance moneys derived from any source of income other than the Net Revenues for the payment of the Installment Payments and such other amounts, and no other funds or property of the City are liable for the payment of the Installment Payments. The City may, however, but in no event shall be obligated to, advance moneys for any such purpose so long as such moneys are derived from a source legally available for such purpose and may be legally used by the City for such purpose. As long as the WIFIA Credit Provider, as the initial Assignee, is the Holder of the ISA, the WIFIA Credit Provider may exercise any right or remedy that may be available to the Corporation under the Financing Documents.

(d) Assignment by the Corporation. In consideration for advancing funds from time to time pursuant to this Agreement for the acquisition, construction and installation of the Wastewater System Portion of the Project, the Corporation has assigned pursuant to the Assignment Agreement to the WIFIA Credit Provider as the initial Assignee, all of the Corporation's rights, title and interest under the ISA (excepting only the Corporation's rights to Additional Payments under Section 4.4(f) (*Additional Payments*) of the ISA and rights of indemnification under Section 5.2 (*Release and Indemnification Covenants*) of the ISA), including but not limited to (i) the right to receive and collect all of the Installment Payments from the City; (ii) the right to receive and collect any proceeds of any insurance maintained thereunder with respect to the Project, or any eminent domain award (or proceeds of sale under threat of eminent domain) paid with respect to the Project; and (iii) the right to exercise such rights and remedies conferred on the Corporation under the ISA as may be necessary or convenient (y) to enforce payment of the Installment Payments and any amounts required to be credited to the payment or prepayment thereof, or (z) otherwise to protect the interests of the Corporation (and upon the assignment by the Corporation pursuant to the Assignment Agreement, the WIFIA Credit Provider, as the initial Assignee) in the event of a default by the City under the ISA. All necessary action or approvals on the part of the Corporation with respect to the foregoing has been duly and validly taken. The City and the Corporation shall, from time to time at the request of the WIFIA Credit Provider, as the initial Assignee, execute and deliver such further acknowledgments, agreements and instruments of assignment, transfer and assurance, and do all such further acts and things as may be necessary or appropriate in the reasonable opinion of the WIFIA Credit Provider, as the initial Assignee, to give effect to the provisions of this Section and to more perfectly confirm the rights, titles and interests assigned and transferred to the WIFIA Credit Provider, as the initial Assignee, pursuant to the Assignment Agreement.

(e) Funds Limited to System Purposes Only. The City shall not use System Revenues to make any payments or satisfy any obligations other than in accordance with the provisions of the WIFIA Credit Documents. The City shall manage, conserve and apply the Net

Revenues on deposit in the Wastewater Fund in such a manner that all deposits required to be made under the subsection (f) will be made at the times and in the amounts so required.

(f) Flow of Funds. Immediately upon receipt thereof by the City, the City shall deposit all System Revenues into the Revenue Account. The City shall apply amounts in the Wastewater Fund, and the Revenue Account, the WIFIA Payment Account and the WIFIA Reserve Account therein, only as permitted by the WIFIA Credit Documents. Amounts on deposit in the Revenue Account shall be applied by the City on the first Business Day of each month to pay the following amounts in the following order of priority:

(i) first, to pay Operation and Maintenance Costs in amounts reasonably projected to be necessary during the applicable month for the payment of Operation and Maintenance Costs; provided, that for Operation and Maintenance Costs comprising an allocable share of operation and maintenance costs of the Cayucos Joint Powers Agreement Wastewater Treatment Plant pursuant to the Cayucos Joint Powers Agreement paid by the City less frequently than monthly, the amount of any payment accruing during the applicable month shall assume equal monthly accruals over the number of months in the Cayucos Joint Powers Agreement Payment Period, plus an amount equal to any transfer shortfalls that remain unfunded from prior months;

(ii) second, on a prorated basis, into each Senior Obligation Payment Account (including the WIFIA Payment Account), the amount of interest (or interest component of an installment payment or capital lease payment) and principal (or principal component of an installment payment or capital lease payment) accruing during the applicable month, assuming equal monthly accruals over the applicable number of months in the applicable Senior Obligation Payment Period, plus an amount equal to any transfer shortfalls that remain unfunded from prior months; provided, however, in the last month of a Senior Obligation Payment Period, the amount transferred shall be that amount needed to pay the amount due on the applicable Senior Obligation Interest Payment Date or Senior Obligation Principal Payment Date, and further provided, with respect to a Senior Obligation, no transfer with respect to interest on such Senior Obligation shall be made to the extent amounts have been pre-funded and are otherwise available to make the applicable interest payment;

(iii) third, on a prorated basis, into the respective Senior Obligation Reserve Accounts (including the WIFIA Reserve Account) as required by the Senior Obligation Documents, in an amount equal to the amount required to be deposited therein to restore the balance in each Senior Obligation Reserve Account to the applicable reserve requirement pursuant to the terms of the Senior Obligation Documents, including, with respect to the ISA, the amounts required to be deposited pursuant to Section 7(p) (*Security and Priority; Assignment by the Corporation; Flow of Funds; WIFIA Reserve Event ó WIFIA Reserve Account*) of this Agreement and Section 4.7 (*WIFIA Reserve Account*) of the ISA;

(iv) fourth, any other payments required to comply with the provisions of the Senior Obligation Documents (including the ISA and this Agreement); and

(v) fifth, to the respective Subordinate Obligation Payment Accounts as required by the applicable Subordinate Obligation Documents to pay interest on (or interest component of an installment payment of capital lease payment comprising) and principal of (or principal component of an installment payment or capital lease payment comprising), the Subordinate Obligations during the applicable month; and

(vi) sixth, to the respective Subordinate Obligation Reserve Accounts as required by the Subordinate Obligation Documents, in an amount equal to the amount required to be deposited therein to restore the balance in each Subordinate Obligation Reserve Account to the applicable reserve requirement pursuant to the terms of the Subordinate Obligation Documents; and

(vii) seventh, to a general reserve account, to be used for any other lawful purposes of the Wastewater System.

(g) Deposits in the Event of Deficiency. After the City has made any required payments described in clauses (i) through (iv) above, any remaining Net Revenues in the Wastewater Fund shall be available for any lawful purpose of the City relating to the Wastewater System; provided, however, if there shall be a deficiency at any time in System Revenues required to make the deposits required pursuant to clauses (i), (ii), (iii) or (iv) above, the City shall make the required deposits from available amounts in the Subordinate Obligation Payment Accounts or the Subordinate Obligation Reserve Accounts or the general reserve account, in reverse order, with transfers going first to fund requirements of clause (i), second to fund requirements of clause (ii), third to fund requirements of clause (iii) and fourth to fund requirements of clause (iv).

(h) Application of Wastewater Funds Generally. All System Revenues received shall be deposited into the Revenue Account when and as received and applied only as set forth above. The City shall not permit System Revenues or other assets of the Wastewater System, or any funds in the Wastewater Fund or any other System Account held by or on behalf of the City, to be paid or transferred or otherwise applied for purposes other than ownership, operation or maintenance of, or capital improvements to, the Wastewater System.

(i) Establishment of Funds and Accounts. The City has previously established the Wastewater Fund on its books of account and records, which the City shall continue to hold and maintain for the purposes and uses set forth herein. Within the Wastewater Fund the City shall establish the Revenue Account, the WIFIA Payment Account and the WIFIA Reserve Account. The City shall establish a Senior Obligation Payment Account for the SRF Planning Loan within the Wastewater Fund. At the time of issuance of any Additional Senior Obligation, the City shall establish the related Senior Obligation Payment Account and the related Senior Obligation Reserve Account within the Wastewater Fund for that Additional Senior Obligation. At the time of issuance of any Additional Subordinate Obligations, the City shall establish the related Subordinate Obligation Payment Account and the related Subordinate Obligation Reserve Account within the Wastewater Fund for that Additional Subordinate Obligation.

Amounts on deposit in each Senior Obligation Payment Account shall be applied only as set forth in Section 7(j) (*Security and Priority; Assignment by the Corporation; Flow of Funds; WIFIA Reserve Event - Application of Senior Obligation Payment Accounts*) and shall be

pledged only to the applicable Senior Obligation. Amounts on deposit in each Senior Obligation Reserve Account shall be applied only as set forth in Section 7(k) (*Security and Priority; Assignment by the Corporation; Flow of Funds; WIFIA Reserve Event - Application of Senior Obligation Reserve Accounts*) and shall be pledged only to the applicable Senior Obligation. Amounts on deposit in each Subordinate Obligation Payment Account shall be applied only as set forth in Section 7(l) (*Security and Priority; Assignment by the Corporation; Flow of Funds; WIFIA Reserve Event - Application of Subordinate Obligation Payment Accounts*)) and may be pledged as set forth in clause (d) of the definition of “Pledged Collateral” to Senior Obligations. Amounts on deposit in each Subordinate Obligation Reserve Account shall be applied only as set forth in Section 7(m) (*Security and Priority; Assignment by the Corporation; Flow of Funds; WIFIA Reserve Event - Application of Subordinate Obligation Reserve Accounts*)) and may be pledged as set forth in clause (d) of the definition of “Pledged Collateral” to Senior Obligations. Amounts on deposit in the general reserve account shall be applied only as set forth in Section 7(n) (*Security and Priority; Assignment by the Corporation; Flow of Funds; WIFIA Reserve Event - Application of General Reserve Account*) and may be pledged as set forth in clause (d) of the definition of “Pledged Collateral” to Senior Obligations.

(j) Application of Senior Obligation Payment Accounts. Amounts on deposit in each Senior Obligation Payment Account (including the WIFIA Payment Account) shall be applied only to the payment of interest on (or interest component of an installment payment of capital lease payment comprising) and principal of (or principal component of an installment payment or capital lease payment comprising), the applicable Senior Obligation. Amounts on deposit in any Senior Obligation Payment Account (including the WIFIA Payment Account) are not available for deposits to, and may not be transferred to, any other Senior Obligation Payment Account.

(k) Application of Senior Obligation Reserve Accounts. Amounts on deposit in each Senior Obligation Reserve Account (including the WIFIA Reserve Account) shall be applied only as set forth in the following sentence. If on any Senior Obligation Interest Payment Date or Senior Obligation Principal Payment Date amounts in the related applicable Senior Obligation Payment Account are insufficient to pay interest on (or interest component of an installment payment of capital lease payment comprising) and principal of (or principal component of an installment payment or capital lease payment comprising), the applicable Senior Obligation due on such Senior Obligation Interest Payment Date or Senior Obligation Principal Payment Date, as applicable, amounts in the applicable Senior Obligation Reserve Account shall be transferred to the applicable Senior Obligation Payment Account in the amount of such insufficiency. Amounts on deposit in any Senior Obligation Reserve Account (including the WIFIA Reserve Account) are not available for deposits to, and may not be transferred to, any other Senior Obligation Payment Account or any other Senior Obligation Reserve Account.

(l) Application of Subordinate Obligation Payment Accounts. Amounts on deposit in each Subordinate Obligation Payment Account shall be applied to the payment of interest on (or interest component of an installment payment of capital lease payment comprising) and principal of (or principal component of an installment payment or capital lease payment comprising), the applicable Subordinate Obligation, but only as and to the extent due and payable. Amounts on deposit in any Subordinate Obligation Payment Account may not be transferred out of such Subordinate Obligation Payment Account to pay any such amounts more than five (5) days

prior to the date any such payment is due. Amounts on deposit in any Subordinate Obligation Payment Account are also available to be applied as set forth in Section 7(g) (*Security and Priority; Assignment by the Corporation; Flow of Funds; WIFIA Reserve Event ó Deposits in the Event of Deficiency*).

(m) Application of Subordinate Obligation Reserve Account. Amounts on deposit in each Subordinate Obligation Reserve Account shall be applied only as set forth in the following two sentences. If on any date on which interest on (or interest component of an installment payment of capital lease payment comprising) and principal of (or principal component of an installment payment or capital lease payment comprising), the applicable Subordinate Obligation, amounts in the related applicable Subordinate Obligation Payment Account are insufficient to pay interest on (or interest component of an installment payment of capital lease payment comprising) and principal of (or principal component of an installment payment or capital lease payment comprising), the applicable Senior Obligation due on such date, amounts in the applicable Subordinate Obligation Reserve Account shall be transferred to the applicable Subordinate Obligation Payment Account in the amount of such insufficiency. Amounts on deposit in any Subordinate Obligation Reserve Account are also available to be applied as set forth in Section 7(g) (*Security and Priority; Assignment by the Corporation; Flow of Funds; WIFIA Reserve Event ó Deposits in the Event of Deficiency*).

(n) Application of General Reserve Account. Amounts on deposit in the general reserve account may be applied to any other lawful purposes of the Wastewater System. Amounts on deposit in the general reserve account are available to be applied as set forth in Section 7(g) (*Security and Priority; Assignment by the Corporation; Flow of Funds; WIFIA Reserve Event ó Deposits in the Event of Deficiency*).

(o) WIFIA Payment Account. The City shall establish, for the purposes of making the Installment Payments as required pursuant to Section 8 (*Payment of Installment Payments and Additional Payments*), a WIFIA Payment Account within the Wastewater Fund. On or before each Installment Payment Date, moneys in the WIFIA Payment Account shall be applied to pay the Installment Payment due on such Installment Payment Date.

(p) WIFIA Reserve Account. The City shall establish, for the purposes of ensuring the timely payment of the Installment Payments in the event of an insufficiency in System Revenues, a WIFIA Reserve Account within the Wastewater Fund, which will be funded from time to time pursuant to this Section 7(p) with Net Revenues available after making the transfers described in clauses (i) and (ii) in Section 7(f) (*Security and Priority; Assignment by the Corporation; Flow of Funds; WIFIA Reserve Event ó Flow of Funds*). If on any Installment Payment Date amounts in the WIFIA Payment Account are insufficient to pay the Installment Payment due on such Installment Payment Date, amounts in the WIFIA Reserve Account shall be transferred to the WIFIA Payment Account in the amount of such insufficiency.

The WIFIA Reserve Account may remain unfunded until the occurrence of a WIFIA Reserve Event. Beginning with the month immediately following delivery of an Updated Financial Model which demonstrates or discloses the occurrence of a WIFIA Reserve Event and for eleven (11) months thereafter, the City shall fund the WIFIA Reserve Account in an amount equal to one-twelfth (1/12) of the WIFIA Reserve Account Requirement. Funds shall be deposited

in the WIFIA Reserve Account in accordance with clause (iii) of Section 7(f) (*Security and Priority; Assignment by the Corporation; Flow of Funds; WIFIA Reserve Event ó Flow of Funds*). Thereafter, and subject to the flow of funds in Section 7(f) (*Security and Priority; Assignment by the Corporation; Flow of Funds; WIFIA Reserve Event ó Flow of Funds*), the City shall maintain the WIFIA Reserve Account in an amount equal to the WIFIA Reserve Account Requirement.

If, after the occurrence of a WIFIA Reserve Event, the City delivers to the WIFIA Credit Provider, for three (3) consecutive City Fiscal Years, an Updated Financial Model which demonstrates that the Senior Debt Service Coverage Ratio for the immediately preceding City Fiscal Year was not less than 1.30 to 1.00, the City may, upon written notice to the WIFIA Credit Provider at least ten (10) Business Days in advance, release any balance in the WIFIA Reserve Account to be applied to any Wastewater System purpose.

Section 8. Payment of Installment Payments and Additional Payments.

(a) Fixed Level Payments; Additional Payments. On each Installment Payment Date occurring on or after the Installment Payment Commencement Date, the City shall pay to the WIFIA Credit Provider, as the initial Assignee (i) the Installment Payments (each consisting of a Principal Component and an Interest Component), paid as level payments so that each payment shall be approximately equal in amount. In addition, the City shall pay from time to time when due all other obligations due and payable to the WIFIA Credit Provider pursuant to this Agreement and the ISA as Additional Payments. All such payments shall be made in accordance with Section 8(e) (*Payment of Installment Payments and Additional Payments ó Manner of Payment*). All such payments shall be made on each Installment Payment Date and on each other date (including the Final Installment Payment Date and any date on which payment thereof is due by reason of the mandatory prepayment of the Outstanding Balance (and the corresponding unpaid Principal Components of the Installment Payments)) on which payment thereof is required to be made hereunder and under the ISA; 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 the Installment Payments shall be made in the amounts set forth in respect of such Installment Payment Date on the Installment Payment Schedule included in **Exhibit F** (*Installment Payment Schedule*) of this Agreement, as the same may be revised as provided in Section 8(f) (*Payment of Installment Payments and Additional Payments ó Adjustments to Installment Payment Schedule*) which revisions shall be reflected on a revised Installment Payment Schedule to include as **Exhibit F** (*Installment Payment Schedule*) of this Agreement and **Appendix A** (*Installment Payment Schedule*) of the ISA. The amount of each Installment Payment shall be calculated by the WIFIA Credit Provider in such manner that each of such payments shall be approximately equal in amount, in order for the Outstanding Balance (the aggregate unpaid Principal Components of the Installment Payments) to be reduced to \$0 on the Final Installment Payment Date.

Within thirty (30) days prior to the Installment Payment Commencement Date, the WIFIA Credit Provider may (or, at the written request of the City, shall) give written notice to the City of the amount of the Installment Payment (each of which shall be approximately equal in amount), which amount shall be deemed conclusive absent manifest error; provided, that no failure to provide or delay in providing the City with such notice shall affect any of the obligations of the

City under this Agreement, the ISA or the other WIFIA Credit Documents. To the extent that any prepayments of the Outstanding Balance (and the corresponding unpaid Principal Components of the Installment Payments) shall be made, such prepayments shall be applied to the remaining Outstanding Balance (and the corresponding unpaid Principal Components of the Installment Payments) and the remaining Outstanding Balance (and the corresponding unpaid Principal Components of the Installment Payments) shall be recalculated as provided in Section 9(e) (*Prepayment ó General Prepayment Instructions*) of this Agreement and reflected in a revised Installment Payment Schedule to include as **Exhibit F** (*Installment Payment Schedule*) of this Agreement and **Appendix A** (*Installment Payment Schedule*) of the ISA.

(b) Final Installment Payment Date. Notwithstanding anything herein to the contrary, all Installment Payments and all Additional Payments then due and payable remaining unpaid as of the Final Installment Payment Date shall be due and payable in full on the Final Installment Payment Date (or on any earlier date on which the Outstanding Balance (and the corresponding unpaid Principal Components of the Installment Payments) are subject to mandatory prepayment).

(c) Capitalized Interest Period. No payment of any Installment Payment is required to be made during the Capitalized Interest Period. On each May 1 and November 1 occurring during the Capitalized Interest Period, interest accrued on the Outstanding Balance (and the corresponding unpaid Principal Components of the Installment Payments) in the six (6) month period ending immediately prior to such date shall be capitalized and added to the Outstanding Balance (and the corresponding unpaid Principal Components of the Installment Payments). Interest on Capitalized Interest shall commence accruing at the WIFIA Interest Rate on the date such Capitalized Interest is added to the unpaid Principal Components of the Installment Payments during the Capitalized Interest Period pursuant to this Section 8(c) (and the corresponding Section 4.4(c) (*Installment Payments ó Initial Installment Payment Schedule; Adjustments to Installment Payment Schedule*) of the ISA). Within thirty (30) days after the end of the Capitalized Interest Period, it is anticipated that the WIFIA Credit Provider shall give written notice to the City stating the unpaid Principal Components of the Installment Payments, which aggregate amount shall be equal to the Outstanding Balance, in either case, 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 City under this Agreement, the ISA or under any of the other WIFIA Credit Documents. Notwithstanding the foregoing, the Capitalized Interest Period shall end immediately upon written notification to the City by the WIFIA Credit Provider that an Event of Default has occurred, in which case the provisions of this Section 8(c) and the provisions of Section 4.4(c)(ii) (*Installment Payments ó Initial Installment Payment Schedule; Adjustments to Installment Payment Schedule*) of the ISA shall no longer apply, and accrued interest on the unpaid Principal Components of the Installment Payments shall no longer be permitted to be capitalized and each Installment Payment following the end of the Capitalized Interest Period shall include an Interest Component calculated as set forth in Section 4.4(b) (*Installment Payments ó Calculation of Interest Components*) of the ISA and Installment Payments shall be payable as set forth in Section 4.4(g) (*Installment Payments ó Manner of Payments*) of the ISA. For purposes of this subsection, an Event of Default under Section 17(a)(v) (*Events of Default and Remedies ó Cross Default with Other Financing Documents*) shall be deemed to have occurred upon the occurrence of any nonpayment of any Obligation when due, regardless of whether the Holders of the

applicable Obligations, or any legal order, has waived, permitted deferral of, or forgiven any such payment.

(d) [Reserved]

(e) Manner of Payment. Payments under the ISA and this Agreement to the WIFIA Credit Provider or a subsequent Assignee shall be made by wire transfer on or before each Installment 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 Credit Provider. The City may make any such payment or portion thereof with funds then on deposit in the WIFIA Payment Account.

(f) Adjustments to Installment Payment Schedule.

(i) The Outstanding Balance will be (A) increased on each occasion on which the WIFIA Credit Provider disburses proceeds under this Agreement, by the amount of such disbursement; (B) increased on each occasion on which interest on the unpaid Principal Components of the Installment Payments is capitalized pursuant to the provisions of Section 8(c) (*Payment of Installment Payments and Additional Payments ó Capitalized Interest Period*) of this Agreement and Section 4.4(c) (*Installment Payments ó Initial Installment Payment Schedule; Adjustments to Installment Payment Schedule*) of the ISA, by the amount of interest so capitalized; and (C) decreased upon each payment or prepayment of the Outstanding Balance (and the corresponding unpaid Principal Components of the Installment Payments), by the amount of Outstanding Balance (or unpaid Principal Components) so paid or prepaid. The WIFIA Credit Provider may in its discretion at any time and from time to time, or when so requested by the City, advise the City by written notice of the amount of the Outstanding Balance (and the corresponding unpaid Principal Components of the Installment Payments) 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 Credit Provider is hereby authorized by the City Related Parties to modify the Installment Payment Schedule included in **Exhibit F** (*Installment Payment Schedule*) of this Agreement from time to time (including after a prepayment) and to make corresponding changes in **Appendix A** (*Installment Payment Schedule*) of the ISA from time to time (including after a prepayment), in accordance with Section 4.4(a) (*Installment Payments ó Obligation to Pay*) of the ISA, to reflect (A) any change to the Outstanding Balance (and the corresponding unpaid Principal Components of the Installment Payments) or the date and amount of any Installment Payment due and payable or to become due and payable by the City under the ISA at the end of the Capitalized Interest Period (taking into account if less than \$25,183,810.80 has been advanced by the WIFIA Credit Provider under the WIFIA Credit Agreement and the Capitalized Interest), (B) any partial prepayments of the unpaid Principal Components of the Installment Payments, and (C) such other information as the WIFIA Credit Provider may determine is necessary for administering this Agreement and the ISA. Any calculations described above shall be rounded up to the nearest whole cent. Any adjustments or revisions to the Installment Payment Schedule as a result of changes in the Outstanding Balance (due to prepayment of the Outstanding Balance (and the corresponding unpaid Principal Components of the Installment Payments) or otherwise) shall be applied in accordance with Section 9(e) (*Prepayment ó General Prepayment Instructions*).

Absent manifest error, the WIFIA Credit Provider's determination of such matters as set forth on the Installment Payment Schedule included in **Exhibit F** (*Installment Payment Schedule*) of this Agreement and **Appendix A** (*Installment Payment Schedule*) of the ISA 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 City's obligations under this Agreement, the ISA or any other WIFIA Credit Document. The WIFIA Credit Provider shall provide the City with a copy of the revised Installment Payment Schedule to include as **Exhibit F** (*Installment Payment Schedule*) of this Agreement and **Appendix A** (*Installment Payment Schedule*) of the ISA, but no failure to provide or delay in providing the City with such revised Installment Payment Schedule shall affect any of the obligations of the City under this Agreement, the ISA or the other WIFIA Credit Documents.

Section 9. Prepayment.

(a) Mandatory Prepayment. The City shall immediately prepay one hundred percent (100%) of the Outstanding Balance (and the corresponding unpaid Principal Components of the Installment Payments) in full in immediately available funds upon the occurrence of a Bankruptcy Related Event of a City Related Party, the Event of Default in Section 17(a)(iv) (*Events of Default and Remedies ó Acceleration of Senior Obligations*) or the Event of Default in Section 17(a)(viii) (*Events of Default and Remedies ó Invalidity of WIFIA Credit Documents*). Such mandatory prepayment shall include all unpaid interest on the Outstanding Balance to be prepaid (and the corresponding Interest Components of the Installment Payments to be prepaid) accrued to the date of such prepayment, without penalty or premium, and concurrently therewith the City shall pay all other Additional Payments then due and payable to the WIFIA Credit Provider and the Assignee. Upon the occurrence of a Bankruptcy Related Event of a City Related Party or the Events of Default described above, the City shall promptly deliver to the WIFIA Credit Provider a notice of such Bankruptcy Related Event or Event of Default; provided, that the City's failure to deliver such notice shall not diminish, impair or otherwise affect the City's obligation to make any such mandatory prepayment as and when the circumstances requiring such mandatory prepayment have occurred.

(b) Optional Prepayment. The City may prepay the Outstanding Balance (and the corresponding unpaid Principal Components of the Installment Payments) in whole or in part (and, if in part, the amounts thereof to be prepaid shall be determined by the City; provided, however, that such prepayments shall be in principal amounts of \$250,000 or any integral multiple of \$1.00 in excess thereof), at any time or from time to time, but not more than once annually, on an Installment Payment Date, by paying such portion of the Outstanding Balance (and the corresponding unpaid Principal Components of the Installment Payments) to be prepaid, together with the unpaid interest on the Outstanding Balance to be prepaid (and the corresponding Interest Components of the Installment Payments to be prepaid) accrued to the date of such prepayment, without penalty or premium, and concurrently therewith the City shall pay all other Additional Payments then due and payable to the WIFIA Credit Provider and the Assignee. Each prepayment of Outstanding Balance (and the corresponding unpaid Principal Components of the Installment Payments) shall be made on such prepayment date and in such principal amount (or the corresponding Principal Component amount) as shall be specified by the City in a written notice delivered to the WIFIA Credit Provider 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 Credit Provider. At

any time between delivery of such written notice and the applicable optional prepayment, the City may, without penalty or premium, rescind its announced optional prepayment by further written notice to the WIFIA Credit Provider. Anything in this Section 9(b) to the contrary notwithstanding, the failure by the City to make any optional prepayment shall not constitute a breach or default under this Agreement or the ISA.

(c) Prepayment From Net Proceeds of Insurance or Eminent Domain. The City may prepay the unpaid Principal Components of the Installment Payments in whole or in part, on any date, if and to the extent the City (with the prior written consent of the Assignee) determines to apply any proceeds of insurance award or condemnation award with respect to the Wastewater System for such purpose in accordance with Section 5.3 (*Sale or Eminent Domain of Wastewater System; Liens on Wastewater System*) of the ISA or Section 5.4 (*Insurance*) of the ISA, at a prepayment price equal to 100% of the unpaid Principal Components of the Installment Payments to be prepaid plus the unpaid interest on the Outstanding Balance to be prepaid (and the corresponding Interest Components of the Installment Payments to be prepaid) accrued to the date of such prepayment, without penalty or premium. In the event of the taking of all or any part of the Wastewater System by the lawful exercise of eminent domain or accident to or destruction of any portion of the Wastewater System, the City shall promptly deliver to the Assignee a notice of such taking or accident or destruction; provided, that the City's failure to deliver such notice shall not diminish, impair or otherwise affect the City's obligation to make any such mandatory prepayment as and when the circumstances requiring such mandatory prepayment have occurred.

(d) City's Certificate. Each prepayment pursuant to this Section 9 shall be effected pursuant to **Article VII** (*Prepayment of Installment Payments*) of the ISA accompanied by a certificate signed by the City's Authorized Representative identifying the Section of the ISA pursuant to which such prepayment is being made and containing a calculation in reasonable detail of the amount of such prepayment.

(e) General Prepayment Instructions. If the City prepays only part of the Outstanding Balance (and the corresponding unpaid Principal Components of the Installment Payments), the WIFIA Credit Provider may make a notation on the Installment Payment Schedule included in **Exhibit F** (*Installment Payment Schedule*) of this Agreement and **Appendix A** (*Installment Payment Schedule*) of the ISA indicating the amount of the Outstanding Balance (and the corresponding unpaid Principal Components of the Installment Payments) being prepaid. Absent manifest error, the WIFIA Credit Provider's determination of such matters as set forth on the Installment Payment Schedule included in **Exhibit F** (*Installment Payment Schedule*) of this Agreement and **Appendix A** (*Installment Payment Schedule*) of the ISA 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 City's obligations under this Agreement, the ISA or any other WIFIA Credit Document. All such partial prepayments shall be applied to adjust amortization in a manner that maintains approximately equal Installment Payments. If such funds have not been so paid on the prepayment date, such Outstanding Balance (and the corresponding unpaid Principal Components of the Installment Payments) shall continue to accrue interest until payment thereof at the rate provided for in Section 6 (*Interest Rate*) and the corresponding rate in the ISA.

Section 10. Fees and Expenses.

(a) Fees. The City shall pay the following amounts as Additional Payments under the ISA:

(i) a servicing set-up fee equal to \$5,205 (the “**Servicing Set-Up Fee**”), which shall be due and payable within thirty (30) days after receipt of an invoice from the WIFIA Credit Provider with respect thereto (or, if earlier, the first disbursement date of proceeds under this Agreement);

(ii) an annual construction period servicing fee equal to \$5,205 (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 Credit Provider with respect thereto (or, if earlier, the first disbursement date of proceeds under this Agreement), in a pro-rated amount equal to \$3,035¹; and

(iii) an annual operating period servicing fee equal to \$3,905 (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 Installment Payment Date; provided, that the Operating Period Servicing Fee due and payable with respect to the Federal Fiscal Year during which the Final Installment Payment 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 Installment Payment 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 Credit Provider shall notify the City 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 City agrees, whether or not the transactions hereby contemplated shall be consummated, to reimburse the WIFIA Credit Provider (payable as Additional Payments under the ISA) on demand from time to time, within thirty (30) days after receipt of any invoice from the WIFIA Credit Provider, 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 Credit

¹ NTD: This amount assumes a February 2020 closing.

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 Credit Documents or the rights of the WIFIA Credit Provider 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 City under this Agreement or the other WIFIA Credit Documents, including during the pendency of any Event of Default.

(d) The obligations of the City under this Section 10 shall survive the payment or prepayment in full of all of the Installment Payments, the enforcement of any provision of this Agreement or the other WIFIA Credit 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 Credit Provider in its sole discretion:

(i) The City shall have duly executed and delivered to the WIFIA Credit Provider this Agreement, the Resolution and the ISA, each in form and substance satisfactory to the WIFIA Credit Provider.

(ii) The City shall have delivered to the WIFIA Credit Provider complete and fully executed copies of each Financing Document, together with any amendments, waivers or modifications thereto, that has been entered into on or prior to the Effective Date, along with a certification in the City 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 City shall have certified to the WIFIA Credit Provider in the City Closing Certificate that each Existing Principal Project Contract is listed on Part A of **Schedule 12(n)** and each Expected Additional Principal Project Contract is listed on Part B of **Schedule 12(n)**.

(iv) Each City Related Party shall have delivered to the WIFIA Credit Provider (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 City Closing Certificate or the Corporation Closing Certificate, as applicable, that such Organizational Documents are in full force and effect, and (B) all

further instruments and documents (including any resolutions, ordinances, and supplements) as are necessary for each City Related Party to execute and deliver, and to perform its respective obligations under, the WIFIA Credit Documents to which it is a party and to consummate and implement the transactions contemplated by the WIFIA Credit Documents.

(v) Counsel to the City shall have rendered to the WIFIA Credit Provider legal opinions satisfactory to the WIFIA Credit Provider in its sole discretion (including those opinions set forth on **Exhibit G-1** (*Opinions Required from Counsel to the City*)) and counsel to the Corporation shall have rendered to the WIFIA Credit Provider legal opinions satisfactory to the WIFIA Credit Provider in its sole discretion (including those opinions set forth on **Exhibit G-2** (*Opinions Required from Special Counsel to the Corporation*)).

(vi) Each City Related Party shall have delivered to the WIFIA Credit Provider the Non-Debarment Certificate.

(vii) The City shall have delivered to the WIFIA Credit Provider the Non-Lobbying Certificate.

(viii) The Corporation shall have delivered to the WIFIA Credit Provider a certificate, signed by the Corporation's authorized representative, substantially in the form attached hereto as **Exhibit H-2** (*Form of Corporation Closing Certificate*) (the "**Corporation Closing Certificate**") (A) designating the Corporation's authorized representative (B) confirming such person's position and incumbency, and (C) certifying as to certain other matters. The City shall have delivered to the WIFIA Credit Provider a certificate, signed by the City's Authorized Representative, substantially in the form attached hereto as **Exhibit H-1** (*Form of City Closing Certificate*) (the "**City Closing Certificate**") (A) designating the City's Authorized Representative, (B) confirming such person's position and incumbency, and (C) certifying as to the satisfaction of the following conditions precedent:

(A) the aggregate of all funds committed to the development and construction of the Project as set forth in the Base Case Financial Model and in the Project Budget are sufficient to carry out the Project, pay all Total Project Costs anticipated for the Project and achieve Substantial Completion by the Projected Substantial Completion Date;

(B) each City Related Party 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 Credit Documents to which it is a party, and all such Governmental Approvals are final, non-appealable, and in full force and effect (and are not subject to any notice of violation, breach, or revocation);

(C) as of the Effective Date, (x) the maximum principal amount of proceeds available under this Agreement (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 City, 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 proceeds available under this Agreement (excluding any interest that is capitalized in accordance with the terms hereof), does not exceed eighty percent (80%) of Total Project Costs;

(D) the City 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 Credit Provider, has provided evidence satisfactory to the WIFIA Credit Provider of such compliance;

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

(F) the City 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);

(G) the representations and warranties of each City Related Party set forth in this Agreement and in each other WIFIA Credit Document to which it 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

(H) 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 July 12, 2018.

(ix) The City shall have provided evidence to the WIFIA Credit Provider's satisfaction of the assignment by at least two (2) Nationally Recognized Rating Agencies of a public Investment Grade Rating to the Senior Obligations proposed to be issued for the Project, along with a certification in the City Closing Certificate that no such rating has been reduced, withdrawn or suspended as of the Effective Date.

(x) The City shall have delivered to the WIFIA Credit Provider a Base Case Financial Model in form and substance acceptable to the WIFIA Credit Provider, along with a certification in the City Closing Certificate that such Base Case Financial Model (A) demonstrates that projected Net Revenues are sufficient to meet the Installment Payment Schedule, (B) demonstrates compliance with the Rate Covenant for each City Fiscal Year through the Final Installment Payment Date and a Senior Debt Service Coverage Ratio for each Payment Period through the Final Installment Payment Date that is not less than 1.30 to 1.00; (C) reflects amortization and payment schedules acceptable to

the WIFIA Credit Provider and (D) demonstrates that the City has developed, and identified adequate revenues to implement, a plan for operating, maintaining and repairing the Project over the useful life of the Project.

(xi) The City, and each Principal Project Party, has obtained insurance with respect to the Project that meets the requirements of this Agreement in accordance with Section 14(f) (*Affirmative Covenants ó Insurance*). The City shall have added the WIFIA Credit Provider as an additional insured to each of its liability policies for the Project (other than workers' compensation insurance).

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

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

(xiv) Each of the WIFIA Payment Account and the WIFIA Reserve Account shall have been created in the Wastewater Fund.

(xv) The City shall have delivered such other agreements, documents, instruments, opinions and other items required by the WIFIA Credit Provider, all in form and substance satisfactory to the WIFIA Credit Provider.

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

(i) The City shall have provided to the WIFIA Credit Provider evidence satisfactory to the WIFIA Credit Provider that (A) the aggregate amount of all disbursements under this Agreement (including the requested disbursement but excluding any interest that is capitalized in accordance with the terms hereof) shall not exceed (1) \$25,183,810.80, (2) the amount of Eligible Project Costs paid or incurred by the City, and (3) the cumulative disbursements through the end of the current Federal Fiscal Year as set forth in the Anticipated Disbursement Schedule; (B) the City has sufficient available funds committed to the Project, which together with funds that remain available and not yet drawn under this Agreement, 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 proceeds available under this Agreement (excluding any interest that is capitalized in accordance with the terms hereof), does not exceed eighty percent (80%) of Total Project Costs.

(ii) The City shall have provided an Updated Financial Model in compliance with the requirements of Section 16(a) (*Reporting Requirements ó Updated Financial Model*).

(iii) The City shall have delivered to the WIFIA Credit Provider 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 Credit Provider shall have approved (or be deemed to have approved in accordance with Section 4(b) (*Disbursement Conditions*)) such Requisition. The City'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 City and by any applicable Principal Project Party in satisfaction of the conditions in Section 14(f) (*Affirmative Covenants ó 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 proceeds under this Agreement then currently requested, (x) no Default or Event of Default hereunder shall have occurred and be continuing, (y) 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 (z) 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 July 12, 2018;

(D) the City, 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 Credit Provider; and

(E) the representations and warranties of the City Related Parties set forth in this Agreement (including Section 12 (*Representations and Warranties of the City Related Parties*)) and in each other WIFIA Credit Document shall be true and correct as of each date on which any disbursement of proceeds under this Agreement is made, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).

(iv) To the extent not previously delivered to the WIFIA Credit Provider, the City shall have delivered to the WIFIA Credit Provider copies of any Financing Documents (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.

(v) To the extent not previously delivered to the WIFIA Credit Provider, the City 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.

(vi) The City 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 Credit Provider as of the date of disbursement of the proceeds under this Agreement and delivered by the WIFIA Credit Provider to the City, for the fees and expenses of the WIFIA Credit Provider's counsel and financial advisors and any auditors or other consultants retained by the WIFIA Credit Provider for the purposes hereof.

(vii) Notwithstanding the foregoing, a condition to any disbursements after December 31, 2020 is that the SRF Planning Loan shall have been fully discharged or refinanced with Additional Senior Obligations or Additional Subordinate Obligations.

(viii) The End of the Validation Period has occurred.

ARTICLE IV REPRESENTATIONS AND WARRANTIES

Section 12. Representations and Warranties of the City Related Parties. Each City Related Party 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 the City Related Parties ó Officers' Cwj qtk cvkqp*), Section 12(k) (*Representations and Warranties of the City Related Parties ó Credit Ratings*), and the first sentence of Section 12(n) (*Representations and Warranties of the City Related Parties ó Principal Project Contracts*), as of each date on which any disbursement under this Agreement is requested or made:

(a) Organization; Power and Authority. (i) The City is a municipal corporation and general law city duly organized and existing under the Constitution and 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 ISA, 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 ISA, and the Related Documents; and (ii) the Corporation is a nonprofit public benefit corporation 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 to carry out and consummate all transactions contemplated hereby and thereby and has duly authorized the execution, delivery and performance of this Agreement and the Related Documents.

(b) Officers' Authorization. As of the Effective Date, the officers of each City Related Party executing (or that previously executed) the Related Documents, and any certifications or instruments related thereto, to which such City Related Party 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 a City Related Party is a party has been duly authorized, executed and delivered by that City Related Party and constitutes the legal, valid and binding agreement of that City Related Party enforceable against that City Related Party in accordance with its terms, except as such enforceability (i) may be limited by applicable receivership, 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), judicial discretion and legal limitations applicable to public agencies in the State of California.

(d) Non-Contravention. The execution and delivery of the Related Documents to which any City Related Party 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 either City Related Party's Organizational Documents, (ii) conflict in any material respect with, or constitute a violation, breach or default (whether immediately or after notice or the passage of time or both) by either City Related Party 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 either City Related Party 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 either City Related Party.

(e) Consents and Approvals. No consent or approval of any trustee, holder of any indebtedness of any City Related Party 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 City Related Parties of the Related Documents to which they are party, 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 each City Related Party with the terms and conditions of any of the Related Documents, except as have been obtained or made and as are in full force and effect or as are ministerial in nature and can reasonably be expected to be obtained or made in the ordinary course on commercially reasonable terms and conditions when needed.

(f) Litigation. Except as set forth in **Schedule 12(f) (Litigation)**, there is no action, suit, proceeding or, to the knowledge of the City Related Parties, any inquiry or investigation, in any case before or by any court or other Governmental Authority pending and served or, to the knowledge of the City Related Parties, threatened against the Wastewater System or the ability of the City Related Parties to execute, deliver and perform their respective obligations under the Related Documents (including construction of the Project and increasing Wastewater System rates as contemplated in the Base Case Financial Model). 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 City Related Parties, any inquiry or investigation before or by any court or other Governmental Authority pending and served, or to the knowledge of the City Related Parties, threatened against the Wastewater System, a City Related Party or the assets, properties or operations of a City Related Party, that in any case could reasonably be expected to result in a Material Adverse Effect. To the knowledge of the City Related Parties, there are no actions of the type described above pending or, threatened against 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 City's ability to receive System 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 Credit Provider) or to pay the Installment Payments. Neither City Related Party is 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) Section 9109(c)(2) of the California Commercial Code and Section 5451 of the California Government Code, permit the Financing Documents and (ii) the City Related Parties have taken all necessary action, in each case, to establish, in favor of the Corporation (and upon the assignment by the Corporation pursuant to the Assignment Agreement, the WIFIA Credit Provider, as the initial Assignee), the 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 Financing Documents, irrespective of whether any Person has notice of the pledge and without the need for any physical delivery, recordation, filing, or further act. Liens on the Pledged Collateral are first priority senior Liens, are in full force and effect and (A) 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 (B) are not *pari passu* with any obligations other than, with respect to the Liens on Net Revenues, Senior Obligations. Liens on amounts in the WIFIA Payment Account and the WIFIA Reserve Account are first priority senior Liens, are in full force and effect and are solely for the benefit of the Corporation (and upon the assignment by the Corporation pursuant to the Assignment Agreement, the WIFIA Credit Provider, as the initial Assignee). The City is not in breach of any covenants set forth in Section 14(b) (*Affirmative Covenants – Securing Liens*) or in the Financing Documents with respect to the matters described in such Section. As of the Effective Date and as of each other date this representation and warranty is made, (i) all documents and instruments have been recorded or filed for record in such manner and in such places as are required and all other action as is necessary or desirable has been taken to establish a legal, valid, binding, and enforceable Lien on the Pledged Collateral and a legal, valid, binding, and enforceable assignment of the Corporation's right in the ISA, in both cases, in favor of the WIFIA Credit Provider, as the initial Assignee, upon the assignment by the Corporation pursuant to the Assignment Agreement, to the extent contemplated by the Financing Documents, and (ii) all taxes and filing fees that are due and payable in connection with the execution, delivery or recordation of any Financing Documents or any instruments, certificates or financing statements in connection with the foregoing, have been paid. Neither the attachment, validity, enforceability or priority of the security interest in the Pledged Collateral granted pursuant to the Financing Documents to the Corporation (and upon the assignment by the Corporation pursuant to the Assignment Agreement, the WIFIA Credit

Provider, as the initial Assignee), or the assignment by the Corporation pursuant to the Assignment Agreement, is governed by the UCC.

(h) No Debarment. Each City Related Party 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 City Related Party nor any of their respective 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 ó Conditions Precedent to Effectiveness*).

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

(j) Compliance with Laws.

(i) The City, 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 City 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 City or, to the City'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 City Related Parties nor, to the knowledge of the City Related Parties, 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 City Related Parties, threatened claims or investigations by any Governmental Authority

against, or any internal investigations conducted by, any City Related Party 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 disbursed under this Agreement 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 Outstanding Senior Obligations have received a public Investment Grade Rating from at least two (2) Nationally Recognized Rating Agencies, and written evidence of such ratings has been provided to the WIFIA Credit Provider 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 either City Related Party 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 City 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, (z) the City has delivered to the WIFIA Credit Provider a fully executed, complete and correct copy of each such Principal Project Contract, including any amendments or modifications thereto and any related side letters and related credit support instruments. No event has occurred that gives the City or, to the City's knowledge, any Principal Project Party, the right to terminate any such Principal Project Contract. The City 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 City no party to any of such agreements or contracts is in breach of any material term therein or in default thereunder.

(o) Information. The information furnished by the City to the WIFIA Credit Provider, when taken as a whole, does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements contained therein not misleading as of the date made or furnished; provided, that no representation or warranty is made with regard to projections or other forward-looking statements provided by or on behalf of the City (including the Base Case Financial Model, any Updated Financial Model, and the assumptions therein) except that each of the Base Case Financial Model and any Updated Financial Model (i) is based on assumptions that were reasonable in all material respects when made, (ii) was prepared in good

faith and (iii) represents, in the opinion of the City, reasonable projections at the time made of the future performance of the Wastewater System and the Project (it being understood that projections are not to be considered or regarded as facts and contain significant uncertainties and contingencies, many of which are beyond the control of the City, that actual results may differ significantly from projections and that no representation is made with respect to the accuracy of such projections).

(p) Environmental Matters. Each of the City and, to the City's knowledge, each Principal Project Party, is in compliance with all laws applicable to the Wastewater System 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 Wastewater System (collectively, the "**Environmental Laws**"). All Governmental Approvals for the Project relating to Environmental Laws have been, or, when required, will be, obtained and are (or, as applicable, will be) in full force and effect. The City has not received any written communication or notice, whether from a Governmental Authority, employee, citizens group, or any other Person, that alleges that the City is not in full compliance with all Environmental Laws and Governmental Approvals relating thereto in connection with the Wastewater System and, to the City's knowledge, there are no circumstances that may prevent or interfere with full compliance in the future by the City with any such Environmental Law or Governmental Approval. The City has provided to the WIFIA Credit Provider all material assessments, reports, results of investigations or audits, and other material information in the possession of or reasonably available to the City regarding the City'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 City 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 Wastewater System, 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 Wastewater System. 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 City sufficient to enable the City to own, construct, operate, maintain and repair the Wastewater System and to perform its obligations under the Principal Project Contracts to which it is a party.

(r) Insurance. The City 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.

(s) No Liens. Except for Permitted Liens, neither City Related Party has created, or is under any obligation to create, and has entered into any transaction or agreement that would result in the imposition of, any Lien on the ISA, the Pledged Collateral, the Installment Payments, the Wastewater System, the Project, the System Revenues, the properties or assets in relation to the Project, or the properties or assets of the Corporation.

(t) Financial Statements. Each income statement, balance sheet and statement of operations and cash flows (collectively, “**Financial Statements**”) delivered to the WIFIA Credit Provider pursuant to Section 16(b) (*Reporting Requirements ó Annual Financial Statements*) has been prepared in accordance with GAAP and presents fairly, in all material respects, the financial condition of the City as of the respective dates of the balance sheets included therein and the results of operations of the City 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 City 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 ISA may be issued and sold without registration under the Securities Act of 1933, as amended.

(v) Taxes. The City is not required to file tax returns with any Governmental Authority. The Corporation has (i) filed all tax returns required by applicable laws to be filed by it and (ii) paid all income taxes payable by it that have become due pursuant to such tax returns and all other material taxes and assessments payable by it that have become due (other than those taxes that it is contesting in good faith and by appropriate proceedings, for which adequate reserves have been established to the extent required by generally accepted accounting principles established by the Government Accounting Standards Board).

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

(x) Sovereign Immunity. The City 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 City under any of the Related Documents to which it is a party or the transactions contemplated hereby or thereby, including the obligations of the City hereunder and thereunder, or, to the extent that the City has such immunity, the City has waived such immunity pursuant to Section 14(n) (*Affirmative Covenants ó Immunity*). The Corporation 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 Corporation under any of the Related Documents to which it is a party or the transactions contemplated hereby or thereby, including the obligations of the Corporation hereunder and thereunder, or, to the extent that the Corporation has such immunity, the Corporation has waived such immunity pursuant to Section 14(n) (*Affirmative Covenants ó Immunity*).

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

(z) No Federal Debt. Neither City Related Party has any 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 Credit Provider. The WIFIA Credit Provider represents and warrants that:

(a) Power and Authority. The WIFIA Credit Provider has all requisite power and authority to make the disbursement of proceeds under this Agreement 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 Credit Provider, and are legally valid and binding agreements of the WIFIA Credit Provider, enforceable in accordance with their terms.

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

ARTICLE V COVENANTS

Section 14. Affirmative Covenants. Each City Related Party covenants and agrees as follows until the date the Purchase Price, Additional Payments and other obligations of the City under the ISA and this Agreement (other than contingent indemnity obligations) are irrevocably paid in full in immediately available funds, unless the WIFIA Credit Provider waives compliance in writing:

(a) Rate Covenant. (i) The City shall fix, charge, prescribe, revise and collect rates, fees, and charges for the services and facilities furnished by the Wastewater System which are reasonable, fair and nondiscriminatory and which will be at least sufficient to yield Net Revenues during each City Fiscal Year which are at least equal to (i) one hundred and twenty percent (120%) of the Debt Service payable during such City Fiscal Year with respect to all Outstanding Senior Obligations and (ii) one hundred and ten percent (110%) of the Debt Service payable during such City Fiscal Year with respect to all Outstanding Obligations (collectively, the "**Rate Covenant**").

(ii) If the forecast furnished by the City in the most recent Updated Financial Model delivered by the City pursuant to Section 16(a) (*Reporting Requirements ó Updated Financial Model*) demonstrates that projected Net Revenues may be inadequate to satisfy the Rate Covenant for any City Fiscal Year until the Final Installment Payment Date, or if the City fails to satisfy the Rate Covenant for the most recently ended City Fiscal Year, the City shall (x) within thirty (30) days after request by the WIFIA Credit Provider, engage the Technical and Rate Consultant to review and analyze the operations of the Wastewater 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, (y) 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 (z) either, within thirty (30) days (or such reasonable period of time required to do so under applicable law), (A) implement the Technical and Rate Consultant's recommendation or (B) undertake an alternative course of action after demonstrating to the WIFIA Credit Provider's satisfaction that an alternative plan will generate an equivalent or greater increase to the Net Revenues so as to satisfy the Rate Covenant.

(b) Securing Liens. Each City Related Party 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 Corporation (and upon the assignment by the Corporation pursuant to the Assignment Agreement, the WIFIA Credit Provider, as the initial Assignee) for its benefit pursuant to the WIFIA Credit Documents, or intended so to be granted pursuant to the WIFIA Credit Documents, or which a City Related Party may become bound to grant, and the City Related Parties shall at all times maintain the Pledged Collateral and the assignment by the Corporation of its rights in the ISA pursuant to the Assignment Agreement 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 Financing Documents, other than as permitted by this Agreement, and all organizational, regulatory or other necessary action on the part of the City Related Parties to that end shall be duly and validly taken at all times. The City Related Parties shall at all times, to the extent permitted by law, defend, preserve and protect the Liens on the Pledged Collateral and the assignment by the Corporation pursuant to the Assignment Agreement granted pursuant to the WIFIA Credit Documents and for the benefit of the Corporation (and upon the assignment by the Corporation pursuant to the Assignment Agreement, the WIFIA Credit Provider, as the initial Assignee) under the WIFIA Credit Documents against all claims and demands of all Persons whomsoever, subject to Permitted Liens.

(c) Use of Proceeds. The City shall use the proceeds disbursed under this Agreement 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 City 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 City 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 City 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 City 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 City shall (i) operate and maintain the Wastewater System (A) in a reasonable and prudent manner and (B) substantially in accordance with the Updated Financial Model most recently approved by the WIFIA Credit Provider (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 Wastewater System) and (ii) maintain the Wastewater System in good repair, working order and condition and in accordance with the requirements of all applicable laws and each applicable Related Document. The City 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 City shall at all times procure and maintain or cause to be maintained insurance on the Wastewater System and the construction of the Project, with responsible insurers in such amounts and against such risks (including damage to or destruction of the Wastewater 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 Credit Provider shall be given thirty (30) days written notice of any intended cancellation thereof or reduction of coverage provided thereby. The City 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 City shall (by maintaining with responsible insurers) provide for workers' compensation insurance for City's workers and insurance against public liability and property damage to the Wastewater System to the extent reasonably necessary to protect the City and the WIFIA Credit Provider.

(iii) The City 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 Credit Provider as an additional insured to the extent of its insurable interest.

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

(v) The City shall comply with the insurance requirements of the Financing Documents and shall deliver to the WIFIA Credit Provider within thirty (30) days after receipt thereof any certifications or opinions provided to the City pursuant to the Financing Documents with respect to the City's program of insurance.

(g) Maintain Legal Structure. The City shall maintain its existence as a municipal corporation and general law city duly organized and existing under the Constitution and laws of the State. The Corporation shall maintain its existence as a nonprofit public benefit corporation organized and existing under its Organizational Documents and the laws of the State.

(h) System Accounts; Permitted Investments.

(i) The City shall maintain the Revenue Account in accordance with the terms hereof and the WIFIA Credit Documents. All System Revenues received shall be deposited into the Revenue Account when and as received in trust for the benefit of the Holders of the Secured Obligations, subject to the application of System Revenues to Operation and Maintenance Expenses of the Wastewater System.

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

(i) Compliance with Laws.

(i) The City 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 City 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 City Related Parties shall pay their respective material obligations promptly and in accordance with their terms and pay and discharge promptly all taxes, assessments and governmental charges or levies imposed upon it or upon the System Revenues or other assets of the Wastewater System, before the same shall become delinquent or in default, as well as all lawful and material claims for labor, materials and supplies or other claims which, if unpaid, might give rise to a Lien upon such properties or any part thereof or on the System

Revenues, the Pledged Collateral, the ISA or the Installment Payments; 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 a City Related Party in good faith by appropriate proceedings and so long as the City Related Party 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) SAM Registration. The City 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 Credit Provider and (ii) within sixty (60) days prior to each anniversary of the Effective Date until the Final Disbursement Date, provide to the WIFIA Credit Provider evidence of such active registration status with no active exclusions reflected in such registration.

(l) DUNS Number. The City 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 Credit Provider and (ii) within sixty (60) days prior to each anniversary of the Effective Date, provide to the WIFIA Credit Provider evidence of the continuing effectiveness of such DUNS Number, in each case until the Final Installment Payment Date or to such earlier date as all amounts due or to become due to the WIFIA Credit Provider under this Agreement have been irrevocably paid in full in immediately available funds.

(m) Events of Loss; Loss Proceeds. If an Event of Loss shall occur with respect to the Wastewater System or any part thereof, the City 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 Wastewater System in respect of which the applicable Loss Proceeds were received. The City 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 Wastewater 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 Account and be available for other proper uses of funds deposited in the Revenue Account. If such Net Loss Proceeds are insufficient to enable the City to restore or replace the damaged portions of the Wastewater System, the City shall provide additional funds for that purpose. If permitted by the ISA, the City may apply excess Net Loss Proceeds to redeem or prepay Senior Obligations in accordance with the terms of the Senior Obligation Documents.

(n) Waiver of Sovereign Immunity. To the fullest extent permitted by applicable law, the City 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 City under this Agreement or any other WIFIA Credit Document. To the fullest extent permitted by applicable

law, the Corporation 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 Corporation under this Agreement or any other WIFIA Credit Document.

(o) Accounting and Audit Procedures.

(i) The City shall establish fiscal controls and accounting procedures sufficient to assure proper accounting for all (i) System Revenues, operating expenses, capital expenses, depreciation, reserves, debt issued and outstanding and debt payments and (ii) Project-related costs, Requisitions submitted hereunder, proceeds received pursuant to disbursements made under this Agreement, payments made by the City 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 City shall use accounting, audit and fiscal procedures conforming to GAAP, including, accounting of the Outstanding Balance (and the corresponding unpaid Principal Components of the Installment Payments), Installment Payments, Additional Payments, disbursements, prepayments and calculation of the Outstanding Balance (and the corresponding unpaid Principal Components of the Installment Payments) and the calculation of interest accrued on the Outstanding Balance (and the corresponding Interest Component accrued on the amount of the unpaid Principal Components of the Installment Payments).

(ii) The City shall have a single or program-specific audit conducted in accordance with 2 C.F.R. Part 200 Subpart F and 31 U.S.C. § 7502 in 2020 and annually thereafter, except to the extent biennial audits are permitted for the City pursuant to 2 C.F.R. § 200.504 and 31 U.S.C. § 7502(b). Upon reasonable notice, the City shall cooperate fully in the conduct of any periodic or compliance audits conducted by the WIFIA Credit Provider, 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 financing of the Project, to the Administrator, or the designee thereof, for any such project or programmatic audit.

(p) Access; Records.

(i) So long as any Outstanding Balance shall remain outstanding and until five (5) years after the Outstanding Balance shall have been paid in full, the WIFIA Credit Provider shall have the right, upon reasonable prior notice, to visit and inspect any portion of the Wastewater System, to examine books of account and records of the City relating to the Wastewater System, to make copies and extracts therefrom at the City's expense, and to discuss the City's affairs, finances and accounts relating to the Wastewater System with, and to be advised as to the same by, its officers and employees and its independent public accountants (and by this provision the City irrevocably authorizes its independent public accountants to discuss with the WIFIA Credit Provider the affairs, finances and accounts of the City, whether or not any representative of the City is present, it being understood that nothing contained in this Section 14(p) is intended to confer any right to exclude any such representative from such discussions), all at such reasonable

times and intervals as the WIFIA Credit Provider may request. The City agrees to pay all out-of-pocket expenses incurred by the WIFIA Credit Provider in connection with the WIFIA Credit Provider's exercise of its rights under this Section 14(p) at any time when an Event of Default shall have occurred and be continuing.

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

(q) SRF Planning Loan. By no later than December 31, 2020, the City shall fully discharge, or refinance with Additional Senior Obligations or Additional Subordinate Obligations, the SRF Planning Loan.

Section 15. Negative Covenants. Each City Related Party covenants and agrees as follows until the date the Purchase Price, Additional Payments and other obligations of the City under the ISA and this Agreement (other than contingent indemnity obligations) are irrevocably paid in full in immediately available funds, unless the WIFIA Credit Provider waives compliance in writing:

(a) Indebtedness.

(i) Except for Permitted Debt, the City shall not without the prior written consent of the WIFIA Credit Provider issue or incur indebtedness of any kind (including debt with respect to which the interest rate varies or may be adjusted by the City from time to time) that is payable from, secured or supported by all or any portion of the Pledged Collateral; provided further that in no event shall the City incur any indebtedness of any kind payable from, secured or supported by all or any portion of the Pledged Collateral, including Permitted Debt, without the prior written consent of the WIFIA Credit Provider, while an Event of Default has occurred and is continuing.

(ii) The City 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 City of the Senior Obligations or (B) any Obligations of the Project that are secured by a Lien on any assets or property of the City other than the Pledged Collateral or the pledged collateral described in the Water System Project Credit Agreement.

(iii) The City shall not issue any Obligations the payments of, and security for, which are on parity with the Senior Obligations (the "**Additional Senior Obligations**"), unless: (A) the conditions set forth in the applicable Senior Obligation Document are satisfied; (B) no Event of Default has occurred and is continuing; (C) following issuance of the proposed Additional Senior Obligations, either (X) the Net

Revenues for any four (4) consecutive quarters within the six (6) quarters immediately preceding the proposed issue date (such quarters relating to the City Fiscal Year) shall be sufficient to equal or exceed one hundred and twenty percent (120%) of the greatest amount of Debt Service payable on all Outstanding Senior Obligations (including the proposed Additional Senior Obligations) and shall also be sufficient to equal or exceed one hundred and ten percent (110%) of the greatest amount of Debt Service payable on all Outstanding Obligations (including the proposed Additional Senior Obligations), in each case in the current or any future period; or (Y) the projected Net Revenues for the four (4) full consecutive quarters immediately following the proposed issue date (such quarters relating to the City Fiscal Year), shall be sufficient to equal or exceed one hundred and twenty percent (120%) of the greatest amount of Debt Service payable on all Outstanding Senior Obligations (including the proposed Additional Senior Obligations) and shall also be sufficient to equal or exceed one hundred and ten percent (110%) of the greatest amount of Debt Service payable on all Outstanding Obligations (including the proposed Additional Senior Obligations), in each case in the current or any future period; and (D) not later than thirty (30) days prior to the proposed issue date, the City shall have provided to the WIFIA Credit Provider a certificate signed by the City's Authorized Representative (x) specifying the proposed issue date of such proposed Additional Senior Obligations and (y) confirming that the issuance of such proposed Additional Senior Obligations is authorized pursuant to this Section 15(a)(iii) and satisfies the applicable requirements of this Section 15(a)(iii). For purposes of the calculation for clause (C)(Y) of this Section 15(a)(iii) only, when calculating projected Net Revenues for the four (4) full consecutive quarters immediately following the proposed issue date, the City may include as System Revenues those System Revenues resulting from rate increases that have been approved and will take effect within three (3) years of such date of calculation as confirmed by the Rate Consultant.

(iv) The City shall not issue any Obligations the payments of, and security for, which are subordinated to the Senior Obligations (the “**Additional Subordinate Obligations**”), unless: (A) the conditions set forth in the applicable Subordinate Obligation Document are satisfied; (B) no Event of Default has occurred and is continuing; (C) following issuance of the proposed Additional Subordinate Obligations, either (X) the Net Revenues for any four (4) consecutive quarters within the six (6) quarters immediately preceding the proposed issue date (such quarters relating to the City Fiscal Year) shall be sufficient to equal or exceed one hundred and ten percent (110%) of the greatest amount of Debt Service payable on all Outstanding Obligations (including the proposed Additional Subordinate Obligations) in the current or any future period or (Y) the projected Net Revenues for the four (4) full consecutive quarters immediately following the proposed issue date (such quarters relating to the City Fiscal Year), shall be sufficient to equal one hundred and ten percent (110%) of the greatest amount of Debt Service payable on all Outstanding Obligations (including the proposed Additional Subordinate Obligations) in the current or any future period; and (D) not later than thirty (30) days prior to the proposed issue date, the City shall have provided to the WIFIA Credit Provider a certificate signed by the City's Authorized Representative (x) specifying the proposed issue date of such proposed Additional Subordinate Obligations and (y) confirming that the issuance of such proposed Additional Subordinate Obligations is authorized pursuant to this Section 15(a)(iv) and satisfies the applicable requirements of this Section 15(a)(iv). For purposes of the calculation for clause (C)(Y) of this Section 15(a)(iv) only, when

calculating projected Net Revenues for the four (4) full consecutive quarters immediately following the proposed issue date, the City may include as System Revenues those System Revenues resulting from rate increases that have been approved and will take effect within three (3) years of such date of calculation as confirmed by the Rate Consultant.

(v) Notwithstanding any of the foregoing clauses of this Section 15(a) or anything contained in any Financing Document, the City covenants that it will not have Outstanding at any time Obligations that with respect to which the interest rate varies or may be adjusted by the City from time to time.

(vi) The Corporation shall not issue or incur any obligations of any kind, including any bonds, notes, other evidences of indebtedness, installment sale arrangements, financing lease arrangements, or similar obligations, nor enter into any installment sale arrangements, financing lease arrangements, or similar arrangements with the City, except in connection with Obligations incurred by the City that are permitted pursuant to this Section 15(a) or permitted pursuant to the Water System Project Credit Agreement Documents.

(b) No Lien Extinguishment or Adverse Amendments. Neither City Related Party shall, or shall permit any Person to, without the prior written consent of the WIFIA Credit Provider or as otherwise specifically permitted in the WIFIA Credit Documents, (i) extinguish the Rate Covenant, (ii) extinguish or impair the Liens on the Pledged Collateral or any dedicated source of repayment of the Outstanding Balance (and the corresponding unpaid Principal Components of the Installment Payments) or any other Obligations (the proceeds of which are applied to fund Total Project Costs), in each case granted pursuant to the Financing Documents, (iii) extinguish or impair the assignment by the Corporation of all of its right, title and interest in this Agreement to the Assignee pursuant to the Assignment Agreement, (iv) amend, modify, replace or supplement any Related Document in a manner that could adversely affect the WIFIA Credit Provider (in the WIFIA Credit Provider's determination) in connection with the ISA or this Agreement or which could reasonably be expected to result in a Material Adverse Effect, (v) waive or permit a waiver of any provision of any Related Document in a manner that could adversely affect the WIFIA Credit Provider (in the WIFIA Credit Provider's determination) in connection with the ISA or this Agreement or which could reasonably be expected to result in a Material Adverse Effect, (vi) terminate, assign or replace any WIFIA Credit Document, or (vii) terminate, assign or replace any Related Document (other than as set forth in this Agreement or the replacement of any Principal Project Contract permitted under Section 17(a)(xi) (*Events of Default and Remedies ó Default Under Principal Project Contracts*)) in a manner that could adversely affect the WIFIA Credit Provider or that could reasonably be expected to have a Material Adverse Effect.

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

Corporation's rights or privileges under the ISA other than as provided in the Assignment Agreement. Notwithstanding the previous sentence, the Corporation may collaterally assign its rights to receive payments under other installment sale agreements entered into in connection with the issuance of Permitted Debt.

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

(e) No Prohibited Sale, Lease or Assignment. The City shall not sell, lease or assign its rights in and to the Wastewater System, a substantial portion of the assets included in the Wastewater 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 City in the ordinary course of business.

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

(g) Mergers and Acquisitions. The City 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 System Revenues or other elements of the Pledged Collateral or (B) the availability of the System Revenues for the payment and security of the obligations of the City under the ISA or this Agreement; and (ii) the City provides to the WIFIA Credit Provider, 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 Credit Provider. In addition, the City shall provide all information concerning such reorganization, consolidation or merger as shall have been reasonably requested by the WIFIA Credit Provider. The Corporation shall not, and shall not agree to, reorganize, consolidate with or merge into another Person.

(h) No Defeasance. Notwithstanding anything to the contrary in any Financing Document or document related thereto, the City shall have no right to defease or otherwise discharge its obligation under the ISA to make Installment Payments prior to the payment in full of the Purchase Price of the WIFIA Wastewater System Portion of the Project under the ISA, and no Outstanding Balance shall be considered or deemed to have been paid until the payment in full in immediately available funds by the City of the Outstanding Balance (and the corresponding payment in full of the Purchase Price of the WIFIA Wastewater System Portion of the Project under the ISA).

(i) Hedging. The City shall not enter into any swap or hedging transaction, including inflation indexed swap transactions, “cap” or “collar” transactions, futures, or any other hedging transaction with respect to, or payable from, System Revenues.

Section 16. Reporting Requirements.

(a) Updated Financial Model.

(i) The City shall provide to the WIFIA Credit Provider not later than ninety (90) days after the beginning of each City Fiscal Year, an updated Base Case Financial Model reflecting the then-current and projected conditions. The Updated Financial Model shall demonstrate to the satisfaction of the WIFIA Credit Provider that the City 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 City’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 Wastewater System; (B) evidence of compliance with the Rate Covenant for the most recent City Fiscal Year and the projected Rate Covenant coverages through the Final Installment Payment Date; (C) calculation of the Senior Debt Service Coverage Ratio for the most recent City Fiscal Year; (D) a written narrative identifying any material changes to the underlying assumptions from the previous Updated Financial Model and (E) a certificate signed by the City’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 City’s knowledge and belief, (2) the annual projected Net Revenues will be sufficient to meet the Installment Payment Schedule and to satisfy the Rate Covenant through the Final Installment Payment Date, (3) whether the City is in compliance with its obligations in respect of the Rate Covenant pursuant to Section 14(a) (*Affirmative Covenants ó Rate Covenant*), and (4) whether a WIFIA Reserve Event has occurred.

(b) Annual Financial Statements. The City shall deliver to the WIFIA Credit Provider, as soon as available, but no later than one hundred eighty (180) days after the end of each City Fiscal Year:

(i) a copy of the audited income statement and balance sheet of the City as of the end of such City Fiscal Year and the related audited statements of operations and of cash flow of the City for such City 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 City 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 City or the City's Authorized Representative, stating whether or not, to the City's knowledge after reasonable investigation, 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 City has taken or intends to take in respect thereof.

(c) Final Design Specifications. Upon the request of the WIFIA Credit Provider, the City shall deliver to the WIFIA Credit Provider, no later than ten (10) days after the date of such request, any notice to proceed, the final designs, plans and specifications relating to the development and construction of the Project.

(d) Construction Reporting. The WIFIA Credit Provider 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 City shall be responsible for administering construction oversight of the Project in accordance with applicable federal, state and local governmental requirements. The City agrees to cooperate in good faith with the WIFIA Credit Provider in the conduct of such monitoring by promptly providing the WIFIA Credit Provider with such reports, documentation or other information as shall be requested by the WIFIA Credit Provider or its agents, including any independent engineer reports, documentation or information. During the period through Substantial Completion of the Project, the City shall furnish to the WIFIA Credit Provider, on a quarterly basis, a report on the status of the Project, substantially in the form of **Exhibit J** (*Form of Quarterly Report*). The report shall be executed by the City's Authorized Representative and, for any quarter, shall be delivered to the WIFIA Credit Provider not later than the thirtieth (30th) day 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 City shall provide in such report a description in reasonable detail to the reasonable satisfaction of the WIFIA Credit Provider of the reasons for such projected delay, an estimate of the impact of such delay on the capital and operating costs of the Wastewater System (if any), and that the new date could not reasonably be expected to result in a Material Adverse Effect.

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

(f) Modifications to Total Project Costs. For the period through the Substantial Completion Date, the City shall provide the WIFIA Credit Provider with written notification at least thirty (30) days prior to instituting any increase 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 and an estimate of the impact of such increase on the capital costs and operating costs of the Wastewater System. The City's notice shall demonstrate that the proposed increase is consistent with the provisions of this Agreement, is necessary or beneficial to the

Project, does not materially impair the WIFIA Credit Provider's security or the City'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 Credit Provider shall have the right, in its sole discretion, to monitor (or direct its agents to monitor) the Project's operations and, as the WIFIA Credit Provider 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 City agrees to cooperate in good faith with the WIFIA Credit Provider in the conduct of such monitoring by promptly providing the WIFIA Credit Provider with such reports, documentation, or other information requested by the WIFIA Credit Provider. The WIFIA Credit Provider 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 City shall deliver to the WIFIA Credit Provider an operations and maintenance manual with respect to the Project, in form and substance reasonably acceptable to the WIFIA Credit Provider.

(h) Notices.

(i) The City shall, within thirty (30) days after the City learns of the occurrence, give the WIFIA Credit Provider notice of any of the following events or receipt of any of the following notices, as applicable, setting forth details of such event:

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

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

(C) Litigation: (1) the filing of any litigation, suit or action, or the commencement of any proceeding, against a City Related Party before any arbitrator, Governmental Authority, alternative dispute resolution body, or other neutral third-party, or the receipt by a City Related Party in writing of any threat of litigation, suit, action, or proceeding, or of any written claim against a City Related Party 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 a City Related Party with award amounts in excess of \$500,000 that are payable (in whole or in part) from System Revenues, 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 City's plans to remedy or mitigate the effects of such failure or delay;

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

(F) Amendments: except as otherwise agreed by the WIFIA Credit Provider in writing, copies of (1) any proposed amendments to the ISA, the Water System Project ISA, or the Resolution and any proposed material amendments to any other Financing Documents, in each case, at least thirty (30) days prior to the effective date thereof and (2) fully executed amendments of any Related Document within ten (10) days following execution thereof;

(G) Related Document Defaults: any material breach or default or event of default on the part of the City or any other party under any Related Document;

(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 Senior Obligations or the WIFIA Credit Facility, 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;

(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 City to disclose information previously required to have been disclosed or due to the City or any of its principals meeting any of the criteria set forth in 2 C.F.R. § 180.335;

(K) Additional Principal Project Contracts: copies of any executed Additional Principal Project Contracts (together with any related contracts, side letters or other understandings);

(L) Issuance of Obligations: 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 incurrence of any Permitted Debt (including any Additional Senior Obligations);

(M) 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; and

(N) Draws on WIFIA Reserve Account: the occurrence of any draws on the WIFIA Reserve Account to fund payments of Installment Payments when due.

(ii) Within thirty (30) calendar days after the City learns of the occurrence of an event specified in clause (i) above (other than sub-clauses (A) (*Substantial Completion*), (F) (*Amendments*), (I) (*Ratings Changes*) (in the case of a ratings upgrade), (K) (*Additional Principal Project Contracts*), (L) (*Issuance of Obligations*) and

(N) (*Draws on WIFIA Reserve Account*)), the City's Authorized Representative shall provide a statement to the WIFIA Credit Provider setting forth the actions the City proposes to take with respect thereto. The City shall also provide the WIFIA Credit Provider with any further information reasonably requested by the WIFIA Credit Provider from time to time concerning the matters described in clause (i) above.

(i) Requested Information. The City shall, at any time while the Outstanding Balance (and the corresponding unpaid Principal Components of the Installment Payments) remains unpaid and outstanding, promptly deliver to the WIFIA Credit Provider such additional information regarding the business, financial, legal or organizational affairs of the City or regarding the Project, the Wastewater System or the System Revenues as the WIFIA Credit Provider may from time to time reasonably request.

**ARTICLE VI
EVENTS OF DEFAULT**

Section 17. Events of Default and Remedies.

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

(i) Payment Default. The City shall fail to (i) pay when due any part of any Installment Payment due and payable under the ISA and such failure continues for a period of five (5) days, or (ii) make any mandatory prepayment required pursuant to the provisions of Section 9 (*Prepayment*) and Article VII (*Prepayment of Installment Payments*) of the ISA, in each case when and as the payment thereof shall be required under the ISA and this Agreement or on the Final Installment Payment Date (each such failure, a “**Payment Default**”).

(ii) Covenant Default. A City Related Party shall fail to observe or perform any covenant, agreement or obligation of that City Related Party under this Agreement, the ISA or any other WIFIA Credit Document (other than in the case of any Payment Default, any payment default under the Water System Project Credit Agreement, any payment default of Obligations secured by Water System revenues, any Development Default, any failure to comply with the Rate Covenant or any failure to fully fund the WIFIA Reserve Account to its required balance), and such failure shall not be cured within thirty (30) days after the earlier to occur of (A) receipt by the City Related Party from the WIFIA Credit Provider of written notice thereof or (B) the City Related Party’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 clause (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 City Related Party 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 City Related Parties made in or delivered pursuant to the WIFIA Credit Documents (or in any certificates delivered by the City Related Parties in connection with the WIFIA Credit 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 clause (iii) if and so long as (A) such misrepresentation is not intentional, (B) such misrepresentation is not a misrepresentation in respect of Section 12(g) (*Representations and Warranties of the City Related Parties ó Security Interests*), Section 12(h) (*Representations and Warranties of the City Related Parties ó No Debarment*), Section 12(j) (*Representations and Warranties of the City Related Parties ó Compliance with Laws*), or Section 12(y) (*Representation and Warranties of the City Related Parties ó*

Patriot Act), (C) in the reasonable determination of the WIFIA Credit Provider, 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 Credit Provider, the underlying issue giving rise to the misrepresentation is capable of being cured, (E) the underlying issue giving rise to the misrepresentation is cured by the relevant City Related Party within thirty (30) days from the date on which the relevant City Related Party first became aware (or reasonably should have become aware) of such misrepresentation, and (F) the relevant City Related Party diligently pursues such cure during such thirty (30) day period.

(iv) Acceleration of Senior Obligations. With respect to any Senior Obligation, any acceleration shall occur of the maturity of that Senior Obligation, any such Senior Obligation shall not be paid in full upon the final maturity thereof, or any Holder of such Senior Obligation shall have the immediate right to accelerate such Senior Obligation.

(v) Cross Default with Other Financing Documents. Any default shall occur in respect of the performance of any covenant, agreement or obligation of a City Related Party under any Financing Document, and such default shall be continuing after the giving of any applicable notice and the expiration of any applicable grace period specified in the Financing Document with respect to such default, and such City Related Party 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 System Revenues, the Wastewater System or the Project shall be entered against the City which has a Material Adverse Effect.

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

(viii) Invalidity of WIFIA Credit Documents or Water System Project Credit Agreement Documents. (A) Any WIFIA Credit Document or Water System Project Credit Agreement Document ceases to be in full force and effect (other than as a result of the termination thereof in accordance with its terms) or becomes void, voidable, illegal or unenforceable, or any City Related Party contests in any manner the validity or enforceability of any WIFIA Credit Document or Water System Project Credit Agreement Document to which it is a party or denies it has any further liability under any WIFIA Credit Document or Water System Project Credit Agreement Document to which it is a party, or purports to revoke, terminate or rescind any WIFIA Credit Document or Water System Project Credit Agreement Document to which it is a party; (B) any Financing Document ceases (other than as expressly permitted thereunder) to be effective or to grant a valid and binding security interest on any material portion of the Pledged Collateral other than as a result of actions or a failure to act by, and within the control of, any Secured Party, and with the priority purported to be created thereby; (C) any event occurs that results in the material impairment in the perfection or priority of the WIFIA Credit Provider's security interest in the Pledged Collateral or in the value of such Pledged Collateral; or

(D) any event occurs that results in the material impairment in the Corporation's assignment of its rights and interests in the ISA to the WIFIA Credit Provider.

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

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

(xi) Default Under Principal Project Contracts. The City 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 City 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 clause (xi) if, in the case of any termination of a Principal Project Contract, the City replaces such Principal Project Contract with a replacement agreement (1) entered into with another counterparty that (I) 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 Credit Provider), (II) 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 (III) is not, at the time of such replacement, in violation of any applicable laws, (2) on substantially the same terms and conditions as the Principal Project Contract being replaced (or otherwise reasonably acceptable to the WIFIA Credit Provider) and (3) 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 Wastewater 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 City (and which the City could not reasonably have avoided or mitigated) or (B) the City shall have in force an insurance policy or policies under which the City is entitled to recover amounts sufficient to pay (and may use such amounts to pay), Debt Service for all Senior Obligations (including the Installment Payments) and costs and expenses of the City during such cessation of operations.

(xiii) Failure to Fund WIFIA Reserve Account. (1) After the occurrence of a WIFIA Reserve Event, the City fails to initially fully fund the WIFIA Reserve Account to its required balance pursuant to the requirements of this Agreement or (2) after initial funding, the City fails to maintain the WIFIA Reserve Account in an amount equal to the WIFIA Reserve Account Requirement, with the exception of if such failure is due to a lack of receipt of by the City of Net Revenues available for funding.

(b) Upon the occurrence of any Bankruptcy Related Event of a City Related Party, the Event of Default in Section 17(a)(iv) (*Events of Default and Remedies - Acceleration of Senior Obligations*) or the Event of Default in Section 17(a)(viii) (*Events of Default and Remedies ó Invalidation of WIFIA Credit Documents*), all obligations of the WIFIA Credit Provider hereunder with respect to the disbursement of any undisbursed amounts under this Agreement shall automatically be deemed terminated, and the Installment Payments shall be subject to mandatory prepayment as set forth in Section 9 (*Prepayment ó Mandatory Prepayment Upon a Bankruptcy Related Event*) and Article VII (*Prepayment of Installment Payments*) of the ISA.

(c) Upon the occurrence of any Event of Default, the WIFIA Credit Provider, by written notice to the City, may exercise any or all of the following remedies:

(i) the WIFIA Credit Provider may suspend or terminate all of its obligations hereunder with respect to the disbursement of any undisbursed amounts under this Agreement;

(ii) the WIFIA Credit Provider may cease permitting accrued interest on the unpaid Principal Components of the Installment Payments to be capitalized;

(iii) the WIFIA Credit Provider may apply the Default Rate provisions of Section 6 (*Interest Rate*) and Section 4.4(d) (*Installment Payments ó Rate on Overdue Payments*) of the ISA;

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

(v) the WIFIA Credit Provider 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 ISA or the other WIFIA Credit Documents, and may prosecute any such judgment or final decree against the City Related Parties and collect in the manner provided by law out of the property of the City Related Parties the moneys adjudged or decreed to be payable, and the WIFIA Credit Provider shall have all of the rights and remedies of a creditor, including all rights and remedies of a secured creditor under the Uniform Commercial Code, and may take such other actions at law or in equity as may appear necessary or desirable to collect all amounts payable by City under this Agreement, the ISA or the other WIFIA Credit Documents then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the City Related Parties under this Agreement, the ISA or the other WIFIA Credit Documents.

(d) No action taken pursuant to this Section 17 shall relieve either City Related Party from its obligations pursuant to this Agreement, the ISA or the other WIFIA Credit Documents, all of which shall survive any such action.

ARTICLE VII MISCELLANEOUS

Section 18. Disclaimer of Warranty. The WIFIA Credit Provider 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 Credit Provider be liable for any incidental, indirect, special or consequential damages incidental to or arising out of this Agreement or 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 Credit Provider, the City or the Corporation or any Person executing this Agreement or any of the other WIFIA Credit Documents shall be personally liable on this Agreement or such other WIFIA Credit 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 City, the Corporation, the Government, or the WIFIA Credit Provider, solely by virtue of this Agreement, and the City agrees to indemnify and hold the WIFIA Credit Provider, 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 this Agreement, and that no third party creditor or creditors of either City Related Party shall have any right against the WIFIA Credit Provider with respect to the disbursement of proceeds made pursuant to this Agreement.

Section 21. City's Authorized Representative. The City shall at all times have appointed a City's Authorized Representative by designating such Person or Persons from time to time to act on the City's behalf pursuant to a written certificate furnished to the WIFIA Credit Provider and the Servicer, if any, containing the specimen signature or signatures of such Person or Persons and signed by the City.

Section 22. WIFIA Credit Provider's Authorized Representative. The WIFIA Credit Provider hereby appoints the Director of the WIFIA Program, whose notice details are set forth below in Section 31 (*Notices*), to serve as the WIFIA Credit Provider'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 Credit Provider's Authorized Representative. The WIFIA Credit Provider shall provide notice to the City within a reasonable time period following the succession.

Section 23. Servicer. The WIFIA Credit Provider may from time to time designate another entity or entities to perform, or assist the WIFIA Credit Provider in performing, the duties of the Servicer or specified duties of the WIFIA Credit Provider under this Agreement and the ISA. The WIFIA Credit Provider shall give the City 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 Credit Provider shall be deemed to be a reference to the Servicer with respect to any duties which the WIFIA Credit Provider shall have delegated to such Servicer. The WIFIA Credit Provider may at any time

assume the duties of any Servicer under this Agreement and the ISA. The City Related Parties 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. None of either City Related Party's rights or obligations hereunder nor any interest therein may be assigned or delegated by either City Related Party without the prior written consent of the WIFIA Credit Provider.

Section 28. Remedies Not Exclusive. No remedy conferred herein or reserved to the WIFIA Credit Provider 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 Credit Provider to exercise any right or remedy provided hereunder upon a default of a City Related Party (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 Credit Provider may be exercised from time to time, and as often as may be deemed expedient by the WIFIA Credit Provider.

Section 30. Counterparts. This Agreement and any amendments, waivers, consents or supplements hereto or in connection herewith may be executed in any number of counterparts and by the different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document. Electronic delivery of an executed counterpart of a signature page of this Agreement or of any document or instrument delivered in connection herewith in accordance with Section 31 (*Notices*) shall be effective as delivery of an original executed counterpart of this Agreement or such other document or instrument, as applicable.

Section 31. Notices. Notices hereunder shall be (a) in writing, (b) effective as provided below and (c) given by (i) nationally recognized courier service, (ii) hand delivery, or (iii) email, in each case to:

If to WIFIA Credit Provider: Environmental Protection Agency
WJC-W 6201A
1200 Pennsylvania Avenue NW
Washington, D.C. 20460
Attention: WIFIA Director
Email: WIFIA_Portfolio@epa.gov

If to City: The City of Morro Bay
City Hall – 595 Harbor Street
Morro Bay, CA 93442
Attention: Rob Livick, P.E.
Email: rlivick@morrobayca.gov

with a copy to: City of Morro Bay Public Facilities Corporation
c/o The City of Morro Bay
City Hall – 595 Harbor Street
Morro Bay, CA 93442
Attention: Rob Livick, P.E.
Email: rlivick@morrobayca.gov

Unless otherwise instructed by the WIFIA Credit Provider’s Authorized Representative, all notices to the WIFIA Credit Provider should be made by email to the email address noted above for the WIFIA Credit Provider. 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 City’s Authorized Representative, with respect to notices to the City, or by the WIFIA Credit Provider’s Authorized Representative, with respect to notices to the WIFIA Credit Provider 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 City shall, to the extent permitted by law, indemnify the WIFIA Credit Provider and any official, employee, agent or representative of the WIFIA Credit Provider (each such Person being herein referred to as an “**Indemnitee**”) against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities, fines, penalties, costs and expenses (including the fees, charges and disbursements of any counsel for any Indemnitee and the costs of environmental remediation), whether known, unknown, contingent or otherwise, incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (a) the execution, delivery and performance of this Agreement or any of the other Related Documents, (b) the disbursement of proceeds under this Agreement or the use of the proceeds

thereof, or (c) the violation of any law, rule, regulation, order, decree, judgment or administrative decision relating to the environment, the preservation or reclamation of natural resources, the management, release or threatened release of any hazardous material or to health and safety matters; in each case arising out of or in direct relation to the Project; provided, that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities, fines, penalties, costs or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee. In case any action or proceeding is brought against an Indemnitee by reason of any claim with respect to which such Indemnitee is entitled to indemnification hereunder, the City 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 City's expense, and such participation by the City in the defense thereof shall not release the City 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 City 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 City Related Parties 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 City, the Corporation nor the WIFIA Credit Provider shall assert, and each of the City, the Corporation and the WIFIA Credit Provider hereby waives, any claim against any Indemnitee or the City or the Corporation, 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 disbursement of proceeds under this Agreement or the use of the proceeds thereof, provided, that nothing in this sentence shall limit the City'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 City under this Section 32 shall survive the payment or prepayment in full of the unpaid Principal Components of the Installment Payments, or transfer of the ISA, 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 City hereunder or thereunder.

Section 33. Sale of Rights in the ISA. The WIFIA Credit Provider, as the initial Assignee, shall not sell its rights in the ISA and the Assignment Agreement at any time prior to the Substantial Completion Date. After such date, the WIFIA Credit Provider, as the initial Assignee, may sell its rights in the ISA and the Assignment Agreement to another entity or reoffer it 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 Credit Provider, as the initial Assignee, shall deem advisable. However, in making such sale or reoffering the WIFIA Credit Provider, as the initial Assignee, shall not change the terms and conditions of this Agreement without the prior written consent of the City and the Corporation in accordance with Section 24 (*Amendments and Waivers*). The WIFIA Credit Provider, as the initial Assignee, shall provide, at least sixty (60) days prior to any sale or reoffering of its rights in the ISA and the Assignment Agreement, written notice to the

City of the WIFIA Credit Provider'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 shall not (x) obligate the WIFIA Credit Provider, as the initial Assignee, to sell nor (y) provide any City Related Party with any rights or remedies in the event the WIFIA Credit Provider, as the initial Assignee, for any reason, does not sell its rights in the ISA and the Assignment Agreement. Notwithstanding anything herein to the contrary, any sale of its rights in the ISA and the Assignment Agreement shall provide that the sale is in accordance with all pertinent securities laws and that the assignee has reviewed pertinent information from the City with respect to the financial condition of the City, the Net Revenues, and the Wastewater System, and that the assignee understands the type of investment it has purchased or has been provided the opportunity to review and receive information and has chosen not to do so.

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

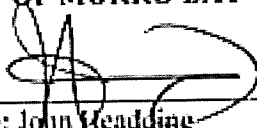
Section 35. Termination. This Agreement shall terminate upon the irrevocable payment in full in immediately available funds by the City of the Outstanding Balance (and the corresponding payment in full of the Purchase Price of the WIFIA Wastewater System Portion of the Project under the ISA), together with the Additional Payments and 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(p) (*Affirmative Covenants ó 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.

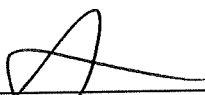
[Signature Pages Follow]

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

CITY OF MORRO BAY

By: 
Name: John Meadding
Title: Mayor

CITY OF MORRO BAY PUBLIC FACILITIES CORPORATION

By: 
Name: Scott Collins
Title: Executive Director

**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 BUDGET

Sources	Percent (%)	Amount (\$)
Drinking Water System WIFIA Loan	29%	\$36,516,525.66
Wastewater System WIFIA Loan	20%	\$25,183,810.80
Cleanwater SRF Loan (Wastewater System)	51%	\$64,218,717.54
Total Sources	100%	\$125,919,054.00
Project Element	Description	Estimated Costs
New Water Reclamation Facility (WRF)	0.97 million gallons per day (MGD) WRF will provide preliminary, secondary, tertiary, and advanced treatment, and will produce recycled water meeting indirect potable reuse (IPR) standards for a groundwater replenishment reuse project using subsurface application.	\$75,475,897.00
Conveyance Facilities	Includes approximately 13,000 linear feet of high-density polyethylene or fusible PVC, ranging in diameter from 12 to 20 inches as the West Alignment pipeline; a 15,000 linear feet trenchless crossing of Willow Cramp Creek Communication Conduit; approximately 16,000 linear feet of high-density polyethylene or fusible PVC, 8 inches in diameter as the Indirect Potable Reuse East pipeline; and a Dual Pump Station with a firm capacity of 14 million gallons per day	\$30,884,235.00
Recycled Water Facilities	Includes a minimum of four injection wells with a general depth of approximately 60 feet where purified water from the WRF will be pumped into the aquifer and a yet to be determined amount of monitoring wells of approximately 60-foot depth.	\$4,400,000.00
Additional Project Costs	Includes General City Costs, Program Management and Planning, Environmental, Funding Support, Property Acquisition, Public Outreach, New Electrical Services, and Planning and Permitting.	\$15,158,922.00
Total Uses		\$125,919,054.00
Total Eligible Project Costs		\$125,919,054.00
Total Project Costs		\$125,919,054.00

SCHEDULE II
CONSTRUCTION SCHEDULE

Project Element	Design Completion	Construction Start	Civil Works Completion	Substantial Completion (as defined under the WLA)
WRF	12/26/19	02/03/20	04/08/22	7/05/22
Conveyance Facilities	5/01/20	7/31/20	12/07/21	2/08/22
Recycled Water Facilities	04/01/22	06/24/22	7/31/22	11/1/23

SCHEDULE III
EXISTING INDEBTEDNESS

A. Senior Obligations

	Agreement/Series	Outstanding Principal
1.	Wastewater Planning Loan for the Water Reclamation Facility Project – Phase 1, between the City of Morro Bay and the California State Water Resources Control Board, executed on January 20, 2017	\$10.3 million

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 Credit Facility 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 City and its organization's financial institution (bank) and EPA. FedWire is typically used to initiate financial institution (bank) generated "same day" electronic payments.

Cities 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

Laura Collier
USEPA Headquarters
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N. W.
Mail Code: 2733R
Washington, DC 20460

Courier Address (e.g., FEDEX, UPS)


Courier Address
Laura Collier
Ronald Reagan Building
1300 Pennsylvania Ave., N.W.
Rm # 81164
Washington, DC 20004

2. Provide the following information on your check payment to ensure proper credit please:
 - Company/remitter's name (City name as it appears on EPA document)
 - Complete address, including city, state, zip
 - Remitter's point of contact person and phone number
 - EPA WIFIA Credit Facility # (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.

NOTE: When checks are provided as payment, you authorize the EPA to use information from your check to make a payment. 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.

Attachment 1 – FedWire Payment Form and Instructions

		U.S. Environmental Protection Agency FUNDS TRANSFER DEPOSIT		
PC TO 021030004	TYPE 10	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.		
FROM	CL	REF	AMOUNT \$	
SENDER				
RECEIVER TREAS NYC/(68010099)EPA				
THIRD PARTY INFORMATION				

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

TO (ABA)	021030004
TYPE	10
RECEIVER	TREAS NYC/(68010099)EPA
THIRD PARTY INFORMATION	To ensure proper credit please include the following information on your payment: < Company/remitter's name (City 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 Credit Facility # (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 a delay in the notification of the funds transfer to EPA.	

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

Phone: 202-564-7593. Voicemails can be left when calling outside business hours
 Email: OCFO-OC-ACAD-WIFIA@epa.gov

For questions about the WIFIA program:

Email: wifia@epa.gov

SCHEDULE 12(f)

LITIGATION

No.	Parties	Date Initiated	Description	Venue
1	None			

SCHEDULE 12(n)

PRINCIPAL PROJECT CONTRACTS

A. Existing Principal Project Contracts (effective as of the date of this Agreement)

Project Element	Firm	Services	Description
General	Carollo Engineers, Inc.	Program Management	Includes management of all the components of the Water Reclamation Facility (WRF) Project including, but not limited to, budget and schedule management, funding, public outreach, and permitting.
New Water Reclamation Facility (WRF)	Filanc/Overland Contracting, Inc.	Design/Build	Design and construction of 0.97 million gallons per day (MGD) WRF will provide preliminary, secondary, tertiary, and advanced treatment, and will produce recycled water meeting indirect potable reuse (IPR) standards for a groundwater replenishment reuse project using subsurface application.
Conveyance Facilities	Water Works Engineers	Design	Design of approximately 13,000 linear feet of high-density polyethylene or fusible PVC, ranging in diameter from 12 to 20 inches as the West Alignment pipeline; a 15,000 linear feet trenchless crossing of Willow Cramp Creek Communication Conduit; approximately 16,000 linear feet of high-density polyethylene or fusible PVC, 8 inches in diameter as the Indirect Potable Reuse East pipeline; and a Dual Pump Station with a firm capacity of 14 million gallons per day.

B. Expected Additional Principal Project Contracts (expected to either be executed, or are executed and expected to become effective, at a future date)

Project Element	Services	Description
Conveyance Facilities	Construction	Includes construction of approximately 13,000 linear feet of high-density polyethylene or fusible PVC, ranging in diameter from 12 to 20 inches as the West Alignment pipeline; a 15,000 linear feet trenchless crossing of Willow Cramp Creek Communication Conduit; approximately 16,000 linear feet of high-density polyethylene or fusible PVC, 8 inches in diameter as the Indirect Potable Reuse East pipeline; and a Dual Pump Station with a firm capacity of 14 million gallons per day.
Recycled Water Facilities	Design	Includes design of a minimum of four injection wells with a general depth of approximately 60 feet where purified water from the WRF will be pumped into the aquifer.
Recycled Water Facilities	Construction	Includes construction of a minimum of four injection wells with a general depth of approximately 60 feet where purified water from the WRF will be pumped into the aquifer.

SCHEDULE 12(p)
ENVIRONMENTAL MATTERS

None.

EXHIBIT A

RESERVED

EXHIBIT B

ANTICIPATED DISBURSEMENT SCHEDULE

**Wastewater WIFIA Loan
Drinking Water WIFIA Loan**

<u>Federal Fiscal Year</u>	<u>Loan</u>	<u>Amount</u>
2020	Wastewater Loan	\$12,591,905.40
	Drinking Water Loan	\$18,258,262.83
2021	Wastewater Loan	\$12,591,905.40
	Drinking Water Loan	\$18,258,262.83

EXHIBIT C

**FORM OF CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
AND OTHER RESPONSIBILITY MATTERS**

The undersigned, on behalf of the City of Morro Bay, hereby certifies that the City of Morro Bay 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 City of Morro Bay 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 date hereof 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 date hereof had one or more public transactions (federal, state or local) terminated for cause or default.

Dated: March 9, 2020

CITY OF MORRO BAY

By: _____

Name: Scott Collins

Title: City Manager

**FORM OF CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
AND OTHER RESPONSIBILITY MATTERS**

The undersigned, on behalf of the City of Morro Bay Public Facilities Corporation, hereby certifies that the City of Morro Bay Public Facilities 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 City of Morro Bay Public Facilities Corporation and its principals (as defined in 2 C.F.R. § 180.995 and supplemented by 2 C.F.R. 1532.995):

(e) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;

(f) Have not within a three (3) year period preceding the date hereof 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;

(g) 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

(h) Have not within a three (3) year period preceding the date hereof had one or more public transactions (federal, state or local) terminated for cause or default.

Dated: March 9, 2020

**CITY OF MORRO BAY PUBLIC FACILITIES
CORPORATION**

By: _____

Name: Scott Collins

Title: Executive Director

EXHIBIT D

REQUISITION PROCEDURES

This **Exhibit D** sets out the procedures which the City agrees to follow in submitting Requisitions for the disbursement of proceeds under the WIFIA Credit Agreement 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 Credit Provider may reject or correct Requisitions submitted by the City or withhold a disbursement. The City expressly agrees to the terms hereof, and further agrees that (i) the rights of the WIFIA Credit Provider contained herein are in addition to (and not in lieu of) any other rights or remedies available to the WIFIA Credit Provider under the WIFIA Credit Agreement, and (ii) nothing contained herein shall be construed to limit the rights of the WIFIA Credit Provider to take actions including administrative enforcement action and actions for breach of contract against the City if it fails to carry out its obligations under the WIFIA Credit Agreement during the term thereof.

Section 1. General Requirements. All requests by the City for the disbursement of proceeds under the WIFIA Credit Agreement shall be made by electronic mail or overnight delivery service by submission to the WIFIA Credit Provider, in accordance with Section 31 (*Notices*) of the WIFIA Credit Agreement, of a Requisition, in form and substance satisfactory to the WIFIA Credit Provider and completed and executed by the City'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 City anticipates that it will draw down all or a portion of the proceeds under the WIFIA Credit Agreement to reimburse the City for Eligible Project Costs paid by or on behalf of the City prior to such disbursement of proceeds under the WIFIA Credit Agreement, whether paid from funds of the City or proceeds of Obligations issued by the City, including for the purpose of paying or redeeming such Obligations, the City 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 Credit Provider to verify that such costs are Eligible Project Costs paid by the City, 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 Credit Provider shall review the Eligible Project Costs Documentation for compliance with WIFIA disbursement requirements, and any amounts approved by the WIFIA Credit Provider as Eligible Project Costs will be disbursed at such time as the City submits a Requisition in respect of such approved amounts.

The WIFIA Credit Provider agrees to promptly send to the City in accordance with Section 31 (*Notices*) of the WIFIA Credit Agreement, an acknowledgement of receipt of each Requisition in the form attached as **Appendix Two** (*[Approval/Disapproval] of the WIFIA Credit Provider*) to this **Exhibit D** setting forth the date of receipt by the WIFIA Credit Provider of such Requisition and setting forth the Business Day on which disbursement will be made absent denial by the WIFIA Credit Provider. All disbursement requests must be received by the WIFIA Credit Provider

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 Credit Provider, the WIFIA Credit Provider will notify the City 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 Credit Provider if it is: (a) submitted without signature; (b) submitted under signature of a Person other than a City's Authorized Representative; (c) submitted after prior disbursement of all proceeds under the WIFIA Credit Agreement; (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 ó Construction Reporting*), and (iii) a copy of the most recent update to the City's risk register, if requested by the WIFIA Credit Provider.

The WIFIA Credit Provider will notify the City 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 Credit Facility proceeds remaining to be disbursed, the request will be treated as if submitted in the amount of the balance so remaining, and the WIFIA Credit Provider will so notify the City.

Section 3. Correction. A Requisition containing an apparent mathematical error will be corrected by the WIFIA Credit Provider, after telephonic or email notification to the City, and will thereafter be treated as if submitted in the corrected amount.

Section 4. Withholding. The WIFIA Credit Provider shall be entitled to withhold approval (in whole or in part) of any pending or subsequent requests for the disbursement of proceeds under the WIFIA Credit Agreement if: (a) a Default or an Event of Default shall have occurred and be continuing; (b) the City (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 Credit Provider to monitor compliance by the City with applicable law pertaining to the Project or with the terms and conditions of the WIFIA Credit Agreement; (iii) fails to observe or comply with any applicable law, or any term or condition of the WIFIA Credit Agreement; (iv) fails to satisfy the conditions set forth in Section 4 (*Disbursement Conditions*) and Section 11(b) (*Conditions Precedent ó Conditions Precedent to Disbursements*) of the WIFIA Credit Agreement; or (v) fails to deliver Eligible Project Costs Documentation satisfactory to the WIFIA Credit Provider at the times and in the manner specified by the WIFIA Credit Agreement; provided, that in such case of Section 4(v), the WIFIA Credit Provider 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 ONE TO EXHIBIT D
FORM OF REQUISITION

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

Re: Morro Bay Water Reclamation Facility Project (WIFIA Ref N17108CA and WIFIA Ref N17150CA)

Ladies and Gentlemen:

Pursuant to Section 4 (*Disbursement Conditions*) of each of the WIFIA Credit Agreement for the Wastewater System Portion of the Morro Bay Water Reclamation Facility and the WIFIA Credit Agreement for the Water System Portion of the Morro Bay Water Reclamation Facility, each dated as of March 9, 2020 (together, the “WIFIA Credit Agreements”), each by and between the CITY OF MORRO BAY (the “City”), the CITY OF MORRO BAY PUBLIC FACILITIES CORPORATION and the UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, acting by and through the Administrator (the “WIFIA Credit Provider”), the City hereby requests disbursement in the amount set forth below in respect of Eligible Project Costs paid or incurred by the City. “WIFIA Credit Facility” collectively refers to the WIFIA Credit Facility described in each WIFIA Credit Agreement. All other capitalized terms used but not defined herein have the meaning set forth in the WIFIA Credit Agreements.

In connection with this Requisition the undersigned, as the City’s Authorized Representative, hereby represents and certifies the following:

1.	Project name	[]
2.	City name	[]
3.	WIFIA reference number (Wastewater System)	N17108CA
	WIFIA reference number (Water System)	N17150CA
4.	Requisition number	[]
5.	²Requested disbursement amount from the WIFIA Credit Agreement for the	\$[] 40.82% of requested disbursement

² With respect to each Requisition, (i) the Eligible Project Costs relating to the Project in its entirety shall be allocated pro rata between the Wastewater System Project and the Water System Project based on the following percentages: 40.82% for the Wastewater System Project and 59.18% for the Water System Project; and (ii) proceeds available under the WIFIA Credit Agreement shall be disbursed hereunder only if there is a concurrent disbursement under the Water System Project Credit Agreement. NOTE: the last disbursement will have to adjusted slightly to account for rounding for a non-standard number.

	Wastewater System Portion & percentage of total disbursement	
	Requested disbursement amount from the WIFIA Credit Agreement for the Water System Portion & percentage of total disbursement	\$[___] 59.18% of requested disbursement
	TOTAL:	\$[___]
6.	Requested disbursement date (the “Disbursement Date”)	[___]
7.	Total amounts previously disbursed under the WIFIA Credit Agreement for the Wastewater System Portion	\$[___]
	Total amounts previously disbursed under the WIFIA Credit Agreement for the Water System Portion	\$[___]
	TOTAL:	\$[___]
8.	Wire instructions	[___]

9. The amounts hereby requisitioned have been paid or incurred and approved for payment by or on behalf of the City for Eligible Project Costs and have not been paid for or reimbursed by any previous disbursement from WIFIA Credit Facility 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 City that is not the WIFIA Credit Facility (“Other Debt”).
10. The aggregate amount of all disbursements of the WIFIA Credit Facility (including the amount requested under this Requisition but excluding any interest that is capitalized in accordance with the WIFIA Credit Agreements) does not exceed (a) the amount of the WIFIA Credit Facility, (b) the amount of Eligible Project Costs paid or incurred by the City, and (c) the cumulative disbursements through the end of the current Federal Fiscal Year as set forth in the Anticipated Disbursement Schedule in each WIFIA Credit Agreement.
11. The City has sufficient available funds committed to the Project, which together with funds that remain available and not yet drawn under the WIFIA Credit Facility, will be sufficient to pay the reasonably anticipated remaining Total Project Costs.
12. The total federal assistance provided to the Project, including the maximum principal amount of the WIFIA Credit Facility (excluding any interest that is capitalized in accordance with the terms hereof), does not exceed eighty percent (80%) of Total Project Costs.

13. The City 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 Credit Facility 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).
14. Each of the insurance policies obtained by the City in satisfaction of Section 11(a)(xvi) (*Conditions Precedent ó Conditions Precedent to Effectiveness*) of the WIFIA Credit Agreements is in full force and effect, and no notice of termination thereof has been issued by the applicable insurance provider.
15. As of the date hereof and on the Disbursement Date (immediately after giving effect to the above-requested disbursement of WIFIA Credit Facility 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 July 12, 2018.
16. The City, 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 Credit Provider.
17. The representations and warranties of the City Related Parties set forth in the WIFIA Credit Agreements 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).
18. Each Financing Document and Principal Project Contract that has been delivered by the City to the WIFIA Credit Provider pursuant to Section 11(b) (*Conditions Precedent ó Conditions Precedent to Disbursements*) is complete, fully executed and in full force and effect.
19. The current estimated percentage of physical completion of the Project is [____]%. The City is in compliance with Section 16(d) (*Reporting Requirements ó Construction Report*) 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. The City has [repaid][refinanced] all Project-related planning loans from the Clean Water State Revolving Fund and the Drinking Water State Revolving Fund (including the State

Loan) [with long-term Clean Water State Revolving Fund or Drinking Water State Revolving Fund construction loans].³

³ For any disbursement occurring after December 31, 2020.

21. All documentation evidencing the Eligible Project Costs to be reimbursed to the City by the above-requested disbursement has been delivered by the City to the WIFIA Credit Provider at the times and in the manner specified by the WIFIA Credit Agreements, including the details set forth [in the attachment hereto, which is in form satisfactory to the WIFIA Credit Provider][below:

WASTEWATER SYSTEM PORTION								WIFIA USE ONLY	
Vendor or Contractor Name ⁴	Invoice Number ⁵	Invoice Date	Payment Date	Invoice Amount	WIFIA Requested Amount ⁶	Activity Type ⁷	Description of Activity ⁸	Approved Amount	Notes

WATER SYSTEM PORTION								WIFIA USE ONLY	
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⁴ If seeking reimbursement for internal costs, enter “Internally financed activities.”

⁵ Vendor’s number indicated on the invoice sent to the Borrower.

⁶ If the amount requested for reimbursement by WIFIA is less than the total amount of the invoice, include an explanation for the difference.

⁷ 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 column H.

⁸ 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.

Vendor or Contractor Name ⁹	Invoice Number ¹⁰	Invoice Date	Payment Date	Invoice Amount	WIFIA Requested Amount ¹¹	Activity Type ¹²	Description of Activity ¹³	Approved Amount	Notes

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

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

¹¹ If the amount requested for reimbursement by WIFIA is less than the total amount of the invoice, include an explanation for the difference.

¹² 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 column H.

¹³ 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.

22. The undersigned acknowledges that if the City 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 City the penalties of 18 U.S.C. § 1001, to the extent the Government deems appropriate.

Dated: _____

CITY OF MORRO BAY¹⁴

By: _____

Name:

Title:

¹⁴ To be executed by an Authorized Representative.

APPENDIX TWO TO EXHIBIT D

**[APPROVAL/DISAPPROVAL] OF THE WIFIA CREDIT PROVIDER
(To be delivered to the City)**

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,]¹⁵ by the WIFIA Credit Provider (as defined herein) pursuant to Section 4 (Disbursement Conditions) of each of the WIFIA Credit Agreement for the Wastewater System Portion of the Morro Bay Water Reclamation Facility and the WIFIA Credit Agreement for the Water System Portion of the Morro Bay Water Reclamation Facility, each dated as of March 9, 2020, each by and between the CITY OF MORRO BAY (the “City”), the CITY OF MORRO BAY PUBLIC FACILITIES CORPORATION and the UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, acting by and through the Administrator (the “WIFIA Credit Provider”).

Any determination, action or failure to act by the WIFIA Credit Provider with respect to the Requisition set forth above, including any withholding of a disbursement, shall be at the WIFIA Credit Provider’s sole discretion, and in no event shall the WIFIA Credit Provider be responsible for or liable to the City for any and/or all consequence(s) which are the result thereof.

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY**, acting by and through
the Administrator¹⁶

By: _____
WIFIA Credit Provider’s Authorized Representative
Name:
Title:
Date:

¹⁵ If there is any partial or full denial of approval, the WIFIA Credit Provider should provide a separate attachment setting forth the reasons for such partial or full denial of approval.

¹⁶ To be executed by an Authorized Representative.

EXHIBIT A TO APPENDIX TWO TO EXHIBIT D

[Insert reasons for any partial or full denial of approval.]

EXHIBIT E

FORM OF NON-LOBBYING CERTIFICATE

Reference is made to that certain WIFIA Credit Agreement for the Wastewater System Portion of the Morro Bay Water Reclamation Facility and that certain WIFIA Credit Agreement for the Water System Portion of the Morro Bay Water Reclamation Facility (each individually and also collectively, the “WIFIA Credit Agreement”), each dated as of March 9, 2020, each by and between the CITY OF MORRO BAY (the “City”), the CITY OF MORRO BAY PUBLIC FACILITIES CORPORATION (the “Corporation”) and the UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, acting by and through the Administrator (the “WIFIA Credit Provider”). Capitalized terms used in this certificate and not defined shall have the respective meanings ascribed to such terms in the WIFIA Credit Agreement.

The undersigned, on behalf of CITY OF MORRO BAY, 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 City, 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 Credit Facility.

(b) If any funds other than proceeds of the WIFIA Credit Facility 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 Credit Facility, the City shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

(c) The City 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.

This certification is a material representation of fact upon which reliance was placed when the WIFIA Credit Provider entered into each WIFIA Credit Agreement. Submission of this certification is a prerequisite to the effectiveness of this 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: March 9, 2020

CITY OF MORRO BAY

By: _____
Name: Scott Collins
Title: City Manager

EXHIBIT F

**INSTALLMENT PAYMENT SCHEDULE
(Wastewater System Portion of the Project)**

EXHIBIT G-1

OPINIONS REQUIRED FROM COUNSEL TO THE CITY

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

Ladies and Gentlemen:

We are the City Attorney to the City of Morro Bay (the “City”) and have been asked to deliver this opinion in connection with the execution and delivery by the City of (1) an Installment Sale Agreement (the “Wastewater Installment Sale Agreement”) between the City and the City of Morro Bay Public Facilities Corporation (the “Corporation”) related to the WIFIA wastewater portion of the above-referenced financing (the “WIFIA Wastewater Portion”), (2) an Assignment Agreement (the “Wastewater Assignment Agreement”) from the Corporation to United States Environmental Protection Agency (the “USEPA”) related to the WIFIA Wastewater Portion, and (3) a WIFIA Credit Agreement (the “Wastewater WIFIA Credit Agreement” and together with the Wastewater Installment Sale Agreement and the Wastewater Assignment Agreement, the “Wastewater Agreements”) related to the WIFIA Wastewater Portion among the City, the Corporation and the USEPA. The Wastewater Agreements and the Principal Project Contracts (as described in Part A of Schedule 1) to which the City is a party are referred to herein as the “Legal Documents.” Terms not defined herein shall be given the meaning provided in the Wastewater WIFIA Credit Agreement.

In connection with this opinion, we have relied upon representations of the City as to facts contained in the Legal Documents, and in certified proceedings and other certifications of public officials and others furnished to us, without undertaking to verify such representations or determine the completeness or accuracy of any statement contained therein by independent investigation. We have also relied on representations of other parties contained in the Legal Documents, certificates furnished to us and in providing funding for the project. The opinion is based on such examination of the laws of the State of California (the “State”) and the laws of the United States to the extent applicable. We have not considered the effect, if any, of the laws of any other jurisdiction upon matters covered by this opinion. We specifically express no opinion under federal, State, or local tax or securities’ laws or the “blue sky” laws of any state.

We have assumed the genuineness of all signatures (other than signatures on behalf of the City for which we have relied on the City’s incumbency certificate) and documents submitted as originals, that all copies submitted to us conform to the originals, the legal capacity of all natural persons, and as to documents executed by entities other than the City, that each such entity has complied with any applicable requirement of law and has the power to enter into and perform its obligations under such documents, and that such documents have been duly authorized, executed and delivered by, and are binding upon and enforceable against, such other entities.

Based upon the foregoing, subject to the limitations herein, and as provided in law or equity, we are of the opinion that:

(a) the City is a municipal corporation and general law city duly organized and existing under the Constitution and laws of the State;

(b) the City has all requisite power and authority under the Constitution and laws of the State to conduct its business and to execute and deliver, and to perform its obligations under, the Legal Documents;

(c) the execution and delivery by the City of, and the performance of its respective obligations under, the Legal Documents have been duly authorized by all necessary action or approval;

(d) the City has duly executed and delivered the Legal Documents and the Legal Documents constitute the legal, valid and binding obligations of the City enforceable against the City in accordance with their respective terms;

(e) Resolution No. 04-20 (the “Resolution”) has been duly adopted by the City Council of the City and is in full force and effect; 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 City, nor is any public vote required, for the execution and delivery by the City of, and the performance by the City of its obligations under, the Legal Documents, other than authorizations, consents, approvals, registrations, declarations and filings that have already been timely obtained or made by the City. In connection with this opinion we note that certain actions may need to be taken by the City related to the construction of the full project, including but not limited to acquiring certain property by eminent domain and entering into the remaining Principal Project Contracts.

(f) the execution and delivery by the City of, and compliance by the City with the provisions of, the Legal Documents in each case do not (i) violate the organizational status of the City, or (ii) violate the law of the United States of America or of the State or (iii) to our actual knowledge, conflict with or constitute a breach of or default under any material agreement or other instrument to which the City is a party, or any court order, consent decree, statute, rule, regulation or any other law to which the City is subject;

(g) pursuant to the Wastewater Installment Sale Agreement, the City’s obligation to make payments of Installment Payments is secured by a lien on and security interest in the Pledged Collateral in favor of the Corporation (and upon the assignment by the Corporation pursuant to the Wastewater Assignment Agreement, the USEPA or a designee thereof, as the initial Assignee), and no filing or recording or any other action is required to be done to perfect the lien on the Pledged Collateral, all as provided in the Wastewater Installment Sale Agreement. Under the Wastewater Installment Payment Agreement, the lien on the Net Revenues ranks pari passu in right of payment and right of security with all Senior Obligations and are senior in right of payment and right of security to all Subordinate Obligations, all as provided in the Wastewater Installment Sale Agreement. As provided in the Wastewater Installment Sale Agreement, the lien on amounts in the WIFIA Payment Account and the WIFIA Reserve Account is solely for the benefit of the Corporation (and upon the assignment by the Corporation pursuant to the Wastewater Assignment Agreement, the USEPA or a designee thereof, as the initial Assignee), and any successor Assignee; and

(h) to our knowledge after due inquiry, there are no actions, suits, proceedings or investigations against the City for which the City has received service of process by or before any court, arbitrator or any other Governmental Authority in connection with the Legal Documents or the Project that are pending. In connection with this opinion, we have inquired of the relevant City officers but have not searched records of any Government Authority.

The opinions expressed herein are based on an analysis of existing laws, regulations, rulings and court decisions and cover certain matters not directly addressed by such authorities. Such opinions may be affected by actions taken or omitted or events occurring after the date hereof. We have not undertaken to determine, or to inform any person, whether any such actions are taken or omitted or events do occur or any other matters come to our attention after the date hereof. This opinion speaks only as of its date and is not intended to, and may not, be relied upon or otherwise used in connection with any such actions, events or matters. Our engagement with respect to the Legal Documents has concluded with their delivery and we disclaim any obligation to update this opinion. In addition, the rights and obligations under the Legal Documents, and their enforceability, may be subject to or limited by applicable law and equity, including bankruptcy, insolvency, receivership, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors' rights or the availability of a particular remedy, to the application of equitable principles and remedies, to the exercise of judicial discretion in appropriate cases, and to the limitations on legal remedies against public agencies in the State. We express no opinion with respect to any indemnification, reimbursement, contribution, choice of law, choice of forum, choice of venue, penalty (including any remedy deemed to constitute a penalty), non-exclusivity of remedies, waiver or severability provisions contained in the above documents. We have not provided any financial advice.

We bring to your attention the fact that our legal opinions are an expression of professional judgment and are not a guarantee of a result. Our opinions are based on our review of existing law we deem relevant and in reliance upon the representations and covenants referenced above. Our engagement with respect to this matter has terminated as of the date hereof, and we do not undertake to advise you of any matters that may come to our attention subsequent to the date hereof that may affect our legal opinions expressed herein.

This opinion is delivered to you, solely for your benefit and is not to be used, quoted, or otherwise referred to or relied upon for any other purpose or by any other person.

Very truly yours,

ALESHIRE & WYNDER, LLP

SCHEDULE 1

PRINCIPAL PROJECT CONTRACTS

A. Existing Principal Project Contracts (effective as of the date of this opinion)

Project Element	Firm	Services	Description
General	Carollo Engineers, Inc.	Program Management	Includes management of all the components of the Water Reclamation Facility (WRF) Project including, but not limited to, budget and schedule management, funding, public outreach, and permitting.
New Water Reclamation Facility (WRF)	Filanc/Overland Contracting, Inc.	Design/Build	Design and construction of 0.97 million gallons per day (MGD) WRF will provide preliminary, secondary, tertiary, and advanced treatment, and will produce recycled water meeting indirect potable reuse (IPR) standards for a groundwater replenishment reuse project using subsurface application.
Conveyance Facilities	Water Works Engineers	Design	Design of approximately 13,000 linear feet of high-density polyethylene or fusible PVC, ranging in diameter from 12 to 20 inches as the West Alignment pipeline; a 15,000 linear feet trenchless crossing of Willow Cramp Creek Communication Conduit; approximately 16,000 linear feet of high-density polyethylene or fusible PVC, 8 inches in diameter as the Indirect Potable Reuse East pipeline; and a Dual Pump Station with a firm capacity of 14 million gallons per day.

B. Expected Additional Principal Project Contracts (expected to either be executed, or are executed and expected to become effective, at a future date)

Project Element	Services	Description
Conveyance Facilities	Construction	Includes construction of approximately 13,000 linear feet of high-density polyethylene or fusible PVC, ranging in diameter from 12 to 20 inches as the West Alignment pipeline; a 15,000 linear feet trenchless crossing of Willow Cramp Creek Communication Conduit; approximately 16,000 linear feet of high-density polyethylene or fusible PVC, 8 inches in diameter as the Indirect Potable Reuse East pipeline; and a Dual Pump Station with a firm capacity of 14 million gallons per day.
Recycled Water Facilities	Design	Includes design of a minimum of four injection wells with a general depth of approximately 60 feet where purified water from the WRF will be pumped into the aquifer.
Recycled Water Facilities	Construction	Includes construction of a minimum of four injection wells with a general depth of approximately 60 feet where purified water from the WRF will be pumped into the aquifer.

EXHIBIT G-2

OPINIONS REQUIRED FROM SPECIAL COUNSEL TO THE CORPORATION

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

Ladies and Gentlemen:

We are the City Attorney to the City of Morro Bay (the “City”) and as such act as counsel to the Morro Bay Public Facilities Corporation (the “Corporation”) and have been asked to deliver this opinion in connection with the execution and delivery by the Corporation of (1) an Installment Sale Agreement (the “Wastewater Installment Sale Agreement”) between the City and the Corporation related to the WIFIA wastewater portion of the above-referenced financing (the “WIFIA Wastewater Portion”), (2) an Assignment Agreement (the “Wastewater Assignment Agreement”) from the Corporation to United States Environmental Protection Agency (the “USEPA”) related to the WIFIA Wastewater Portion, and (3) a WIFIA Credit Agreement (the “Wastewater WIFIA Credit Agreement” and together with the Wastewater Installment Sale Agreement and the Wastewater Assignment Agreement, the “Wastewater Agreements”) related to the WIFIA Wastewater Portion among the City, the Corporation and the USEPA. The Wastewater Agreements to which the Corporation is a party are referred to herein as the “Legal Documents.” Terms not defined herein shall be given the meaning provided in the Wastewater WIFIA Credit Agreement.

In connection with this opinion, we have relied upon the representations of the Corporation as to facts contained in the Legal Documents, and in certified proceedings and other certifications of officers of the Corporation and others furnished to us, without undertaking to verify such representations or determine the completeness or accuracy of any statement contained therein by independent investigation. We have also relied on representations of other parties contained in the Legal Documents, certificates furnished to us and in providing funding for the project. The opinion is based on such examination of the laws of the State of California (the “State”) and the laws of the United States to the extent applicable. We have not considered the effect, if any, of the laws of any other jurisdiction upon matters covered by this opinion. We specifically express no opinion under federal, State, or local tax or securities’ laws or the “blue sky” laws of any state.

We have assumed the genuineness of all signatures (other than signatures on behalf of the Corporation for which we have relied on the Corporation’s incumbency certificate) and documents submitted as originals, that all copies submitted to us conform to the originals, the legal capacity of all natural persons, and as to documents executed by entities other than the Corporation, that each such entity has complied with any applicable requirement of law and has the power to enter into and perform its obligations under such documents, and that such documents have been duly authorized, executed and delivered by, and are binding upon and enforceable against, such other entities.

Based upon the foregoing, subject to the limitations herein, and as provided in law or equity, we are of the opinion that:

(a) the Corporation has been duly organized and is existing as a nonprofit corporation pursuant to the laws of the State;

(b) the Corporation has all requisite power and authority under the Corporation's Organizational Documents and under the laws of the State to conduct its business and to execute and deliver, and to perform its obligations under, the Legal Documents;

(c) the execution and delivery by the Corporation of, and the performance of its respective obligations under, the Legal Documents have been duly authorized by all necessary organizational and regulatory actions or approval;

(d) the Corporation has duly executed and delivered the Legal Documents and the Legal Documents constitute the legal, valid and binding obligations of the Corporation enforceable against the Corporation in accordance with their respective terms;

(e) Resolution No. PFC 01-20 has been duly adopted by the Board of Directors of the Corporation and is in full force and effect; 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 Corporation for the execution and delivery by the Corporation of, and the performance by the Corporation of its obligations under, the Legal Documents, other than authorizations, consents, approvals, registrations, declarations and filings that have already been timely obtained or made by the Corporation;

(f) the execution and delivery by the Corporation of, and compliance by the Corporation with the provisions of, the Legal Documents in each case do not (i) violate the Organizational Documents of the Corporation, or (ii) violate the law of the United States of America or of the State or (iii) to our actual knowledge, conflict with or constitute a breach of or default under any material agreement or other instrument to which the Corporation is a party, or any court order, consent decree, statute, rule, regulation or any other law to which the Corporation is subject;

(g) to our knowledge after due inquiry, there are no actions, suits, proceedings or investigations against the Corporation for which the Corporation has received service of process by or before any court, arbitrator or any other Governmental Authority in connection with the Legal Documents or the Project that are pending. In connection with this opinion, we have inquired of the relevant officers of the Corporation but have not searched the records of any Governmental Authority; and

(h) the assignment pursuant to the Wastewater Assignment Agreement constitutes the legal, valid and binding assignment by the Corporation to the USEPA, as the initial Assignee, of certain of the Corporation's rights under the Wastewater Installment Sale Agreement, including the right to enforce payment of the Installment Payments from the Pledged Collateral. This assignment has been approved by the City and the Corporation, and is valid, irrespective of whether any party has notice of the assignment and without the need for any physical delivery, recordation, filing or further act.

The opinions expressed herein are based on an analysis of existing laws, regulations, rulings and court decisions and cover certain matters not directly addressed by such authorities.

Such opinions may be affected by actions taken or omitted or events occurring after the date hereof. We have not undertaken to determine, or to inform any person, whether any such actions are taken or omitted or events do occur or any other matters come to our attention after the date hereof. This opinion speaks only as of its date and is not intended to, and may not, be relied upon or otherwise used in connection with any such actions, events or matters. Our engagement with respect to the Legal Documents has concluded with their delivery and we disclaim any obligation to update this opinion. In addition, the rights and obligations under the Legal Documents, and their enforceability, may be subject to or limited by applicable law and equity, including bankruptcy, insolvency, receivership, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors' rights or the availability of a particular remedy, to the application of equitable principles and remedies, to the exercise of judicial discretion in appropriate cases, and to the limitations on legal remedies against public agencies or non-profit corporations in the State. We express no opinion with respect to any indemnification, reimbursement, contribution, choice of law, choice of forum, choice of venue, penalty (including any remedy deemed to constitute a penalty), non-exclusivity of remedies, waiver or severability provisions contained in the above documents. We have not provided any financial advice.

We bring to your attention the fact that our legal opinions are an expression of professional judgment and are not a guarantee of a result. Our opinions are based on our review of existing law we deem relevant and in reliance upon the representations and covenants referenced above. Our engagement with respect to this matter has terminated as of the date hereof, and we do not undertake to advise you of any matters that may come to our attention subsequent to the date hereof that may affect our legal opinions expressed herein.

This opinion is delivered to you, solely for your benefit and is not to be used, quoted, or otherwise referred to or relied upon for any other purpose or by any other person.

Very truly yours,

ALESHIRE & WYNDER, LLP

EXHIBIT H-1

FORM OF CITY CLOSING CERTIFICATE

Reference is made to that certain WIFIA Credit Agreement for the Wastewater System Portion of the Morro Bay Water Reclamation Facility and that certain WIFIA Credit Agreement for the Water System Portion of the Morro Bay Water Reclamation Facility (each individually and also collectively, the “WIFIA Credit Agreement”), each dated as of March 9, 2020, each by and between the CITY OF MORRO BAY (the “City”), the CITY OF MORRO BAY PUBLIC FACILITIES CORPORATION and the UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, acting by and through the Administrator (the “WIFIA Credit Provider”). Capitalized terms used in this certificate and not defined shall have the respective meanings ascribed to such terms in the WIFIA Credit Agreement.

In connection with Section 11(a) (*Conditions Precedent ó Conditions Precedent to Effectiveness*) of each WIFIA Credit Agreement, the undersigned, Scott Collins, City Manager, as City’s Authorized Representative, does hereby certify on behalf of the City and not in his/her personal capacity, as of the date hereof:

(a) pursuant to Section 11(a)(viii) of each WIFIA Credit Agreement, attached hereto as Annex A is an incumbency certificate that lists all persons, together with their positions and specimen signatures, who are duly authorized by the City to execute the Related Documents to which the City is or will be a party, and who have been appointed as a City’s Authorized Representative in accordance with Section 21 (*Ekwøøw' Cwvj qt k' gf 'Tgr t gugp w' kxg*) of each WIFIA Credit Agreement;

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

(c) pursuant to Section 11(a)(iii) of each WIFIA Credit Agreement, each Existing Principal Project Contract is listed on Part A of Schedule 12(n) attached to each WIFIA Credit Agreement and each Expected Additional Principal Project Contract is listed on Part B of Schedule 12(n) attached to each WIFIA Credit Agreement;

(d) pursuant to Section 11(a)(iv) of each WIFIA Credit Agreement, attached hereto as Annex C is a copy of Resolution No. 04-20 adopted on January 14, 2020 (the “Resolution”), which Resolution is in full force and effect. There are no additional instruments or documents necessary for the City to execute and deliver, or to perform its obligations under, the WIFIA Credit Documents (collectively including all of the documents included in both definitions thereof) to which it is a party and to consummate and implement the transactions contemplated by the WIFIA Credit Documents (collectively including all of the documents included in both definitions thereof);

(e) pursuant to Section 11(a)(viii) of each WIFIA Credit Agreement, the aggregate of all funds committed to the development and construction of the Project as set forth in the Base Case Financial Model and in the Project Budget are sufficient to carry out the Project, pay all Total Project Costs anticipated for the Project and achieve Substantial Completion by the Projected Substantial Completion Date;

(f) pursuant to Section 11(a)(viii) of each WIFIA Credit Agreement, each City Related Party 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 Credit Documents (collectively including all of the documents included in both definitions thereof), 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) of each WIFIA Credit Agreement, (i) the maximum principal amount of each WIFIA Credit Facility (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 City, 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 each WIFIA Credit Facility (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) of each WIFIA Credit Agreement, the City 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 Credit Provider, has provided evidence satisfactory to the WIFIA Credit Provider of such compliance;

(i) pursuant to Section 11(a)(viii) of each WIFIA Credit Agreement, the City 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) of each WIFIA Credit Agreement, (i) the City's Federal Employer Identification Number is 95-2308829, (ii) the City's Data Universal Numbering System number is 060890575, and (iii) the City 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 D;

(k) pursuant to Section 11(a)(viii) of each WIFIA Credit Agreement, the representations and warranties of each City Related Party set forth in each WIFIA Credit Agreement and in each other Related Document to which the City 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;

(l) pursuant to Section 11(a)(viii) of each WIFIA Credit Agreement, 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 July 12, 2018;

(m) pursuant to Section 11(a)(ix) of each WIFIA Credit Agreement, none of the rating letters delivered to the WIFIA Credit Provider pursuant to such Section 11(a)(x) has been reduced, withdrawn or suspended as of the Effective Date;

(n) pursuant to Section 11(a)(x) of each WIFIA Credit Agreement, the City has delivered to the WIFIA Credit Provider the Base Case Financial Model, which (i) demonstrates that projected Net Revenues are sufficient to meet the Installment Payment Schedule, (ii) demonstrates compliance with the Rate Covenant for each City Fiscal Year through the Final Installment Payment Date and a Senior Debt Service Coverage Ratio for each Payment Period through the Final Installment Payment Date that is not less than 1.30 to 1.00, (iii) reflects amortization and payment schedules acceptable to the WIFIA Credit Provider and (iv) demonstrates that the City has developed, and identified adequate revenues to implement, a plan for operating, maintaining and repairing the Project over the useful life of the Project;

(o) pursuant to Section 11(a)(xi) of each WIFIA Credit Agreement, attached hereto as Annex E are certificates of insurance, and such insurance certificates are true and correct, reflect the WIFIA Credit Provider as an additional insured and demonstrate compliance with the requirements of Section 14(f) (*Affirmative Covenants ó Insurance*) of each WIFIA Credit Agreement; and

(p) pursuant to Section 11(a)(xv) of each WIFIA Credit Agreement, attached hereto as Annex F is documentation demonstrating the establishment of the WIFIA Payment Account and the WIFIA Reserve Account for the Wastewater Fund and the Water Fund.

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

CITY OF MORRO BAY

By: _____

Name: Scott Collins

Title: City Manager

ANNEX A TO EXHIBIT H-1 FORM OF CITY CLOSING CERTIFICATE

CITY INCUMBENCY CERTIFICATE

The undersigned certifies that he/she is the City Clerk of the City of Morro Bay, a municipal corporation and general law city duly organized and existing under the Constitution and laws of the State of California (the “City”), 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 City 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 Credit Documents (collectively including all of the documents included in both definitions thereof) and/or the Financing Documents as the City’s Authorized Representative (each as defined in that certain WIFIA Credit Agreement for the Wastewater System Portion of the Morro Bay Water Reclamation Facility and that certain WIFIA Credit Agreement for the Water System Portion of the Morro Bay Water Reclamation Facility, each dated as of March 9, 2020, each by and between the City of Morro Bay, the City of Morro Bay Public Facilities Corporation and the United States Environmental Protection Agency, acting by and through the Administrator):

<u>Name</u>	<u>Title</u>	<u>Signature</u>
John Headding	Mayor	_____
Scott Collins	City Manager	_____
Jennifer Callaway	Finance Director/Treasurer	_____

IN WITNESS WHEREOF, the undersigned has executed this certificate as of this 9th day of March, 2020.

CITY OF MORRO BAY

By: _____
Name: Dana Swanson
Title: City Clerk

**ANNEX B TO EXHIBIT H-1 FORM OF CITY CLOSING CERTIFICATE
FINANCING DOCUMENTS**

[See attached pages]

**ANNEX C TO EXHIBIT H-1 FORM OF CITY CLOSING CERTIFICATE
RESOLUTION**

[See attached pages]

**ANNEX D TO EXHIBIT H-1 FORM OF CITY CLOSING CERTIFICATE
SYSTEM FOR AWARD MANAGEMENT (WWW.SAM.GOV) SCREENSHOT**

[See attached pages]

**ANNEX E TO EXHIBIT H-1 FORM OF CITY CLOSING CERTIFICATE
CERTIFICATES OF INSURANCE**

[See attached pages]

ANNEX F TO EXHIBIT H-1 FORM OF CITY CLOSING CERTIFICATE

**SCREENSHOTS DEMONSTRATING ESTABLISHMENT OF
WIFIA PAYMENT ACCOUNT FOR THE WASTEWATER FUND
WIFIA RESERVE ACCOUNT FOR THE WASTEWATER FUND
WIFIA PAYMENT ACCOUNT FOR THE WATER FUND
WIFIA RESERVE ACCOUNT FOR THE WATER FUND**

[See attached pages]

EXHIBIT H-2

FORM OF CORPORATION CLOSING CERTIFICATE

Reference is made to that certain WIFIA Credit Agreement for the Wastewater System Portion of the Morro Bay Water Reclamation Facility and that certain WIFIA Credit Agreement for the Water System Portion of the Morro Bay Water Reclamation Facility (each individually and also collectively, the “WIFIA Credit Agreement”), each dated as of March 9, 2020, each by and between the CITY OF MORRO BAY (the “City”), the CITY OF MORRO BAY PUBLIC FACILITIES CORPORATION (the “Corporation”) and the UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, acting by and through the Administrator (the “WIFIA Credit Provider”). Capitalized terms used in this certificate and not defined shall have the respective meanings ascribed to such terms in the WIFIA Credit Agreement.

In connection with Section 11(a) (*Conditions Precedent ó Conditions Precedent to Effectiveness*) of each WIFIA Credit Agreement, the undersigned, Executive Director, as an authorized representative of the Corporation, does hereby certify on behalf of the Corporation and not in his/her personal capacity, as of the date hereof:

(a) the Corporation is a nonprofit public benefit corporation 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 ISA, the Assignment Agreement and each WIFIA Credit Agreement (the “Corporation Documents”) then in existence, to execute and deliver each WIFIA Credit Agreement and the other Corporation Documents, and to carry out and consummate all transactions contemplated thereby and has duly authorized the execution, delivery and performance of each WIFIA Credit Agreement and the other Corporation Documents;

(b) the following were duly elected, qualified and acting members of the Board of Directors of the Corporation and officers of the Corporation on the dates on which the Resolution (described below) was adopted and are the duly elected, qualified and acting members and officers of the Corporation as of the date hereof:

John Heading, President and Board Member

Marlys Mcpherson, Board Member

Dawn Addis, Board Member

Jeff Heller, Board Member

Robert Davis, Board Member

Scott Collins, Executive Director

Dana Swanson, Secretary

Jennifer Callaway, Treasurer

(c) pursuant to Section 11(a)(viii) of each WIFIA Credit Agreement, attached hereto as Annex A is an incumbency certificate that lists all persons, together with their positions and specimen signatures, who are duly authorized by the Corporation to execute the Corporation Documents and who is an authorized representative of the Corporation;

(d) pursuant to Section 11(a)(iv) of each WIFIA Credit Agreement, attached hereto as Annex B is a copy of Articles of Incorporation and Bylaws as in effect on the Effective Date (and certified by the Secretary of State of the State as of a date within 30 days prior to the date hereof, to the extent applicable), which Organizational Documents are in full force and effect, and a Certificate of Status-Domestic of the Corporation issued by the California Secretary of State as of a date within 30 days prior to the date hereof indicating that the Corporation is authorized to exercise all of its powers, rights and privileges in the State and a Letter of Good Standing of the Corporation from the California Franchise Tax Board as of a date within 30 days prior to the date hereof;

(e) Resolution No. PFC 01-20, adopted by the Board of Directors of the Corporation on January 14, 2020 and authorizing, among other things, the Corporation to enter into the ISA, the Assignment Agreement and each WIFIA Credit Agreement (the "Resolution") has been duly adopted by the Board of Directors of the Corporation and is in full force and effect and attached hereto as Annex C is a complete, fully executed copy of such resolution;

(f) other than as set forth in the paragraphs above, there are no additional instruments or documents necessary for the Corporation to execute and deliver, or to perform its obligations under, the WIFIA Credit Documents (collectively including all of the documents included in both definitions thereof) to which it is a party and to consummate and implement the transactions contemplated by the WIFIA Credit Documents (collectively including all of the documents included in both definitions thereof);

(g) pursuant to Section 11(a)(viii) of each WIFIA Credit Agreement, the Corporation has obtained all Governmental Approvals necessary to execute and deliver, and perform its obligations under the WIFIA Credit Documents (collectively including all of the documents included in both definitions thereof), and each such Governmental Approval is final, non-appealable and in full force and effect (and is not subject to any notice of violation, breach or revocation);

(h) as of the date hereof, the officers of the Corporation executing (or that previously executed) the Corporation Documents, and any certifications or instruments related thereto, to which the Corporation is a party are (or were at the time of such execution) duly and properly in office and fully authorized to execute the same;

(i) each of the Corporation Documents in effect as of the date hereof has been duly authorized, executed and delivered by the Corporation and constitutes the legal, valid and binding agreement of the Corporation enforceable against the Corporation in accordance with its terms, except as such enforceability (i) may be limited by applicable receivership, 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), judicial discretion and legal limitations applicable to public agencies in the State of California;

(j) the assignment pursuant to the Assignment Agreement constitutes the legal, valid and binding assignment by the Corporation to the WIFIA Credit Provider, as the initial Assignee, of the Corporation's rights under the ISA, including the right to enforce payment of the Installment Payments from the Pledged Collateral; this assignment has been approved by the City and the Corporation, and is valid, irrespective of whether any party has notice of the assignment and without the need for any physical delivery, recordation, filing or further act; and

(k) pursuant to Section 11(a)(viii) of each WIFIA Credit Agreement, the representations and warranties of the Corporation set forth in each WIFIA Credit Agreement and in each other Corporation Document 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.

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

**CITY OF MORRO BAY PUBLIC FACILITIES
CORPORATION**

By: _____

Name: Scott Collins

Title: Executive Director

ANNEX A TO EXHIBIT H-2 FORM OF CORPORATION CLOSING CERTIFICATE
CORPORATION INCUMBENCY CERTIFICATE

The undersigned certifies that he/she is the Secretary of the City of Morro Bay Public Facilities Corporation, a nonprofit public benefit corporation duly organized and existing under the laws of the State of California (the "Corporation"), 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 Corporation 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 Credit Documents (collectively including all of the documents included in both definitions thereof) and/or the Financing Documents as the Corporation's Authorized Representative (each as defined in that certain WIFIA Credit Agreement for the Wastewater System Portion of the Morro Bay Water Reclamation Facility and that certain WIFIA Credit Agreement for the Water System Portion of the Morro Bay Water Reclamation Facility, each dated as of March 9, 2020, each by and between the City of Morro Bay, the City of Morro Bay Public Facilities Corporation and the United States Environmental Protection Agency, acting by and through the Administrator):

<u>Name</u>	<u>Title</u>	<u>Signature</u>
John Headding	President	_____
Scott Collins	Executive Director	_____
Jennifer Callaway	Treasurer	_____

IN WITNESS WHEREOF, the undersigned has executed this certificate as of this 9th day of March, 2020.

CITY OF MORRO BAY PUBLIC FACILITIES CORPORATION

By: _____
Name: Dana Swanson
Title: Secretary

**ANNEX B TO EXHIBIT H-2 FORM OF CORPORATION CLOSING CERTIFICATE
COPY OF ORGANIZATIONAL DOCUMENTS AND GOOD STANDING
CERTIFICATES**

[See attached pages]

**ANNEX C TO EXHIBIT H-2 FORM OF CORPORATION CLOSING CERTIFICATE
RESOLUTION**

[See attached pages]

EXHIBIT I
FORM OF CERTIFICATE OF SUBSTANTIAL COMPLETION

[Letterhead of City]

[Date]

WIFIA Program Office
[Insert Proper Address]
Attention: Administrator

Project: Morro Bay Water Reclamation Facility Project (WIFIA – N17108CA and N17150CA)

Dear Director:

This Notice is provided pursuant to Section 16(h)(i)(A) (*Reporting Requirements ó Notices ó Substantial Completion*) of that certain WIFIA Credit Agreement for the Wastewater System Portion of the Morro Bay Water Reclamation Facility and that certain WIFIA Credit Agreement for the Water System Portion of the Morro Bay Water Reclamation Facility (together, the “WIFIA Credit Agreement”), each dated as of March 9, 2020, each by and between the City of Morro Bay (the “City”), the City of Morro Bay Public Facilities Corporation and the United States Environmental Protection Agency, acting by and through the Administrator (the “WIFIA Credit Provider”).

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

I, the undersigned, in my capacity as the City’s Authorized Representative and not in my individual capacity, do hereby certify to the WIFIA Credit Provider 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 Credit Agreement, has been achieved.

CITY OF MORRO BAY¹⁷

By: _____
Name:
Title:

¹⁷ To be executed by an Authorized Representative.

EXHIBIT J

FORM OF QUARTERLY REPORT

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

Re: Morro Bay Water Reclamation Facility Project (WIFIA – N17108CA and N17150CA)

This Quarterly Report for the period of [____] is provided pursuant to Section 16(d) (*Reporting Requirements ó Construction Reporting*) of that certain WIFIA Credit Agreement for the Wastewater System Portion of the Morro Bay Water Reclamation Facility and that certain WIFIA Credit Agreement for the Water System Portion of the Morro Bay Water Reclamation Facility (together, the “WIFIA Credit Agreement”), each dated as of March 9, 2020, each by and between the City of Morro Bay (the “City”), the City of Morro Bay Public Facilities Corporation and the United States Environmental Protection Agency, acting by and through the Administrator (the “WIFIA Credit Provider”). Unless otherwise defined herein, all capitalized terms in this Quarterly Report have the meanings assigned to those terms in the WIFIA Credit 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

--

Dated: _____

CITY OF MORRO BAY¹⁸

By: _____

Name:

Title:

¹⁸ To be executed by an Authorized Representative.

EXHIBIT K

FORM OF PUBLIC BENEFITS REPORT

Pursuant to Section 11(a)(xiv)) and Section 16(e) of the WIFIA Credit Agreement, City of Morro Bay (the “City”) is providing this Public Benefits Report in connection with the Morro Bay Water Reclamation Facility (WIFIA – N17108CA and N17150CA):

- (i) **The estimated interest savings the City is realizing through the use of the WIFIA Credit Facility compared to comparable market rate financing:**

\$28,640,490

- (ii) **With respect to the report delivered prior to the Effective Date, the number of jobs projected to be created by the Project during the period between the Effective Date and the Substantial Completion Date:**

430 jobs

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

New plant will allow the City to meet its regulatory obligations to the California Coastal Commission and California Water Resources Board.

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

1 MGD