



## UPPER SANTA ANA RIVER WATERSHED INFRASTRUCTURE FINANCING AUTHORITY

### SPECIAL NOTICE REGARDING CORONAVIRUS DISEASE 2019 (COVID-19) AND PARTICIPATION IN PUBLIC MEETINGS

On March 4, 2020, Governor Newsom declared a State of Emergency resulting from the threat of COVID-19. On September 16, 2021, Governor Newsom signed Assembly Bill No. 361 into law. Assembly Bill No. 361 amends Government Code section 54953(e) by adding provisions for remote teleconferencing participation in meetings by members of a legislative body, without the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions. The Upper Santa Ana River Watershed Financing Authority adopted a resolution determining, by majority vote, that, as a result of the declared State of Emergency, a meeting in person would present imminent risks to the health or safety of attendees. Accordingly, it has been determined that all meetings of the Upper Santa Ana River Watershed Financing Authority will be held pursuant to the Brown Act and will be conducted via teleconference. There will be no public access to the meeting venue.

### Meeting of the Upper Santa Ana River Watershed Infrastructure Financing Authority

**WEDNESDAY, JANUARY 5, 2022 - 8:30 AM**

**Dial-in Info: (877) 853 5247 US Toll-free  
Meeting ID: 818 8828 6875  
PASSCODE: 3802020**

<https://sbvmwd.zoom.us/j/81888286875>

#### **PUBLIC PARTICIPATION**

Public participation is welcome and encouraged. You may participate in the January 5, 2022 meeting of the Upper Santa Ana River Watershed Infrastructure Financing Authority online and by telephone as follows:

If you are unable to participate online or by telephone, you may also submit your comments and questions in writing for consideration by sending them to [comments@sbvmwd.com](mailto:comments@sbvmwd.com) with the subject line "Public Comment Item #" (insert the agenda item number relevant to your comment) or "Public Comment Non-Agenda Item". Submit your written comments by 6:00 p.m. one day prior to the meeting. All public comments will be provided to the Executive Director and may be read into the record or compiled as part of the record.

**IMPORTANT PRIVACY NOTE:** Participation in the meeting via the Zoom app is strongly encouraged. Online participants MUST log in with a Zoom account. The Zoom app is a free download.

Please keep in mind:

1. This is a public meeting; as such, the virtual meeting information is published on the World Wide Web and available to everyone.
2. Should you participate remotely via telephone, your telephone number will be your "identifier" during the meeting and available to all meeting participants; there is no way to protect your privacy if you elect to call in to the meeting.



# Agenda

**UPPER SANTA ANA RIVER WATERSHED  
INFRASTRUCTURE FINANCING AUTHORITY**  
380 East Vanderbilt Way, San Bernardino, CA 92408

**WEDNESDAY, JANUARY 5, 2022**

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## **CALL TO ORDER/PLEDGE OF ALLEGIANCE**

### **1. PUBLIC COMMENT**

Any person may address the Board on matters within its jurisdiction.

### **2. APPROVAL OF MINUTES**

- 2.1 December 15, 2021, Meeting (Page 3)  
[Watershed Connect Minutes 20211215](#)

### **3. DISCUSSION AND POSSIBLE ACTION ITEMS**

- 3.1 Receive and File the Draft Installment Purchase Agreement (Page 8)  
[Staff Memo - Receive and File the Draft Installment Purchase Agreement](#)  
[Draft WIFIA Installment Purchase Agreement](#)
- 3.2 Consider Resolution authorizing the Joint Powers Authority to conduct remote meetings for the period January 5, 2022 through February 4, 2022 (Page 44)  
[Staff Memo - Consider Continuing Resolution for Remote Meetings for the Next 30 Days](#)  
[Resolution No. 005](#)

### **4. REPORTS (Discuss and Possible Action)**

- 4.1 Executive Director's Report

### **5. ANNOUNCEMENTS**

### **6. ADJOURNMENT**

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**PLEASE NOTE:** Materials related to an item on this Agenda submitted to the Board after distribution of the agenda packet are available for public inspection in the District's office located at 380 E. Vanderbilt Way, San Bernardino, during normal business hours. Also, such documents are available on the District's website at [www.sbvmd.com](http://www.sbvmd.com) subject to staff's ability to post the documents before the meeting. The District recognizes its obligation to provide equal access to those individuals with disabilities. Please contact Melissa Zoba at (909) 387-9228 two working days prior to the meeting with any special requests for reasonable accommodation.

# MINUTES OF THE UPPER SANTA ANA RIVER WATERSHED INFRASTRUCTURE FINANCING AUTHORITY

Regular Meeting of the Board of Directors | December 15, 2021

## ROLL CALL

Member Agency	Director	Attendance
San Bernardino Valley Municipal Water District	Paul Kielhold	Present
Yucaipa Valley Water District	Lonni Granlund	Present
San Bernardino Valley Water Conservation District	Daniel Cozad	Present
San Bernardino Municipal Water Department	Miguel Guerrero	Present

Member Agency		Attendance
San Bernardino Valley Municipal Water District	T. Milford Harrison, Treasurer	Present
San Bernardino Municipal Water Department	Cecilia "Toni" Callicott, Alternate	Absent
San Bernardino Valley Municipal Water District	Gil Botello, Alternate	Present
San Bernardino Valley Water Conservation District	Betsy Miller, Alternate	Absent
Yucaipa Valley Water District	Nyles O'Harra, Alternate	Present
San Bernardino Valley Municipal Water District	Heather Dyer, Executive Director	Present
San Bernardino Valley Municipal Water District	Jose Macedo, Secretary	Present

Staff Present	Agency
Kristeen Farlow	San Bernardino Valley Municipal Water District
Anthony Flordelis	San Bernardino Valley Municipal Water District
Wen Huang	San Bernardino Valley Municipal Water District
Adekunle Ojo	San Bernardino Valley Municipal Water District
Cindy Saks	San Bernardino Valley Municipal Water District
Melissa Zoba	San Bernardino Valley Municipal Water District
Allison Edmisten	Yucaipa Valley Water District

Joseph Zoba	Yucaipa Valley Water District
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Scott Heil	Varner & Brandt
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Others in Attendance:	
Lora Carpenter	Fieldman Rolapp & Associates
Skodtt Hodding	

## CALL TO ORDER

The Regular Meeting of the Upper Santa Ana River Watershed Infrastructure Financing Authority (USAR WIFA) was called to order by Chair Paul Kielhold at 8:30 a.m. Chair Kielhold led the Pledge of Allegiance. A quorum was noted present by roll call.

### 1. PUBLIC COMMENT

Chair Kielhold stated that any member of the public wishing to make any comments to the Authority may do so. There was no comment.

### 2. APPROVAL OF MINUTES

Action: The minutes of the December 1, 2021, meeting were approved by the following roll-call vote:

MOVED: Guerrero	SECONDED: Cozad	APPROVED: 4-0
AYES:	Cozad, Granlund, Guerrero, Kielhold	
NOES:		
ABSTAIN:		
ABSENT:		

### 3. DISCUSSION AND POSSIBLE ACTION ITEMS

3.1 Consider Resolution authorizing the Joint Powers Authority to conduct remote meetings for the period December 15, 2021, through January 14, 2022

Executive Director Heather Dyer explained this requirement for continued teleconferencing of meetings in compliance with the Brown Act and AB 361.

Action: Resolution 003 was adopted by the following roll-call vote:

MOVED: Guerrero	SECONDED: Granlund	APPROVED: 4-0
AYES:	Cozad, Granlund, Guerrero, Kielhold	
NOES:		
ABSTAIN:		
ABSENT:		

RESOLUTION NO. 003

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE UPPER SANTA ANA RIVER WATERSHED INFRASTRUCTURE FINANCING AUTHORITY PROCLAIMING A LOCAL EMERGENCY, RATIFYING THE PROCLAMATION OF A STATE OF EMERGENCY BY GOVERNOR GAVIN NEWSOM ON MARCH 4, 2020, AND AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE LEGISLATIVE BODIES OF THE UPPER SANTA ANA RIVER WATERSHED INFRASTRUCTURE FINANCING AUTHORITY FOR THE PERIOD DECEMBER 15, 2021, THROUGH JANUARY 14, 2022, PURSUANT TO BROWN ACT PROVISIONS

3.2 Consider the Adoption of a Debt Management Policy by Resolution No. 004

Adekunle Ojo explained this policy is a legal requirement that guides the issuance and management of the debt of the Authority. He emphasized that it was developed by bond counsel and the JPA's financial advisor and was reviewed by the Chief Financial Officers of the member agencies. At its meeting, the Technical Advisory Committee (TAC) recommended moving the item forward to the Board, Mr. Ojo stated.

Mr. Ojo reviewed the policy elements.

Action: Resolution 004 was adopted by the following roll-call vote:

MOVED: Granlund	SECONDED: Cozad	APPROVED: 4-0
AYES:	Cozad, Granlund, Guerrero, Kielhold	
NOES:		
ABSTAIN:		
ABSENT:		

#### RESOLUTION NO. 004

#### A RESOLUTION OF THE BOARD OF DIRECTORS OF THE UPPER SANTA ANA RIVER WATERSHED INFRASTRUCTURE FINANCING AUTHORITY ADOPTING A DEBT MANAGEMENT POLICY

#### 4. REPORTS (Discuss and Possible Action)

##### 4.1 Technical Advisory Committee Report

Technical Advisory Committee Chair Joe Zoba briefed the Board on the December 8, 2021 TAC meeting. He noted the announcement from the Environmental Protection Agency (EPA) that the Watershed Connect is a successful entity to file an application for the WIFIA funding. He highlighted the coordination with the consultants from AECOM for completion of the application and advised that the project is on track to be submitted to the EPA in a timely manner.

The December 22, 2021 TAC meeting has been canceled, he advised. The next meeting will be January 12, 2022.

##### 4.2 Executive Director's Report

Executive Director Heather Dyer thanked all the project participants for their work.

#### 5. ANNOUNCEMENTS

##### 5.1 List of Announcements

Director Cozad reported that the Plunge Creek Conservation Project, which was constructed a couple of years ago, received approximately 300 cfs with recent the significant rainfall. All facilities fared well through the event, he noted.

Chair Kielhold announced the next meeting is January 5, 2022.

Ms. Dyer added that the website is live, and a link is available.

Ms. Dyer advised that she will be working with the CFOs to establish a bank account and an auditor early in 2022.

## 6. ADJOURNMENT

Action: The meeting was adjourned at 8:42 a.m. by the following roll-call vote:

MOVED: Granlund	SECONDED: Cozad	APPROVED: 4-0
AYES:	Cozad, Granlund, Guerrero, Kielhold	
NOES:		
ABSTAIN:		
ABSENT:		

<p><b>APPROVAL CERTIFICATION</b></p> <p>I hereby certify to approval of the foregoing Minutes of the Upper Santa Ana River Watershed Infrastructure Financing Authority.</p>  <p>_____</p> <p><b>Secretary</b></p> <p>Date</p> <p>_____</p>
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Respectfully submitted,

Lynda J. Kerney  
Contract Assistant

UPPER SANTA ANA RIVER WATERSHED  
INFRASTRUCTURE FINANCING AUTHORITY



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DATE: January 5, 2021

TO: Board of Directors

FROM: Technical Advisory Committee (TAC)  
Allison Edmisten, Chair, TAC Finance Subcommittee

SUBJECT: Receive and File the Draft Installment Purchase Agreement

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Recommendation:

Staff recommends that the Board Receive and File the Draft Agreement

Background:

Section 12 of the Joint Exercise of Powers Agreement tasks the Technical Advisory Committee to review materials relevant to Projects to be financed by the Authority, including draft Project Agreements, and reporting periodically to the Board regarding its review of such materials.

The Draft Installment Purchase Agreement (also known as the Project Agreement) was prepared by the JPA's bond counsel, Stradling, and reviewed by our financial advisor (Fieldman Rolapp) and the Technical Advisory Committee. A draft/template provides uniformity and saves time while providing flexibility for unique modifications for each project. The attached draft will be used as a template for future project agreements that will need to be authorized by the Board of the Authority and the governing board of the participating Member(s).

An Installment Purchase Agreement lays out the rights and obligations of the Member and the Authority with respect to any debt issued by the Authority for a Member/Project. It commits the Member to make installment debt service payments by a pledge of net revenues (after operating expenses) of the Member.

Fiscal Impact:

None

Attachment:

Draft Installment Purchase Agreement



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**INSTALLMENT PURCHASE AGREEMENT**

**by and between**

\_\_\_\_\_ **DISTRICT**

**and**

**UPPER SANTA ANA RIVER WATERSHED INFRASTRUCTURE FINANCING  
AUTHORITY**

**Dated \_\_\_\_\_, 2022**

**Relating to**

**\$ \_\_\_\_\_**

**UPPER SANTA ANA RIVER WATERSHED INFRASTRUCTURE FINANCING  
AUTHORITY  
WIFIA LOAN AGREEMENT**

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## INSTALLMENT PURCHASE AGREEMENT

This INSTALLMENT PURCHASE AGREEMENT, is entered into and dated as of \_\_\_\_ 1, 2022, by and between \_\_\_\_\_ DISTRICT, a \_\_\_\_\_ district that is duly organized and existing under and by virtue of the laws of the State of California (the “**District**”), and UPPER SANTA ANA RIVER WATERSHED INFRASTRUCTURE FINANCING AUTHORITY, a joint exercise of powers agency that is duly organized and existing under and by virtue of the laws of the State of California (the “**Authority**”).

### RECITALS

A. The District proposes to acquire and construct certain improvements, betterments, renovations and expansions of facilities within its System, as described in Exhibit A (the “WIFIA Project”).

**[If a joint project of two members]** [The Districts propose to acquire and construct certain improvements, betterments, renovations and expansions of facilities within its System, as described in Exhibit A (the “WIFIA Project”).]

B. The Authority has agreed to assist the District[s] in financing a portion of the WIFIA Project on the terms and conditions that are set forth herein.

C. The Authority is authorized by Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California, including but not limited to Section 6540 *et seq.*, to finance the acquisition and construction of property for its members.

D. The District is authorized by Division \_\_ of the Water Code of the State of California, including but not limited to Article \_\_ of Chapter \_\_ thereof, to acquire and construct facilities such as the WIFIA Project for its System.

E. The Authority, the District[s] and the United States Environmental Protection Agency, acting by and through the Administrator of the Environmental Protection Agency (the “Authority Lender”), have entered into a WIFIA Loan Agreement dated \_\_\_\_\_, 2022 (the “WIFIA Loan Agreement”), secured, inter alia, by the payments to be made by the District to the Authority under this Installment Purchase Agreement, to finance such portion of the WIFIA Project.

F. All acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and delivery of this Installment Purchase Agreement do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Installment Purchase Agreement.

NOW, THEREFORE, IN CONSIDERATION OF THESE PREMISES AND OF THE MUTUAL AGREEMENTS AND COVENANTS CONTAINED HEREIN AND FOR OTHER VALUABLE CONSIDERATION, THE PARTIES HERETO DO HEREBY AGREE AS FOLLOWS:

ARTICLE I  
DEFINITIONS

Section 1.01. Definitions. Unless the context otherwise requires, the terms that are defined in this section shall for all purposes hereof and of any amendment hereof or supplement hereto and of any report or other document that is mentioned herein or therein have the meanings that are defined herein, the following definitions to be equally applicable to both the singular and plural forms of any of the terms that are defined herein. All capitalized terms that are used herein and not defined herein shall have the meanings that are ascribed thereto in the WIFIA Loan Agreement.

Accountant’s Report

The term “Accountant’s Report” means a report signed by an Independent Certified Public Accountant.

Acquisition Fund

The term “Acquisition Fund” means the fund by that name established by the District pursuant to Section 3.04.

Authority

The term “Authority” means Upper Santa Ana River Watershed Infrastructure Financing Authority, a joint exercise of powers agency that is duly organized pursuant to the JPA Agreement and existing under and by virtue of the laws of the State of California, including the successors thereto.

Authority Lender

The term “Authority Lender” has the meaning provided in RECITAL E herein.

Bonds

The term “Bonds” means all revenue bonds or notes of the District that are authorized, executed, issued and delivered by the District, the payments of which are payable from Net Revenues on a parity with the WIFIA Installment Payments and which are secured by a pledge of and lien on Revenues as described in Section 5.01 hereof [**including but not limited to [NAME other District parity bonds and notes, if any]**].

Contracts

The term “Contracts” means all contracts of the District previously or hereafter authorized and executed by the District, the payments under which are payable from Net Revenues on a parity with the WIFIA Installment Payments and which are secured by a pledge and lien on Revenues as described in Section 5.01 hereof; [**including but not limited to [NAME other District parity contracts, if any]**], but excluding contracts entered into for operation and maintenance of the System.

## Debt Service

The term “Debt Service” means, for any period of calculation, the sum of:

(i) the interest accruing during such period on all outstanding Bonds, assuming that all outstanding serial Bonds are retired as scheduled and that all outstanding term Bonds are redeemed or paid from sinking fund payments as scheduled (except to the extent that such interest is capitalized or is reasonably anticipated to be reimbursed to the District by the United States of America pursuant to Section 54AA of the Code (Section 1531 of Title I of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5, 23 Stat. 115 (2009), enacted February 17, 2009)), or any future similar program);

(ii) those portions of the principal amount of all outstanding serial Bonds maturing in such period (but excluding Excluded Principal);

(iii) those portions of the principal amount of all outstanding term Bonds required to be paid in such period (but excluding Excluded Principal); and

(iv) those portions of the Contracts that are required to be paid during such period, (except to the extent that the interest that is evidenced and represented thereby is capitalized or is reasonably anticipated to be reimbursed to the District by the United States of America pursuant to Section 54AA of the Code (Section 1531 of Title I of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5, 23 Stat. 115 (2009), enacted February 17, 2009)), or any future similar program and excluding Excluded Principal);

but less the earnings to be derived from the investment of moneys on deposit in debt service reserve funds established for Bonds or Contracts;

provided that, as to any such Bonds or Contracts bearing or comprising interest at other than a fixed rate, the rate of interest used to calculate Debt Service shall, for all purposes, be assumed to be a fixed rate equal to the higher of: (1) the then current variable interest rate borne by such Bonds or Contract plus 1%; and (2) the highest variable rate borne over the preceding 3 months by outstanding variable rate debt issued by the District or, if no such variable rate debt is at the time outstanding, by variable rate debt of which the interest rate is computed by reference to an index that is comparable to that to be utilized in determining the interest rate for the debt then proposed to be issued;

provided further that if any series or issue of such Bonds or Contracts have twenty-five percent (25%) or more of the aggregate principal amount of such series or issue due in any one year (and such principal is not Excluded Principal), Debt Service shall be determined for the period of determination as if the principal of and interest on such series or issue of such Bonds or Contracts were being paid from the date of incurrence thereof in substantially equal annual amounts over a period of twenty-five (25) years from the date of calculation; and

provided further that, as to any such Bonds or Contracts or portions thereof which bear no interest but which are sold at a discount and which discount accretes with respect to such Bonds or Contracts or portions thereof, such accreted discount shall be treated as interest in the calculation of Debt Service; and

provided further that if the Bonds or Contracts constitute interest rate swap agreements or other paired obligations, the interest rate on such Bonds or Contracts shall be the resulting linked rate or the effective fixed interest rate to be paid by the District with respect to such paired obligations; and

provided further that the amount on deposit in a debt service reserve fund on any date of calculation of Debt Service shall be deducted from the amount of principal due at the final maturity of the Bonds and Contracts for which such debt service reserve fund was established and, to the extent that the amount in such debt service reserve fund is in excess of such amount of principal, such excess shall be applied to the full amount of principal due, in each preceding year, in descending order, until such amount is exhausted.

#### District

The term “District” means \_\_\_\_\_ District, a [\_\_\_\_\_] district that is duly organized and existing under and by virtue of the laws of the State of California.

#### Event of Default

The term “Event of Default” means an event that is described in Section 8.01.

#### Excluded Principal

The term “Excluded Principal” means each payment of principal of any Bond or Contract for which there is on file with the Authority Lender (i) a certificate of an Independent Municipal Consultant to the effect that such Bond or Contract is commercial paper or otherwise of a short term or revolving nature and has a maturity of less than 60 months and (ii) a certificate of the Manager to the effect that the District intends to pay such principal from the proceeds of Bonds or Contracts, Subordinate Debt or other bonds, notes or other obligations of the District. No such determination shall affect the security for such Bonds or Contracts or the obligation of the District to pay such Bonds or Contracts from Net Revenues.

#### Fiscal Year

The term “Fiscal Year” means the period from July 1 of each year through June 30 of the following year, or any other twelve-month period that is selected and designated as the official Fiscal Year of the District.

#### Generally Accepted Accounting Principles

The term “Generally Accepted Accounting Principles” means the uniform accounting and reporting procedures set forth in publications of the American Institute of Certified Public Accountants or its successor, or by any other generally accepted authority on such procedures, and includes, as applicable, the standards set forth by the Governmental Accounting Standards Board or its successor.

#### Independent Certified Public Accountant

The term “Independent Certified Public Accountant” means any firm of certified public accountants that is appointed by the District, and each of whom is independent pursuant to the Statement on Auditing Standards No. 1 of the American Institute of Certified Public Accountants.

### Independent Municipal Consultant

The term “Independent Municipal Consultant” means a municipal advisor or firm of such municipal advisors appointed by the District, and who, or each of whom: (1) is in fact independent and not under domination of the District; (2) does not have any substantial interest, direct or indirect, with the District; (3) is not connected with the District as an officer or employee thereof, but who may be regularly retained to make reports thereto; and (4) is registered as a “municipal advisor,” as defined in Section 15B of the Securities Exchange Act of 1934, as amended.

### Installment Payment Date

The term “Installment Payment Date” means any date on which Installment Payments are scheduled to be paid by the District under and pursuant to any Contract.

### Installment Payments

The term “Installment Payments” means the Installment Payments of interest and principal scheduled to be paid by the District under and pursuant to the Contracts.

### JPA Agreement

The term “JPA Agreement” means the Joint Exercise of Powers Agreement, dated July 20, 2021, by and among the District and the other parties thereto, pursuant to which the Authority is established, as such JPA Agreement may be amended and supplemented from time-to-time in accordance therewith.

### Law

The term “Law” means the \_\_\_\_\_ Act, of the State of California (being Division \_\_\_ of the Water Code of the State of California, as amended) and all laws amendatory thereof or supplemental thereto.

### Manager

The term “Manager” means the [**General Manager**] of the District, or any other person that is designated by the [**General Manager**] to act on behalf of the [**General Manager**].

### Net Proceeds

The term “Net Proceeds” means, when used with respect to any casualty insurance or condemnation award, the proceeds from such insurance or condemnation award remaining after payment of all expenses (including attorneys’ fees) incurred in the collection of such proceeds.

### Net Revenues

The term “Net Revenues” means, for any Fiscal Year or other period, the Revenues for such Fiscal Year or other period, as the case may be, less the Operation and Maintenance Costs for such Fiscal Year or other period, as the case may be.



### Operation and Maintenance Costs

The term “Operation and Maintenance Costs” means: (i) costs spent or incurred for maintenance and operation of the System calculated in accordance with Generally Accepted Accounting Principles, including (among other things) the reasonable expenses of management and repair and other expenses that are necessary to maintain and preserve the System in good repair and working order, and including administrative costs of the District that are charged directly or apportioned to the System, including but not limited to salaries and wages of employees, payments to the Public Employees Retirement System, overhead, insurance, taxes (if any), fees of auditors, accountants, attorneys or engineers and insurance premiums, and including all other reasonable and necessary costs of the District or charges (other than debt service payments) required to be paid by it to comply with the terms of this Installment Purchase Agreement or any Contract or of any resolution or indenture authorizing the issuance of any Bonds or of such Bonds (ii) all costs of water provided or otherwise acquired for delivery by the System (including any interim or renewed arrangement therefor), including both fixed and variable components thereof; *but excluding* in all cases (w) depreciation, replacement and obsolescence charges or reserves therefor and amortization of intangibles or other bookkeeping entries of a similar or non-cash nature, (x) all capital charges, (y) any State Water Project costs paid from taxes described in clause (2) in the definition of Revenues or from sources other than Revenues, and (z) all amounts allocable to the District under the JPA Agreement for capital costs thereof, including principal and interest on any bonds, notes or other evidence of indebtedness of the Authority.

### Project

The term “Project” means acquisition of land, additions, betterments, extensions or improvements to the District’s facilities designated by the Board of Directors of the District as a Project, the acquisition and construction of which is to be paid for by the proceeds of any Contracts or Bonds.

### Purchase Price

The term “Purchase Price” means the principal amount plus interest thereon owed by the District to the Authority under the terms hereof as provided in Section 4.01.

### Rate Stabilization Fund

The term “Rate Stabilization Fund” means the fund by that name that is continued pursuant to Section 5.06.

### Revenues

The term “Revenues” means

(i) all income, rents, rates, fees, charges and other moneys derived from the ownership or operation of the System, including, without limiting the generality of the foregoing:

(ii) amounts allocated to the District pursuant to Article XIII A of the Constitution of the State of California and Section 95 et. seq. of the California Revenues and Taxation Code (or any successor or supplementary provisions) and allocated to the System;

(iii) the proceeds of any stand-by or availability charges, development fees and connection charges collected by the District; and

(iv) the earnings on and income derived from the investment of amounts described in clauses (i), (ii) and (iii) above and from District reserves allocable to the System;

but excluding:

(1) customers' deposits or any other deposits or advances subject to refund until such deposits or advances have become the property of the District;

(2) any proceeds of taxes or assessments which are restricted by law to be used by the District to pay bonds or other obligations heretofore or hereafter issued, including but not limited to proceeds of taxes levied to pay costs with respect to the State Water Project; and

(3) gain or loss on the sale of any capital assets as permitted hereby.

“Revenues” also include all amounts transferred from the Rate Stabilization Fund to the Revenue Fund in accordance with Section 5.06. “Revenues” do not include any amounts transferred from the Revenue Fund to the Rate Stabilization Fund during any Fiscal Year in accordance with Section 5.02(c).

#### Revenue Fund

The term “Revenue Fund” means the fund by that name that is continued pursuant to Section 5.02.

#### Service

The term “Service” means the **[water][wastewater][recycled water]** service that is made available or provided by the District.

#### Subordinate Debt

The term “Subordinate Debt” means all revenue bonds or notes of the District the payments on which are payable subordinate to Debt Service and all contracts of the District the payments under which are payable subordinate to Debt Service as set forth in Section 5.02(c) hereof.

#### Subordinate Debt Service

The term “Subordinate Debt Service” means debt service on Subordinate Debt calculated in accordance with the definition of Debt Service with respect to Contracts and Bonds.

#### System

The term “System” means the whole and each and every part of the **[water][wastewater][recycled water]** system of the District, including all real property and buildings, including the portion thereof existing on the date hereof, and including all additions, betterments, extensions and improvements to such System or any part thereof hereafter acquired or constructed.

Treasurer

The term “Treasurer” means the [**Treasurer**] of the District or the successor thereto.

[Unencumbered Fund Balance

The term “Unencumbered Fund Balance” means, for any Fiscal Year, the balance of Net Revenues remaining on deposit in the \_\_\_\_\_ Fund and any rate stabilization fund related to the [**water**][**wastewater**][**recycled water**] system established by the District as of the last day of such Fiscal Year, as shown on the books of the District, which may be lawfully used to pay the WIFIA Installment Payments. The amount of the Unencumbered Fund Balance as of the last day of the Fiscal Year does not include any funds which the District determines will be required for the payment of the WIFIA Installment Payments or the payment of any Bonds or Contracts during the next six months.]

WIFIA Amount

The term “WIFIA Amount” means the amount equal to the total disbursements of the WIFIA Loan with respect to the District’s WIFIA Project under the WIFIA Loan Agreement.

WIFIA Debt Service Account

The term “WIFIA Debt Service Account” means the account by that name created and maintained by the District in accordance with Section 5.07 hereof and the WIFIA Loan Agreement.

WIFIA Installment Payment Date

The term “WIFIA Installment Payment Date” means \_\_\_\_\_, 20\_\_ and the last day of each \_\_\_\_\_ and the last day of each \_\_\_\_\_ thereafter.

WIFIA Installment Payments

The term “WIFIA Installment Payments” means the Installment Payments scheduled to be paid by the District under and pursuant to this Installment Purchase Agreement.

WIFIA Installment Purchase Agreement

The term “WIFIA Installment Purchase Agreement” means this Installment Purchase Agreement, by and between the District and the Authority, dated \_\_\_\_\_, 2022, as originally executed and as it may from time to time be amended or supplemented in accordance herewith.

WIFIA Loan Agreement

The term “WIFIA Loan Agreement” has the meaning provided in RECITAL E herein.

WIFIA Project

The term “WIFIA Project” means the additions, betterments, extensions and improvements to System facilities included within the description as the “Project” in the WIFIA Loan Agreement, as

such WIFIA Project may be modified in accordance with any modification to the definition of “Project” in the WIFIA Loan Agreement.

#### WIFIA-Financed Portion of the WIFIA Project

The term “WIFIA-Financed Portion of the WIFIA Project” means the portion of the WIFIA Project financed by the Authority from the proceeds of the WIFIA Loan allocated to the District, which portion shall be not more than 49% of the Eligible Project Costs of the WIFIA Project.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES

Section 2.01. Representations by the District. The District makes the following representations:

(a) The District is a \_\_\_\_\_ district that is duly organized and existing under and pursuant to the laws of the State of California.

(b) The District has full legal right, power and authority to enter into this Installment Purchase Agreement, carry out its obligations hereunder and carry out and consummate all other transactions that are contemplated by this Installment Purchase Agreement, and the District has complied with the provisions of the Law in all matters relating to such transactions.

(c) By proper action, the District has duly authorized the execution, delivery and due performance of this Installment Purchase Agreement.

(d) The District has determined that it is necessary and proper for District uses and purposes within the terms of the Law that the District acquire and construct the WIFIA-Financed Portion of the WIFIA Project in the manner that is provided for in this Installment Purchase Agreement in order to provide essential services and facilities to persons residing in the District.

Section 2.02. Representations and Warranties by the Authority. The Authority makes the following representations and warranties:

(a) The Authority is a joint exercise of powers agency that is duly organized under the JPA Agreement and in good standing under the laws of the State of California, has full legal right, power and authority to enter into this Installment Purchase Agreement and to carry out and consummate all transactions that are contemplated by this Installment Purchase Agreement and by proper action has duly authorized the execution and delivery and due performance of this Installment Purchase Agreement.

(b) The execution and delivery of this Installment Purchase Agreement and the consummation of the transactions herein contemplated will not violate any provision of law, any order of any court or other agency of government, or any indenture, material agreement or other instrument to which the Authority is now a party or by which it or any of its properties or assets is bound, or be in conflict with, result in a breach of or constitute a default (with due notice or the passage of time or both) under any such indenture, agreement or other instrument, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets of the Authority.

## ARTICLE III

### THE WIFIA PROJECT

Section 3.01. Acquisition and Construction of the WIFIA Project. The Authority hereby agrees to cause the WIFIA Project and any additions or modifications thereto to be constructed, acquired and installed by the District as its agent. The District shall enter into contracts and provide for, as agent for the Authority, the complete design, construction, acquisition and installation of the WIFIA Project in accordance with the WIFIA Loan Agreement and all applicable laws.

The District hereby agrees that it will cause the construction, acquisition and installation of the WIFIA Project to be diligently performed. The District agrees to deposit the WIFIA Amount (or the relevant portion thereof) (other than any funds to be applied to the prepayment or redemption of any interim financing with respect to the WIFIA-Financed Portion of the WIFIA Project) into the Acquisition Fund, upon satisfactory completion of design work and compliance with the California Environmental Quality Act and approval by the Board of Directors of the District, and that it will use its best efforts to cause the construction, acquisition and installation of the WIFIA Project to be substantially completed by \_\_\_\_\_, 202\_, unforeseeable delays beyond the reasonable control of the District only excepted. It is hereby expressly understood and agreed that the Authority shall be under no liability of any kind or character whatsoever for the payment of any cost of the WIFIA Project and that all such costs and expenses (including the cost of the WIFIA Project not paid from the WIFIA Amount) shall be paid by the District.

Section 3.02. Purchase of WIFIA-Financed Portion of the WIFIA Project. In consideration for the WIFIA Installment Payments, the Authority agrees to sell, and hereby sells, to the District, and the District agrees to purchase, and hereby purchases, from the Authority, the WIFIA-Financed Portion of the WIFIA Project at the purchase price that is specified in Section 4.01 hereof and otherwise in the manner and in accordance with the provisions of this Installment Purchase Agreement.

Section 3.03. Title. Each component of the WIFIA Project shall vest in the District immediately upon acquisition or construction thereof. Such vesting shall occur without further action by the Authority or the District, and the Authority shall, if requested by the District or if necessary, to assure such automatic vesting, deliver any and all documents which are required to assure such vesting.

Section 3.04. Acquisition Fund. The District shall establish, maintain and hold in trust a separate fund designated as the "Acquisition Fund." The moneys in the Acquisition Fund shall be held by the District in trust and applied by the Treasurer of the District to the payment of the costs of acquisition and construction of the WIFIA-Financed Portion of the WIFIA Project and of expenses incidental thereto.

Before any payment is made from the Acquisition Fund by the Treasurer, the Manager of the District, acting as agent of the Authority, shall cause to be filed with the Treasurer a certificate of the District and the Authority in the form set forth in Exhibit B to this Installment Purchase Agreement.

Upon receipt of each such certificate, the Treasurer will pay the amount that is set forth in such certificate as directed by the terms thereof or disburse funds to the District for such payment as directed by the District in such certificate. The Treasurer need not make any such payment if it has

received notice of any lien, right to lien, attachment upon or claim affecting the right to receive payment of any of the moneys to be so paid, which has not been released or will not be released simultaneously with such payment.

When the WIFIA-Financed Portion of the WIFIA Project shall have been constructed and acquired in accordance with this Installment Purchase Agreement, a statement of the District stating the fact and date of such acquisition, construction and acceptance and stating that all of such costs of acquisition and incidental expenses have been determined and paid (or that all of such costs and expenses have been paid less specified claims which are subject to dispute and for which a retention in the Acquisition Fund is to be maintained in the full amount of such claims until such dispute is resolved), shall be delivered to the Treasurer and the Authority Lender by the Manager of the District. Upon the receipt of such statement, the Treasurer shall transfer any remaining balance in the Acquisition Fund which is not needed for Acquisition Fund purposes (but less the amount of any such retention, which amount shall be certified to the Treasurer by the Manager of the District) to the Authority Lender for deposit in the WIFIA Debt Service Account.

## ARTICLE IV

### INSTALLMENT PAYMENTS

#### Section 4.01. Purchase Price.

(a) The Purchase Price to be paid by the District hereunder to the Authority is the sum of the principal amount of the District's obligations hereunder plus the interest to accrue on the unpaid balance of such principal amount from the effective date hereof over the term hereof, subject to prepayment as provided in Article VII.

(b) The principal amount of the payments to be made by the District hereunder is set forth in Exhibit A.

(c) The interest to accrue on the unpaid principal amount of the Purchase Price shall be equal to the interest payable with respect to the principal portion of the WIFIA Loan allocable to the WIFIA-Financed Portion of the WIFIA Project as provided in the WIFIA Loan Agreement, and shall be paid by the District as and constitute interest paid on the principal amount of the District's obligations hereunder, as set forth in Exhibit A hereto.

(d) The Authority and the District acknowledge and agree that the WIFIA Installment Payments set forth in Exhibit A hereto are initially equal to the payments of principal and interest set forth on the Loan Amortization Schedule in [Exhibit F (WIFIA Debt Service)] to the WIFIA Loan Agreement allocable to the WIFIA-Financed Portion of the WIFIA Project in all respects, other than with respect to the relevant payment dates. The Authority and the District agree that (i) upon any modification to [Exhibit F (WIFIA Debt Service)] to the WIFIA Loan Agreement, Exhibit A hereto shall be deemed modified mutatis mutandis, (ii) the District will provide to the Authority a revised Exhibit A which the Authority and the District agree will replace the then current Exhibit A (such replacement being a ministerial act and not an amendment or supplement to this Installment Purchase Agreement), (iii) no modification to Exhibit A hereto shall otherwise be made without the consent of the Authority Lender, and (iv) the District's failure to provide or delay in providing the Authority with such revised Exhibit A shall not affect the modifications deemed to be made thereto or the obligation of the District to make the WIFIA Installment Payments as so modified.

Section 4.02. WIFIA Installment Payments. The District shall, subject to its rights of prepayment provided in Article VII, pay the Authority the Purchase Price in installment payments of interest and principal in the amounts and on the WIFIA Installment Payment Dates as set forth in Exhibit A.

Each WIFIA Installment Payment shall be paid to the Authority in lawful money of the United States of America. In the event that the District fails to make any of the payments which are required to be made by it under this section, such payment shall continue as an obligation of the District until such amount shall have been fully paid, and the District agrees to pay the same with interest accruing thereon at the rate or rates of interest then applicable to the remaining unpaid principal balance of the WIFIA Installment Payments if paid in accordance with their terms.

The obligation of the District to make the WIFIA Installment Payments is absolute and unconditional, and until such time as the Purchase Price shall have been paid in full, the District will not discontinue or suspend any WIFIA Installment Payment which is required to be made by it under this section when due, whether or not the System or any part thereof is operating or operable or its use is suspended, interfered with, reduced or curtailed or terminated in whole or in part, and whether or not the WIFIA Project has been completed, and such payments shall not be subject to reduction whether by offset or otherwise and shall not be conditional upon the performance or nonperformance by any party of any agreement for any cause whatsoever.

## ARTICLE V

### SECURITY

Section 5.01. Pledge of Revenues. The Revenues, and all amounts that are on deposit in the Revenue Fund, including amounts that are transferred from the Rate Stabilization Fund to the Revenue Fund as described in Section 5.06, are irrevocably pledged to the payment of the WIFIA Installment Payments. Except for the payment of the Operation and Maintenance Costs, the Revenues shall not be used for any other purpose while any of the WIFIA Installment Payments remain unpaid; provided that out of the Revenues there may be apportioned such sums for such purposes as are expressly permitted herein. This pledge shall constitute a first lien on Revenues and the Revenue Fund for the payment of the WIFIA Installment Payments and all other Contracts and Bonds in accordance with the terms hereof.

The Acquisition Fund and all amounts that are on deposit in the Acquisition Fund and the WIFIA Debt Service Fund and all amounts on deposit in the WIFIA Debt Service Fund, are irrevocably pledged to the payment of the WIFIA Installment Payments. This pledge shall constitute a first and exclusive lien on the Acquisition Fund and the Debt Service Fund for the payments of the WIFIA Installment Payments.

Section 5.02. Allocation of Revenues. In order to carry out and effectuate the pledge and lien contained herein, the District agrees and covenants that all Revenues shall be received by the District in trust hereunder and shall be deposited when and as received in a special fund designated as the "Revenue Fund," which fund has been established and is hereby continued and which fund the District agrees and covenants to maintain and to hold separate and apart from other funds so long as any Installment Payments or Bonds remain unpaid. Moneys in the Revenue Fund shall be used and applied by the District as provided in this Installment Purchase Agreement.

The District shall, from the moneys in the Revenue Fund, pay all Operation and Maintenance Costs (including amounts which are reasonably required to be set aside in contingency reserves for Operation and Maintenance Costs, the payment of which is not then immediately required) as they become due and payable. All remaining moneys in the Revenue Fund shall be set aside by the District at the following times in the following respective special funds in the following order of priority, and all moneys in each of such funds shall be held in trust and shall be applied, used and withdrawn only for the purposes hereinafter authorized in this section:

(a) Bonds and Contracts. The District shall, from the moneys in the Revenue Fund, transfer to the WIFIA Debt Service Fund and to the applicable trustee for deposit in the applicable payment fund, without preference or priority, and in the event of any insufficiency of such moneys ratably without any discrimination or preference, any Debt Service in accordance with the provisions of the Contract, Bond, resolution or indenture relating thereto.

(b) Reserve Funds. On or before each WIFIA Installment Payment Date, the District shall, from remaining moneys in the Revenue Fund, thereafter, without preference or priority, and in the event of any insufficiency of such moneys ratably without any discrimination or preference, transfer to the applicable trustee for deposit to any reserve fund or account for Bonds or Contracts an amount that is equal to the amount required to be deposited therein.

(c) Surplus. Moneys on deposit in the Revenue Fund which are not necessary to make any of the payments which are required above may be expended by the District at any time for any purpose permitted by law, including but not limited to payment of Subordinate Debt, or deposited in the Rate Stabilization Fund.

Section 5.03. Additional Contracts and Bonds. The District may at any time execute any Contract or issue any Bonds, as the case may be, in accordance herewith; provided that:

(a) The Net Revenues for the last audited Fiscal Year of the District, or for any consecutive twelve calendar month period during the eighteen calendar month period preceding the date of adoption by the Board of Directors of the District of the resolution authorizing the issuance of such Bonds or the date of the execution of such Contract, as the case may be, as evidenced by a special report prepared by an Independent Certified Public Accountant or Independent Municipal Consultant on file with the District, shall have produced a sum equal to at least one hundred twenty percent (120%) of the Debt Service for such Fiscal Year or other twelve month period; and

(b) The Net Revenues for the last audited Fiscal Year of the District, or for any consecutive twelve calendar month period during the eighteen calendar month period preceding the date of adoption by the Board of Directors of the District of the resolution authorizing the issuance of such Bonds or the date of the execution of such Contract, as the case may be, including adjustments to give effect as of the first day of such Fiscal Year or other twelve month period, to increases or decreases in rates and charges with respect, or applicable, to the System approved and in effect as of the date of calculation, as evidenced by a special report prepared by an Independent Certified Public Accountant or Independent Municipal Consultant on file with the District, shall have produced a sum equal to at least [one hundred twenty percent (120%) of the Debt Service] for such Fiscal Year or other twelve month period, plus the Debt Service which would have accrued on any Contracts executed or Bonds issued since the end of such Fiscal Year or other twelve month period, assuming that such Contracts had been executed or Bonds had been issued at the beginning of such Fiscal Year or other twelve month period, plus the Debt Service which would have accrued had such proposed



additional Contract been executed or proposed additional Bonds been issued at the beginning of such Fiscal Year or other twelve month period.

[For purposes of this Section 5.03, the amount of Net Revenues may be increased (in an amount not exceeding 20% of Debt Service payable in the applicable Fiscal Year) by the amount of the Unencumbered Fund Balance as of the last day of the immediately preceding Fiscal Year.]

Notwithstanding the foregoing, Bonds issued or Contracts executed to refund Bonds or prepay Contracts may be delivered without satisfying the conditions set forth above if Debt Service in each Fiscal Year after the Fiscal Year in which such Bonds are issued or Contracts executed is not greater than 105% of the Debt Service which would have been payable in each such Fiscal Year prior to the issuance of such Bonds or execution of such Contracts.

Section 5.04. Subordinate Debt. The District may at any time execute or issue any Subordinate Debt in accordance herewith; provided that:

(a) The Net Revenues remaining after payment of Debt Service on Bonds and Contracts for the last audited Fiscal Year of the District, or any consecutive twelve calendar month period during the eighteen calendar month period preceding the date of issuance or execution of such Subordinate Debt, as evidenced by a special report prepared by an Independent Certified Public Accountant or Independent Municipal Consultant on file with the District, shall have produced a sum equal to at least one hundred ten percent (110%) of the Subordinate Debt Service for such Fiscal Year or other twelve month period.

(b) The Net Revenues remaining after payment of Debt Service on Bonds and Contracts for the last audited Fiscal Year of the District, or any consecutive twelve calendar month period during the eighteen calendar month period preceding the issuance or the execution of such Subordinate Debt, including adjustments to give effect as of the first day of such Fiscal Year or other twelve month period to increases or decreases in rates and charges with respect, or applicable, to the System approved and in effect as of the date of calculation, as evidenced by a special report prepared by an Independent Certified Public Accountant or Independent Municipal Consultant on file with the District, shall have produced a sum equal to at least one hundred ten percent (110%) of the Subordinate Debt Service for such Fiscal Year or other twelve month period, plus the Subordinate Debt Service which would have accrued on any Subordinate Debt issued since the end of such Fiscal Year or other twelve month period, assuming that such Subordinate Debt had been issued or executed at the beginning of such Fiscal Year or other twelve month period, plus the Subordinate Debt Service which would have accrued had such proposed Subordinate Debt been executed or issued at the beginning of such Fiscal Year or other twelve month period.

Notwithstanding the foregoing, Subordinate Debt executed to refund Bonds or prepay Contracts or to prepay or refund Subordinate Debt may be delivered without satisfying the conditions set forth above if Debt Service and Subordinate Debt Service in each Fiscal Year after the Fiscal Year in which such Subordinate Debt issued or executed is not greater than 105% of the Debt Service and Subordinate Debt which would have been payable in each such Fiscal Year prior to the issuance of or execution of such Subordinate Debt.

Section 5.05. Investments. All moneys which are held by the District in the Revenue Fund, the Acquisition Fund, the WIFIA Debt Service Account and the Rate Stabilization Fund shall be

invested in Permitted Investments, and the investment earnings thereon shall remain on deposit in such fund, except as otherwise provided herein.

Section 5.06. Rate Stabilization Fund. The District has established a special fund designated as the “Rate Stabilization Fund,” which shall be held by the District in trust under this Installment Purchase Agreement. The District agrees and covenants to maintain and to hold such fund separate and apart from other funds so long as any Contracts or Bonds remain unpaid. Money transferred by the District from the Revenue Fund to the Rate Stabilization Fund in accordance with Section 5.02(c) will be held in the Rate Stabilization Fund and applied in accordance with this Installment Purchase Agreement.

The District may withdraw all or any portion of the amounts on deposit in the Rate Stabilization Fund and transfer such amounts to the Revenue Fund for application in accordance with Section 5.02 or, in the event that all or a portion of the WIFIA Installment Payments are discharged in accordance with Article VII, transfer all or any portion of such amounts for application in accordance with Article VII; provided that any such withdrawals and transfers may be made up to and including the date that is 270 days after the end of the Fiscal Year or 12 calendar month period for which such withdrawals and transfers will be taken into account in calculating Revenues. For avoidance of doubt, any such amounts withdrawn from the Rate Stabilization Fund and transferred to the Revenue Fund constitute Revenues for the Fiscal Year or 12 month calendar month period so long as such withdrawal and transfer occurs not later than 270 days after the end of such Fiscal Year or 12 calendar month period.

Section 5.07. WIFIA Debt Service Account. The District, as agent of the Authority, shall establish, maintain and hold in trust a separate general ledger account within the District’s debt service group of funds/accounts, which account shall be designated as the “WIFIA Debt Service Account” and as of the Effective Date is numbered \_\_\_\_\_. Such account number may change as the District designates from time to time provided that the District must promptly notify the Authority Lender in writing of any such change. Moneys in the WIFIA Debt Service Account shall be held by the District in trust and applied to the payment of the WIFIA Installment Payments hereunder in accordance with [Section 8(a)(i) and Section 17(i)] of the WIFIA Loan Agreement. Any investment earnings thereon shall be transferred by the District to the Revenue Fund no later than the last day of the District’s Fiscal Year.

## ARTICLE VI

### COVENANTS OF THE DISTRICT

Section 6.01. Compliance with Installment Purchase Agreement, the WIFIA Loan Agreement and Ancillary Agreements. The District will punctually pay the WIFIA Installment Payments in strict conformity with the terms hereof, and will faithfully observe and perform all of the agreements, conditions, covenants and terms contained herein which are required to be observed and performed by it, and will not terminate this Installment Purchase Agreement for any cause including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, destruction of or damage to the WIFIA Project, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State of California or any political subdivision of either or any failure of the Authority to observe or perform any agreement, condition, covenant or term which is contained herein and required to be observed and performed by it, whether express or implied, or any duty, liability or obligation arising out of or

connected herewith or the insolvency, or deemed insolvency, or bankruptcy or liquidation of the Authority or any force majeure, including acts of God, tempest, storm, earthquake, epidemics, pandemics, war, rebellion, riot, civil disorder, acts of public enemies, blockade or embargo, strikes, industrial disputes, lock outs, lack of transportation facilities, fire, explosion or acts or regulations of governmental authorities.

It is expressly understood and agreed by and among the parties to this Agreement that, subject to Section 9.06 hereof, each of the agreements, conditions, covenants and terms contained in this Agreement is an essential and material term of the purchase of and payment for the WIFIA-Financed Portion of the WIFIA Project by the District pursuant to, and in accordance with, and as authorized under the Law and other applicable laws.

The District will faithfully observe and perform all of the agreements, conditions, covenants and terms which are required to be observed and performed by the District pursuant to the WIFIA Loan Agreement: provided that nothing herein shall obligate the District to pay the principal of or interest with respect to the WIFIA Loan or the WIFIA Note, which obligation is solely the responsibility of the Authority as borrower under the WIFIA Loan Agreement.

The District will faithfully observe and perform all the agreements, conditions, covenants and terms required to be observed and performed by it pursuant to all outstanding Contracts and Bonds as such may from time to time be executed or issued, as the case may be, provided that nothing herein shall obligate the District to pay principal of or interest on the WIFIA Loan or the WIFIA Note, which obligation is solely the responsibility of the Authority as borrower under the WIFIA Loan Agreement.

Section 6.02. Against Encumbrances. The District will not make any pledge of or place any lien on Revenues or the moneys in the Revenue Fund except as provided herein and subject to the restrictions agreed to by the District in the WIFIA Loan Agreement. In addition, the District may at any time, or from time to time, issue Bonds or incur Contracts for any lawful purpose which are payable from and secured by a pledge of and lien on Revenues or any moneys in the Revenue Fund as may from time to time be deposited therein (as provided in Section 5.02) on a parity with the pledge and lien securing this Installment Purchase Agreement in accordance with Section 5.03 hereof and the WIFIA Loan Agreement or subordinate to the pledge and lien securing this Installment Purchase Agreement in accordance with Section 5.04 hereof and the WIFIA Loan Agreement. The District will not make any pledge of or place a lien on the Acquisition Fund (including the moneys on deposit therein) or the WIFIA Debt Service Account (including the moneys on deposit therein) except as set forth in the WIFIA Loan Agreement.

Section 6.03. Against Sale or Other Disposition of Property. The District will not enter into any agreement or lease which materially impairs the operation of the System or any part thereof which is necessary to secure adequate Revenues for the payment of the WIFIA Installment Payments, or which would otherwise materially impair the rights of the Authority hereunder or the operation of the System.

Any real or personal property which has become nonoperative or which is not needed for the efficient and proper operation of the System, or any material or equipment which has become worn out, may be sold if such sale will not materially impair the ability of the District to pay the WIFIA Installment Payments and if the proceeds of such sale are deposited in the Revenue Fund. Nothing herein shall restrict the ability of the District to sell any portion of the System if such portion is

immediately repurchased by the District and if such arrangement cannot by its terms result in the purchaser of such portion of the System exercising any remedy which would deprive the District of or otherwise interfere with its right to own and operate such portion of the System.

Section 6.04. Against Competitive Facilities. The District will not, to the extent permitted by law, acquire, construct, maintain or operate and will not, to the extent permitted by law and within the scope of its powers, permit any other public or private agency, corporation, district or political subdivision or any person whomsoever to acquire, construct, maintain or operate within the District any facilities competitive with the System.

Section 6.05. Prompt Acquisition and Construction. The District will take all necessary and appropriate steps to acquire and construct the WIFIA Project, as agent of the Authority, with all practicable dispatch and in an expeditious manner and in conformity with law so as to complete the same as soon as possible.

Section 6.06. Maintenance and Operation of the System. The District will maintain and preserve the System in good repair and working order at all times, operate the System in an efficient and economical manner and pay all Operation and Maintenance Costs as they become due and payable.

Section 6.07. Payment of Claims. The District will pay and discharge any and all lawful claims for labor, materials or supplies which, if unpaid, might become a lien on the Revenues or the funds or accounts created hereunder or under the WIFIA Loan Agreement or on any funds in the hands of the District pledged to pay the WIFIA Installment Payments or the Bonds, or which might impair the security of the WIFIA Installment Payments.

Section 6.08. Compliance with Contracts. The District will comply with, keep, observe and perform all agreements, conditions, covenants and terms, express or implied, which are required to be performed by it contained in all contracts for the use of the System and all other contracts affecting or involving the System, to the extent that the District is a party thereto.

Section 6.09. Insurance.

(a) The District will procure and maintain or cause to be procured and maintained insurance on the System, excluding coverage for earthquake damage or destruction, with responsible insurers in such amounts and against such risks (including accident to or destruction of the System) as are usually covered in connection with facilities that are similar to the System so long as such insurance is available at reasonable rates.

In the event of any damage to or destruction of the System caused by the perils covered by such insurance, the Net Proceeds thereof shall be applied to the reconstruction, repair or replacement of the damaged or destroyed portion of the System. The District shall begin such reconstruction, repair or replacement promptly after such damage or destruction shall occur, and shall continue and properly complete such reconstruction, repair or replacement as expeditiously as possible, and shall pay out of such Net Proceeds all costs and expenses in connection with such reconstruction, repair or replacement so that the same shall be completed and the System shall be free and clear of all claims and liens.

If such Net Proceeds exceed the costs of such reconstruction, repair or replacement, then the excess Net Proceeds shall be applied in part to the prepayment of WIFIA Installment Payments as provided in Article VII and in part to such other fund or account as may be appropriate and used for the retirement of Bonds and Contracts in the same proportion which the aggregate unpaid principal balance of WIFIA Installment Payments then bears to the aggregate unpaid principal amount of such Bonds and Contracts. If such Net Proceeds are sufficient to enable the District to retire the entire obligation that is evidenced hereby prior to the final due date of the WIFIA Installment Payments as well as the entire obligations that are evidenced by Bonds and Contracts then remaining unpaid prior to their final respective due dates, the District may elect not to reconstruct, repair or replace the damaged or destroyed portion of the System, and thereupon such Net Proceeds shall be applied to the prepayment of WIFIA Installment Payments as provided in Article VII and to the retirement of such Bonds and Contracts.

(b) The District will procure and maintain such other insurance which it shall deem advisable or necessary to protect its interests and the interests of the Authority, which insurance shall afford protection in such amounts and against such risks as are usually covered in connection with municipal Systems similar to the System.

(c) Any insurance that is required to be maintained by paragraph (a) above and, if the District determines to procure and maintain insurance pursuant to paragraph (b) above, such insurance, may be maintained under a self-insurance program so long as such self-insurance is maintained in the amounts and manner usually maintained in connection with Systems similar to the System and is, in the opinion of an accredited actuary, actuarially sound.

All policies of insurance which are required to be maintained herein shall provide that the Authority or its assignee shall be given thirty (30) days' written notice of any intended cancellation thereof or reduction of coverage provided thereby.

Section 6.10. Accounting Records; Financial Statements and Other Reports.

(a) The District will keep appropriate accounting records in which complete and correct entries shall be made of all transactions relating to the System, which records shall be available for inspection by the Authority, including agents and assignees of and lenders to the Authority (including the Authority Lender), at reasonable hours and under reasonable conditions.

(b) The District will prepare and file with the Authority or its assignee, annually within two hundred seventy (270) days after the close of each Fiscal Year (commencing with the Fiscal Year ending June 30, 2022) financial statements of the District for the preceding Fiscal Year prepared in accordance with generally accepted accounting principles, together with an Accountant's Report thereon.

Section 6.11. Protection of Security and Rights of the Authority. The District will preserve and protect the security hereof and the rights of the Authority and the Authority Lender to the WIFIA Installment Payments hereunder and will warrant and defend such rights against all claims and demands of all persons.

Section 6.12. Payment of Taxes and Compliance with Governmental Regulations. The District will pay and discharge all taxes, assessments and other governmental charges which may hereafter be lawfully imposed upon the System, or any part thereof or upon the Revenues or amounts

on deposit in the Revenue Fund, the Acquisition Fund, the Rate Stabilization Fund or the WIFIA Debt Service Account when the same shall become due. The District will duly observe and conform with all valid regulations and requirements of any governmental authority relative to the operation of the System, or any part thereof, but the District shall not be required to comply with any regulations or requirements so long as the validity or application thereof shall be contested in good faith.

Section 6.13. Amount of Rates and Charges.

(a) To the fullest extent permitted by law, the District shall fix and prescribe, at the commencement of each Fiscal Year, rates and charges with respect, or applicable, to the System which are reasonably expected to be at least sufficient to yield during each Fiscal Year (i) Net Revenues equal to one hundred twenty percent (120%) of the Debt Service payable in such Fiscal Year and (ii) Net Revenues remaining after payment of Debt Service on Bonds and Contracts equal to one hundred ten percent (110%) of Subordinate Debt Service payable in such Fiscal Year. [The amount of the Unencumbered Fund Balance as of the last day of the immediately preceding Fiscal Year shall be credited towards the District's obligations under this subsection (a), in an amount not to exceed 20% of Debt Service referred to in the preceding sentence.]

The District may make adjustments from time to time in such rates and charges and may make such classification thereof as it deems necessary, but shall not reduce the rates and charges then in effect unless the Net Revenues from such reduced rates and charges are reasonably expected to be sufficient to meet the requirements of this section.

(b) For avoidance of doubt, so long as the District has complied with its obligations set forth in clause (a) of this section, the failure of Net Revenues to meet the thresholds set forth in clause (a) of this section at the end of a Fiscal Year shall not constitute a default or an Event of Default so long as the District has complied with in clause (a) of this section at the commencement of the succeeding Fiscal Year.

Section 6.14. Collection of Rates and Charges. The District will have in effect at all times by-laws, rules and regulations requiring each customer to pay the rates and charges with respect, or applicable, to the Service to such customer's land and providing for the billing thereof and for a due date and a delinquency date for each bill. In each case where such bill remains unpaid in whole or in part after it becomes delinquent, the District may discontinue such service from the System, and such service shall not thereafter be recommenced except in accordance with District by-laws or rules, regulations and State Law governing such situations of delinquency.

Section 6.15. Eminent Domain Proceeds. If all or any part of the System shall be taken by eminent domain proceedings, the Net Proceeds thereof shall be applied as follows:

(a) If: (1) the District files with the Authority and the Authority Lender a certificate showing: (i) the estimated loss of annual Net Revenues, if any, suffered or to be suffered by the District by reason of such eminent domain proceedings; (ii) a general description of the additions, betterments, extensions or improvements to the System that are proposed to be acquired and constructed by the District from such Net Proceeds, and (iii) an estimate of the additional annual Net Revenues to be derived from such additions, betterments, extensions or improvements, and (2) the District, on the basis of such certificate filed with the Authority and the Authority Lender, determines that the estimated additional annual Net Revenues will sufficiently offset the estimated loss of annual Net Revenues resulting from such eminent domain proceedings so that the ability of the District to

meet its obligations hereunder will not be substantially impaired (which determination shall be final and conclusive), then the District shall promptly proceed with the acquisition and construction of such additions, betterments, extensions or improvements substantially in accordance with such certificate and such Net Proceeds shall be applied for the payment of the costs of such acquisition and construction, and any balance of such Net Proceeds not required by the District for such purpose shall be deposited in the Revenue Fund.

(b) If the foregoing conditions are not met, then such Net Proceeds shall be applied in part to the prepayment of WIFIA Installment Payments as provided in Article VII and in part to such other fund or account as may be appropriate and used for the retirement of Bonds and Contracts in the same proportion which the aggregate unpaid principal balance of WIFIA Installment Payments then bears to the aggregate unpaid principal amount of such Bonds and Contracts.

Section 6.16. Further Assurances. The District will adopt, deliver, execute and make any and all further assurances, instruments and resolutions as may be reasonably necessary or proper to carry out the intention or to facilitate the performance hereof and for the better assuring and confirming unto the Authority and the Authority Lender the rights and benefits provided to the Authority and the Authority Lender herein.

Section 6.17. Enforcement of Contracts. The District will not voluntarily consent to or permit any rescission of, nor will it consent to any amendment to or otherwise take any action under or in connection with any contracts previously or hereafter entered into which contracts provide for **[water] [wastewater] [recycled water]** to be supplied to the District which consent, revision, amendment or other action will reduce the supply of **[water] [wastewater] [recycled water]** thereunder (except as provided therein), unless the Board of Directors of the District determines by resolution that such rescission or amendment would not materially adversely affect the ability of the District to pay WIFIA Installment Payments.

## ARTICLE VII

### PREPAYMENT OF WIFIA INSTALLMENT PAYMENTS

Section 7.01. Prepayment.

(a) The District may or shall, as the case may be, prepay from Net Proceeds as provided herein the WIFIA Installment Payments or the WIFIA Loan Agreement in whole, or in part, on any date in the order of payment date as directed by the District, at a prepayment price equal to the sum of the principal amount to be prepaid plus accrued interest thereon to the date of prepayment, without premium. Any such prepayment shall occur substantially concurrently with the prepayment of the WIFIA Loan by the Authority pursuant to the terms of Section [9(a) of the WIFIA Loan Agreement].

(b) The District shall prepay the WIFIA Installment Payments on the same dates as the Authority makes optional prepayments of the WIFIA Loan in accordance with the WIFIA Loan Agreement and shall not optionally prepay the WIFIA Installment Payments at any other time; provided, that any such prepayment shall be in a minimum principal amount of \$500,000 or any integral multiple of \$1.00 in excess thereof.

(c) Notwithstanding any such prepayment, the District shall not be relieved of its obligations hereunder, including its obligations under Article IV, until the Purchase Price shall have

been fully paid (or provision for payment thereof shall have been provided to the written satisfaction of the Authority).

Section 7.02. Method of Prepayment. Before making any prepayment pursuant to Section 7.01, the District shall, within five (5) days following the event permitting the exercise of such right to prepay or creating such obligation to prepay, give written notice to the Authority and the Authority Lender describing such event and specifying the date on which the prepayment will be paid, which date shall be not less than thirty (30) nor more than (sixty) 60 days from the date that such notice is given.

## ARTICLE VIII

### EVENTS OF DEFAULT AND REMEDIES OF THE AUTHORITY

Section 8.01. Events of Default and Acceleration of Maturities. If one or more of the following Events of Default shall happen:

(1) if default shall be made by the District in the due and punctual payment of any WIFIA Installment Payment or any Contract or Bond when and as the same shall become due and payable;

(2) if default shall be made by the District in the performance of any of the agreements or covenants which are required herein to be performed by it, and such default shall have continued for a period of sixty (60) days after the District shall have been given notice in writing of such default by the Authority; or

(3) if the District shall file a petition or answer seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or if a court of competent jurisdiction shall approve a petition filed with or without the consent of the District seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or if under the provisions of any other law for the relief or aid of debtors any court of competent jurisdiction shall assume custody or control of the District or of the whole or any substantial part of its property; or

(4) if payment of the principal of any Contract or Bond is accelerated in accordance with its terms; or

(5) if an "Event of Default" under and as defined in the WIFIA Loan Agreement shall have occurred;

then the Authority shall immediately notify the Authority Lender of an Event of Default and follow any written directions of the Authority Lender, which may include a direction to declare the entire principal amount of the unpaid WIFIA Installment Payments and the accrued interest thereon to be due and payable immediately, and upon any such declaration the same shall become immediately due and payable, anything contained herein to the contrary notwithstanding; provided that the unpaid Purchase Price shall automatically become due and payable without the action of the Authority or any other person if the unpaid principal amount of the WIFIA Loan shall have become immediately due and payable. Notwithstanding anything to the contrary set forth herein, the Authority shall not



have the right to (i) declare the unpaid Purchase Price immediately due and payable or (ii) exercise any other rights or remedies hereunder following the occurrence of an Event of Default in each case without the prior written direction of the Authority Lender. This section, however, is subject to the condition that if at any time after the entire principal amount of the unpaid WIFIA Installment Payments and the accrued interest thereon shall have been so declared due and payable, but before any judgment or decree for the payment of the moneys due shall have been obtained or entered, the District shall deposit with the Authority an amount that is sufficient to pay the unpaid principal amount of the WIFIA Installment Payments or the unpaid payment of any other Contract or Bond referred to in clauses (1) or (4) above due prior to such declaration and the accrued interest thereon, with interest on such overdue installments, at the rate or rates applicable to the remaining unpaid principal balance of the WIFIA Installment Payments or such Contract or Bond if paid in accordance with their terms, and the reasonable expenses of the Authority, and any and all other defaults known to the Authority (other than in the payment of the entire principal amount of the unpaid WIFIA Installment Payments and the accrued interest thereon due and payable solely by reason of such declaration) shall have been made good or cured to the satisfaction of the Authority or provision deemed by the Authority to be adequate shall have been made therefor, then and in every such case the Authority, by written notice to the District, may rescind and annul such declaration and its consequences; but no such rescission and annulment shall extend to or shall affect any subsequent default or shall impair or exhaust any right or power consequent thereon.

Section 8.02. Application of Funds Upon Acceleration. Upon the date of the declaration of (or automatic, as applicable) acceleration as provided in Section 8.01, all Revenues thereafter received by the District shall be applied in the following order:

First, to the payment, without preference or priority, and in the event of any insufficiency of such Revenues ratably without any discrimination or preference, of the fees, costs and expenses of the Authority, the Authority Lender, any agents and assignees of each of the forgoing as the case may be or the trustee with respect to any Bonds or Contracts, in carrying out the provisions of this article, including reasonable compensation to their respective accountants and counsel;

Second, to the payment of the Operation and Maintenance Costs; and

Third, to the payment of the entire principal amount of the unpaid WIFIA Installment Payments and the unpaid principal amount of all Bonds and Contracts and the accrued interest thereon, with interest on the overdue installments at the rate or rates of interest applicable to the WIFIA Installment Payments and such Bonds and Contracts if paid in accordance with their respective terms.

Section 8.03. Other Remedies of the Authority. Upon the occurrence of an Event of Default, the Authority shall have the right (but only following the prior written direction of the Authority Lender):

(a) by mandamus or other action or proceeding or suit at law or in equity to enforce its rights against the District or any director, officer or employee thereof, and to compel the District or any such director, officer or employee to perform and carry out its or his or her duties under the Law and the agreements and covenants required to be performed by it or him or her contained herein;

(b) by suit in equity to enjoin any acts or things which are unlawful or violate the rights of the Authority; or

(c) by suit in equity upon the happening of an Event of Default to require the District and its directors, officers and employees to account as the trustee of an express trust.

Notwithstanding anything contained herein, the Authority shall have no security interest in or mortgage on the WIFIA Project, the System or other assets of the District and no default hereunder shall result in the loss of the WIFIA Project, the System or other assets of the District.

Section 8.04. Remedies of the Authority Lender. Upon the occurrence of an Event of Default, the Authority Lender, as assignee of the Authority pursuant to the WIFIA Loan Agreement, shall be entitled and empowered to institute any actions or proceedings at law or in equity against the District for the collection of any sums due to the Authority from the District and unpaid hereunder, and may prosecute any such judgment or final decree against the District and collect in the manner provided by law the moneys adjudged or decreed to be payable, may take such other actions at law or in equity as may appear necessary or desirable to collect all amounts payable by the District to the Authority under this Agreement then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the District under this Agreement.

Section 8.05. Non-Waiver. Nothing in this article or in any other provision hereof shall affect or impair the obligation of the District, which is absolute and unconditional, to pay the WIFIA Installment Payments to the Authority at the respective due dates or upon prepayment from the Net Revenues, the Revenue Fund and the other funds herein pledged for such payment, or shall affect or impair the right of the Authority or the Authority Lender, which is also absolute and unconditional, to institute suit to enforce such payment by virtue of the contract embodied herein.

A waiver of any default or breach of duty or contract by the Authority or the Authority Lender shall not affect any subsequent default or breach of duty or contract or impair any rights or remedies on any such subsequent default or breach of duty or contract. No delay or omission by the Authority or the Authority Lender to exercise any right or remedy accruing upon any default or breach of duty or contract shall impair any such right or remedy or be construed to be a waiver of any such default or breach of duty or contract or an acquiescence therein, and every right or remedy that is conferred upon the Authority or the Authority Lender by the Law or by this article may be enforced and exercised from time to time and as often as shall be deemed expedient by the Authority or the Authority Lender, as applicable.

If any action, proceeding or suit to enforce any right or exercise any remedy is abandoned or determined adversely to the Authority or the Authority Lender, the District, the Authority and the Authority Lender shall be restored to their former positions, rights and remedies as if such action, proceeding or suit had not been brought or taken.

Section 8.06. Remedies Not Exclusive. No remedy that is conferred upon or reserved to the Authority or the Authority Lender herein is intended to be exclusive of any other remedy, and each such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing in law or in equity or by statute or otherwise and may be exercised without exhausting and without regard to any other remedy conferred by the Law or any other law.

## ARTICLE IX

### MISCELLANEOUS

Section 9.01. Liability Limited. Notwithstanding anything contained herein, the District shall not be required to advance any moneys derived from any source of income other than the Revenues, the Revenue Fund and the other funds provided herein for the payment of amounts due hereunder or for the performance of any agreements or covenants that are required to be performed by it contained herein. The District may, however, 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 District for such purpose.

The obligation of the District to make the WIFIA Installment Payments is a special obligation of the District payable from the Net Revenues and does not constitute a debt of the District or of the State of California or of any political subdivision thereof in contravention of any constitutional or statutory debt limitation or restriction.

Section 9.02. Benefits of Installment Purchase Agreement Limited to Parties. Nothing contained herein, expressed or implied, is intended to give to any person other than the District, the Authority or the Authority Lender any right, remedy or claim under or pursuant hereto, and any agreement or covenant that is required herein to be performed by or on behalf of the District, the Authority or the Authority Lender shall be for the sole and exclusive benefit of the other party.

Section 9.03. Successor Is Deemed Included in all References to Predecessor. Whenever either the District, the Authority or the Authority Lender is named or referred to herein, such reference shall be deemed to include the successor to the powers, duties and functions that are presently vested in the District, the Authority or the Authority Lender, and all agreements and covenants which are required hereby to be performed by or on behalf of the District, the Authority or the Authority Lender shall bind and inure to the benefit of the respective successors thereof whether so expressed or not.

Section 9.04. Waiver of Personal Liability. No director, officer or employee of the District shall be individually or personally liable for the payment of the WIFIA Installment Payments, but nothing contained herein shall relieve any director, officer or employee of the District from the performance of any official duty provided by any applicable provisions of law or hereby.

Section 9.05. Article and Section Headings, Gender and References. The headings or titles of the several articles and sections hereof and the table of contents appended hereto shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof, and words of any gender shall be deemed and construed to include all genders. All references herein to "Articles," "Sections" and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof and the words "hereby," "herein," "hereof," "hereto," "herewith" and other words of similar import refer to this Installment Purchase Agreement as a whole and not to any particular article, section, subdivision or clause hereof.

Section 9.06. Partial Invalidity. If any one or more of the agreements or covenants or portions thereof required hereby to be performed by or on the part of the District or the Authority shall be contrary to law, then such agreement or agreements, such covenant or covenants or such portions thereof shall be null and void and shall be deemed separable from the remaining agreements

and covenants or portions thereof and shall in no way affect the validity hereof. The District and the Authority hereby declare that they would have executed this Installment Purchase Agreement, and each and every other article, section, paragraph, subdivision, sentence, clause and phrase hereof irrespective of the fact that any one or more articles, sections, paragraphs, subdivisions, sentences, clauses or phrases hereof or the application thereof to any person or circumstance may be held to be unconstitutional, unenforceable or invalid.

Section 9.07. Assignment. This Installment Purchase Agreement and any rights hereunder may be assigned by the Authority, as a whole or in part, to the Authority Lender without the necessity of obtaining the prior consent of the District. On each Payment Date occurring on or after the Level Payment Commencement Date, the District, as agent of the Authority, shall transfer to the Authority Lender on the Authority's behalf the WIFIA Installment Payments hereunder from the WIFIA Debt Service Account in accordance with the terms of the WIFIA Loan Agreement.]

Section 9.08. Net Contract. This Installment Purchase Agreement shall be deemed and construed to be a net contract, and the District shall pay absolutely net during the term hereof the WIFIA Installment Payments and all other payments required hereunder, free of any deductions and without abatement, diminution or set-off whatsoever.

Section 9.09. California Law. THIS INSTALLMENT PURCHASE AGREEMENT SHALL BE CONSTRUED AND GOVERNED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA.

Section 9.10. Notices. All written notices to be given hereunder shall be given by mail to the party entitled thereto at its address set forth below, or at such other address as such party may provide to the other party in writing from time to time, namely:

If to the District: \_\_\_\_\_ District  
\_\_\_\_\_  
\_\_\_\_\_, California \_\_\_\_\_  
Attention: General Manager

If to the Authority: Upper Santa Ana River Watershed Infrastructure Financing  
Authority  
c/o San Bernardino Valley Municipal Water District  
380 E Vanderbilt Way  
San Bernardino, California 92408  
Attention: Executive Director

If to the Authority Lender: Environmental Protection Agency  
[WJC-W 6201A]  
1200 Pennsylvania Avenue NW  
Washington, D.C. 20460  
Attention: WIFIA Director  
Email: [WIFIA\\_Portfolio@epa.gov](mailto:WIFIA_Portfolio@epa.gov)

Section 9.11. Effective Date. This Installment Purchase Agreement shall become effective upon its execution and delivery, and shall terminate only when (a) the Purchase Price shall have been fully paid and (b) the WIFIA Loan Agreement shall have terminated in accordance with its terms.

Section 9.12. Execution in Counterparts. This Installment Purchase Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

Section 9.13. Indemnification of the Authority. The District hereby agrees to indemnify and hold harmless the Authority, the Authority Lender and the assigns and officers and directors thereof if and to the extent permitted by law, from and against all claims, advances, damages and losses, including legal fees and expenses, arising out of or in connection with the acceptance or the performance of its duties hereunder or to the extent provided in the WIFIA Loan Agreement, under the WIFIA Loan Agreement.

Section 9.14. Amendments Permitted. This Agreement and the rights and obligations of the Authority and the District, may be modified or amended at any time by an amendment hereto which shall become binding only (a) following the execution and delivery of such amendment by the Authority and the District and (b) with the prior written consent of the Authority Lender.

*[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]*

IN WITNESS WHEREOF, the parties hereto have executed and attested this Installment Purchase Agreement by their officers thereunto duly authorized as of the day and year first written above.

\_\_\_\_\_ DISTRICT

By: \_\_\_\_\_  
President of the Board of Directors

ATTEST:

\_\_\_\_\_  
Board Clerk

UPPER SANTA ANA RIVER WATERSHED  
INFRASTRUCTURE FINANCING AUTHORITY

By: \_\_\_\_\_  
Chair of the Board of Directors

ATTEST:

\_\_\_\_\_  
Secretary of the Board of Directors

**EXHIBIT A**

**PURCHASE PRICE**

1. The principal amount of payments to be made by the District hereunder is \$\_\_\_\_\_.

2. The WIFIA Installment Payments of principal and interest are payable in the amounts and on the WIFIA Installment Payment Dates as follows:

<i>Installment Payment Dates</i>	<i>Amount Attributable to Principal</i>	<i>Amount Attributable to Interest</i>	<i>Total</i>
--------------------------------------	---	--	--------------

*Installment  
Payment Dates*

*Amount Attributable  
to Principal*

*Amount Attributable  
to Interest*

*Total*

**Total**

**\$**

**\$**

**\$**



**EXHIBIT B**

**FORM OF REQUISITION FROM ACQUISITION FUND**

\$ \_\_\_\_\_

UPPER SANTA ANA RIVER WATERSHED INFRASTRUCTURE FINANCING AUTHORITY  
WIFIA LOAN AGREEMENT

REQUISITION NO. \_ FOR  
DISBURSEMENT FROM ACQUISITION FUND

Each of the undersigned, to the extent applicable, hereby states and certifies:

(i) that the undersigned is the duly appointed, qualified and acting General Manager of the \_\_\_\_\_ District, a \_\_\_\_\_ district that is organized and existing under the Constitution and laws of the State of California (the “District”), and as such, is familiar with the facts herein certified and is authorized to certify the same with respect to the District;

(ii) that the undersigned is the duly appointed, qualified and acting Executive Director of the Upper Santa Ana River Watershed Infrastructure Financing Authority, a joint exercise of powers agency that is duly organized and existing under and by virtue of the laws of the State of California (the “Authority”), and as such, is familiar with the facts herein certified and is authorized to certify the same with respect to the Authority;

(ii) that, pursuant to Section 3.04 of that certain Installment Purchase Agreement, dated \_\_\_\_\_, 2022 (the “WIFIA Installment Purchase Agreement”), by and between the Authority and the District, the undersigned each hereby requests the Treasurer to disburse this date the following amounts from the Acquisition Fund established under the Installment Purchase Agreement relating to the above-captioned obligations, to the payees designated on the attached Exhibit A;

(iii) that each obligation mentioned herein has been incurred by the District and is a proper charge against the Acquisition Fund;

(iv) that any approval required under the California Environmental Quality Act, as amended (Division 13 of the California Public Resources Code), prior to the expenditure of such amount for the purpose set forth on the attached Exhibit A has been received and is final; and

(v) that there has not been filed with or served upon the District or the Authority notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the moneys payable to any of the payees named on the attached Exhibit A, which has not been released or will not be released simultaneously with the payment of such obligation, other than materialmen's or mechanics' liens accruing by mere operation of law.

Dated: \_\_\_\_\_, 20\_\_

\_\_\_\_\_ DISTRICT

By: \_\_\_\_\_  
\_\_\_\_\_, General Manager

UPPER SANTA ANA RIVER WATERSHED  
INFRASTRUCTURE FINANCING AUTHORITY

By: \_\_\_\_\_  
\_\_\_\_\_, Executive Director

EXHIBIT A  
ACQUISITION FUND DISBURSEMENTS

<i>Item Number</i>	<i>Payee Name and Address</i>	<i>Purpose of Obligation</i>	<i>Amount</i>
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UPPER SANTA ANA RIVER WATERSHED  
INFRASTRUCTURE FINANCING AUTHORITY



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DATE: January 5, 2022

TO: Board of Directors

FROM: Heather Dyer, Executive Director

SUBJECT: Consider Resolution authorizing the Joint Powers Authority to conduct remote meetings for the period January 5, 2022 through February 4, 2022

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Recommendation:

Adopt Resolution No. 005 authorizing remote teleconference of the Board of Directors and Technical Advisory Committee of the Authority for the period January 5, 2022 through February 4, 2022.

Summary:

In order for the JPA to continue teleconference meetings in accordance with the Brown Act, the Board of Directors is required to adopt an authorizing resolution. The Board can reevaluate the situation and renew this Resolution every 30-days until it is decided the Resolution is no longer needed.

Background:

Governor Newsom issued Executive Order N-29-20 on March 17, 2020, in response to the global pandemic, allowing local agencies to hold meetings via teleconferences and to make meetings accessible electronically without violating the Brown Act. The Order was extended on June 11, 2021, to apply the relaxed teleconference provisions through September 30, 2021.

Assembly Bill No. 361 ("AB 361"), effective as of October 1 2021, provides additional flexibility for local agencies looking to meet remotely in order to continue providing the public with essential services during a proclaimed state of emergency. The goal of AB 361 is "to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future emergencies by allowing broader access through teleconferencing options."

AB 361 allows a local agency to use teleconferencing without complying with certain Brown Act provisions in any of the following circumstances:

## UPPER SANTA ANA RIVER WATERSHED INFRASTRUCTURE FINANCING AUTHORITY

1. The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.
2. The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.
3. The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

A local agency is authorized to use teleconferencing without complying with the teleconferencing requirements in the Brown Act when meetings are held during a declared state of emergency until January 1, 2024. For an agency to do so, its governing body must adopt a Resolution making the following findings by majority vote:

1. The legislative body has considered the circumstances of the state-of-emergency; and
2. Any of the following circumstances exist:
  - a. The state-of-emergency continues to directly impact the ability of the members to meet safely in person; or
  - b. State or local officials continue to impose or recommend measures to promote social distancing.

As of the time of preparing this memo, these findings are applicable to the Authority.

### Fiscal Impact:

There is no fiscal impact associated with the requested action.

### Attachment:

Resolution No. 005

**RESOLUTION NO. 005**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE UPPER SANTA ANA RIVER WATERSHED INFRASTRUCTURE FINANCING AUTHORITY PROCLAIMING A LOCAL EMERGENCY, RATIFYING THE PROCLAMATION OF A STATE OF EMERGENCY BY GOVERNOR GAVIN NEWSOM ON MARCH 4, 2020, AND AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE LEGISLATIVE BODIES OF THE UPPER SANTA ANA RIVER WATERSHED INFRASTRUCTURE FINANCING AUTHORITY FOR THE PERIOD JANUARY 5, 2022, THROUGH FEBRUARY 4, 2022, PURSUANT TO BROWN ACT PROVISIONS.**

WHEREAS, the Upper Santa Ana River Watershed Infrastructure Financing Authority (Authority) is committed to preserving and nurturing public access and participation in meetings of the Board of Directors; and

WHEREAS, all meetings of the Upper Santa Ana River Watershed Infrastructure Financing Authority's legislative bodies are open and public, as required by the Ralph M. Brown Act (Gov't Code § 54950 *et seq.*), so that any member of the public may attend, participate, and watch the Authority's legislative bodies conduct their business; and

WHEREAS, the Brown Act, Government Code section 54953(e), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, a proclamation is made when there is an actual incident, threat of disaster, or extreme peril to the safety of persons and property within the jurisdictions that are within the Authority's boundaries, caused by natural, technological, or human-caused disasters; and

WHEREAS, it is further required that state or local officials have imposed or recommended measures to promote social distancing, or, the state of emergency continues to directly impact the ability of the members to meet safely in person; and

WHEREAS, such conditions now exist in the Authority, specifically, a state of emergency has been proclaimed due to an outbreak of respiratory illness due to a novel coronavirus (a disease now known as COVID-19); and

WHEREAS, the San Bernardino County Department of Health has recommended measures to promote social distancing; and

WHEREAS, the Board of Directors has determined that the state of emergency continues to directly impact the ability of the members to meet safely in person; and

WHEREAS, the Board of Directors does hereby find that the current state of emergency with respect to COVID-19, local official recommendations to promote social distancing, and conditions causing imminent risk to the health and safety of attendees have caused, and will continue to cause, conditions of peril to the safety of persons within the Authority that are likely to be beyond the control of services, personnel, equipment, and facilities of the Authority, and desires to proclaim a local emergency and ratify the proclamation of state of emergency by the Governor of the State of California; and

WHEREAS, as a consequence of the local emergency, the Board of Directors does hereby find that the legislative bodies of the Upper Santa Ana River Watershed Infrastructure Financing Authority shall conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that such legislative bodies shall comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE UPPER SANTA ANA RIVER WATERSHED INFRASTRUCTURE FINANCING AUTHORITY** as follows:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Proclamation of Local Emergency. The Board hereby proclaims that a local emergency now exists throughout the Authority, and declares that meeting in person would not comply with local official recommendations to promote social distancing and would present imminent risk to the health and safety of attendees.

Section 3. Ratification of Governor's Proclamation of a State of Emergency. The Board hereby ratifies the Governor of the State of California's Proclamation of a State of Emergency, effective as of its issuance date of March 4, 2020.

Section 4. Remote Teleconference Meetings. The Executive Director and legislative bodies of the Upper Santa Ana River Watershed Infrastructure Financing Authority are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

Section 5. Effective Date of Resolution. This Resolution shall take effect on January 5, 2022, and shall be effective until the earlier of (a) February 4, 2022, or (b) such time the Board of Directors adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the legislative bodies of the Upper Santa Ana River Watershed Infrastructure Financing Authority may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

ADOPTED this 5<sup>th</sup> day of January 2022.

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Paul Kielhold  
Chair

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Jose Macedo  
Secretary