

MEETING OF THE UPPER SANTA ANA RIVER
WATERSHED INFRASTRUCTURE FINANCING AUTHORITY
WEDNESDAY, MARCH 15, 2023 – 8:30 am

PUBLIC PARTICIPATION

Public participation is welcome and encouraged. You may participate in the March 15, 2023, meeting of the Upper Santa Ana River Watershed Financing Authority in-person, online and by telephone as follows:

Dial-in Info: (877) 853 5247 US Toll-free

Meeting ID: 818 8828 6875

PASSCODE: 3802020

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

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 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. on Tuesday, March 14, 2023. 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, MARCH 15, 2023

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 7, 2022, Meeting (Page 4)
[Watershed Connect Minutes 20221207](#)

3. DISCUSSION AND POSSIBLE ACTION ITEMS

- 3.1 Consider Resolution No. 014 Authorizing the Execution and Delivery of WIFIA Loan Documents and Certain Actions Therewith with Respect to the San Bernardino Valley Municipal Water District Projects in the Watershed Connect Program (Page 10)
[Staff Memo - Consider Resolution No. 014 Authorizing the Execution and Delivery of WIFIA Loan Documents and Certain Actions Therewith with Respect to the San Bernardino Valley Municipal Water District Projects in the Watershed Connect Program](#)
[Resolution No. 014](#)
[Exhibit A - Form of 2023 SBVMWD WIFIA Master Agreement](#)
[Exhibit B - Form of 2023 WIFIA Loan Agreement \(Loan 1\)](#)
[Exhibit C - Form of 2023 SBVMWD WIFIA Term Sheet \(Loan 1\)](#)
[Exhibit D - Form of 2023 SBVMWD WIFIA Installment Purchase Agreement](#)
[Exhibit E - Good Faith Estimates Pursuant to Government Code 5852.1](#)

4. REPORTS (Discuss and Possible Action)

5. ANNOUNCEMENTS

6. ADJOURNMENT

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 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 7, 2022

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	Betsy Miller	Present
San Bernardino Municipal Water Department	Miguel Guerrero	Present
Western Municipal Water District	Kevin Mascaro	Absent

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
Western Municipal Water District	Veronica Zheng	Present
Yucaipa Valley Water District	Nyles O'Harra, Alternate	Absent
San Bernardino Valley Municipal Water District	Heather Dyer, Executive Director	Present
San Bernardino Valley Municipal Water District	Jose Macedo, Secretary	Present

Staff Present	Agency
Leo Ferrando	San Bernardino Valley Municipal Water District
Adekunle Ojo	San Bernardino Valley Municipal Water District
Matthew Olivo	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
Chris Mann	Yucaipa Valley Water District
Joe Zoba	Yucaipa Valley Water District
Joyce McIntire	Yucaipa Valley Water District

Others in Attendance:	
Douglas Brown	Stradling Yocca Carlson & Rauth
Jonathan Guz	Stradling Yocca Carlson & Rauth
Jeff Herrin	AECOM
Lora Carpenter	Fieldmann Rolapp
Robert Porr	Fieldmann Rolapp

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. Director Granlund and Heather Dyer 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 August 3, 2022 meeting were approved by the following roll-call vote:

MOVED: Granlund	SECONDED: Zheng	APPROVED: 5-0
AYES:	Granlund, Guerrero, Kielhold, Miller, Zheng	
NOES:		
ABSTAIN:		
ABSENT:		

3. DISCUSSION AND POSSIBLE ACTION ITEMS

3.1 Consider the Adoption of Resolution No. 012 authorizing Virtual Board Meetings Pursuant to AB 361

Executive Director Heather Dyer introduced the resolution. In response to Director Guerrero, Ms. Dyer indicated that it is undecided as to how to proceed following the end of the Governor's declared State of Emergency on February 28, 2023. At that time, regular Brown Act reporting requirements will resume, or the Board will have the ability to do remote meetings under stringent requirements. A report will be brought back for the next meeting.

Action: Resolution No. 012 was adopted by the following roll-call vote:

MOVED: Guerrero	SECONDED: Granlund	APPROVED: 5-0
AYES:	Granlund, Guerrero, Kielhold, Miller, Zheng	
NOES:		
ABSTAIN:		
ABSENT:		

RESOLUTION NO. 012

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 7, 2022, THROUGH JANUARY 5, 2023, PURSUANT TO BROWN ACT PROVISIONS

- 3.2 Consider the Adoption of Resolution No. 013 Authorizing the Execution and Delivery of WIFIA Loan Documents and Certain Actions Therewith with Respect to the Yucaipa Valley Water District Projects in the Watershed Connect Program

Executive Director Heather Dyer reminded the Board about the programmatic approach to the Environmental Protection Agency (EPA) in order to bind together and bring greater benefits to the watershed in an agile and flexible way. With the first loan presented in the Letter of Interest, application can be made for up to \$217 million in WIFIA finding. Due to current market conditions and interest rates, as many projects as possible were strategically separated into those that can move quickly, and Yucaipa Valley Water District (YVWD) had much work already completed, therefore being able to put together the first loan package for closure in January, locking in the lowest possible interest rate, Ms. Dyer explained. Valley District and Western Municipal Water District are trying to get to that stage and lock in a first loan for a suite of projects, she continued. This is different than the original vision of one large loan, striving to lock in as many low interest rates as possible while meeting the requirements of the EPA.

YVWD General Manager Joe Zoba reminded the Board about the impetus for the project and reviewed the projects in the Watershed Connect Phase 1.

Ms. Dyer acknowledged the effort of YVWD representing \$157 million of investment in the region.

Lora Carpenter, Vice President of Fieldmann Rolapp, municipal advisor to the JPA, explained the approval of the agreements for the projects reviewed by Mr. Zoba. She detailed the project phasing and individual loan agreement financing via the EPA with repayment through the JPA as the borrower. The total project cost for Phase 1 is approximately \$156.9 million, with approximately \$76.6 million allocable share from the EPA (49 percent cap); the remainder to be funded from outside sources, she noted.

For Phase 2, the \$81 million in projects will be implemented at a later date, Ms. Carpenter stated. To complete them, approximately \$32 million will come from the WIFIA loan through a second loan agreement, which will be brought back to the Board, she said.

The Board today is considering a master agreement that allows the borrowing capacity and individual Loan 1 for the first suite of projects, Ms. Carpenter explained. YVWD will be a party to the JPA through the master agreement and the first loan agreement with EPA. Closing is estimated in January and February, she noted. She explained loan terms, details, and benefits.

YVWD approved these documents at their meeting last night, Ms. Carpenter advised.

Doug Brown of Stradling Yocca Carlson and Rauth discussed the documents before the Board, including the WIFIA Master Agreement, WIFIA Loan Agreement 1, WIFIA Installment Purchase Agreement, and WIFIA Loan Term Sheet. The Resolution authorizes staff to enter into Loan 2 in the future without coming back to the Board as long as the total does not exceed \$123,603,921 and is not substantially different than Loan 1, he explained.

Ms. Dyer reiterated the JPA does not take on risk of this loan due to the installment purchase agreement with YVWD, which is solely responsible for the debt. It does not negatively affect the credit of any of the other agencies, she added.

Ms. Dyer noted that YVWD was able to include projects that were going to be done anyway and use available funding as matching funds to get the financing.

Director Zheng noted the WIFIA is similar to the State Revolving Fund process. She asked about the rating process and whether all agencies' financial information would be used, or only the financial status of Valley District. Ms. Carpenter explained that the credit for the WIFIA loan and the agency obligated to pay it is YVWD; the Standard & Poor ratings will look only at the credit of YVWD pursuant to the purchase agreement. No other member agency will be affected, she assured.

Action: Resolution No. 013 authorizing the execution and delivery of the WIFIA Master Agreement, Loan Agreements, Notes, Term Sheets, and Installment Purchase Agreements with respect to the Yucaipa Valley Water District Master Program of the Watershed Connect Program and authorizing the Board President and Executive Director on certain actions therewith with the EPA was adopted by the following roll-call vote:

MOVED: Granlund	SECONDED: Miller	APPROVED: 5-0
AYES:	Granlund, Guerrero, Kielhold, Miller, Zheng	
NOES:		
ABSTAIN:		
ABSENT:		

RESOLUTION NO. 013

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE UPPER SANTA ANA RIVER WATERSHED INFRASTRUCTURE FINANCING AUTHORITY AUTHORIZING THE EXECUTION AND DELIVERY OF A WIFIA MASTER AGREEMENT, WIFIA NOTES, WIFIA TERM SHEETS AND WIFIA INSTALLMENT PURCHASE AGREEMENTS WITH RESPECT TO THE WATERSHED CONNECT PROGRAM AND AUTHORIZING CERTAIN ACTIONS IN CONNECTION THEREWITH

4. REPORTS (Discuss and Possible Action)

Executive Director Dyer reported that she is continuing to seek State and federal grant money for the program and any of the projects included. She reminded that there is no prepayment penalty, which offers flexibility.

5. ANNOUNCEMENTS

Director Granlund acknowledged the work by Valley District and the JPA to facilitate the loan. She indicated that YVWD is on board to help everyone else.

6. ADJOURNMENT

Action: The meeting was adjourned at 9:08 a.m.

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

Lynda J. Kerney
Contract Assistant

UPPER SANTA ANA RIVER WATERSHED
INFRASTRUCTURE FINANCING AUTHORITY



DATE: March 15, 2023

TO: Board of Directors

FROM: Heather Dyer, Executive Director

SUBJECT: Consider Resolution No. 014 Authorizing the Execution and Delivery of WIFIA Loan Documents and Certain Actions Therewith with Respect to the San Bernardino Valley Municipal Water District Projects in the Watershed Connect Program

Staff Recommendation:

Adopt Resolution No. 014 authorizing the execution and delivery of the WIFIA Master Agreement, Loan Agreements, Notes, Term Sheets, and Installment Purchase Agreements with respect to the San Bernardino Valley Municipal Water District Master Program of the Watershed Connect Program and authorizing the Board Chair and Executive Director on certain actions therewith with the U.S. Environmental Protection Agency (EPA).

Summary:

The Upper Santa Ana River Watershed Infrastructure Financing Authority ("Authority") Watershed Connect Program is a regional infrastructure funding solution that financially supports projects that will diversify the region's water supply portfolio, recharge the groundwater basins, conserve critical habitat, and secure a sustainable and climate-resilient water future for our Watershed.

In May 2022, the Authority submitted a WIFIA Loan Application to the U.S. Environmental Protection Agency ("EPA") on behalf of two of its members – the Yucaipa Valley Water District ("YVWD") and San Bernardino Valley Municipal Water District ("SBVMWD"). On February 17, 2023, the EPA closed its loan in the amount of \$81 million to finance the first phase of YVWD's projects in the Watershed Connect Program; the loan documents were approved by the Authority at its December 7, 2022 regular Board meeting. It is estimated that YVWD's WIFIA Loan #1 will save approximately \$25 million in interest costs over the loan term while accelerating the implementation of \$166 million worth of projects in the first phase.

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Next up for the Watershed Connect program is closing a loan with San Bernardino Valley to finance the Enhanced Recharge Stormwater Capture project, which will recharge up to 80,000 acre-feet/year of local Santa Ana River water into the San Bernardino groundwater basin.

Staff is recommending the adoption of a resolution authorizing several documents necessary for the Authority and San Bernardino Valley to close the WIFIA loan with the EPA. These documents were approved by the San Bernardino Valley Board of Directors on March 7, 2023. The documents are required for the EPA to close the first San Bernardino Valley loan, which is scheduled for mid-May 2023. It is pertinent to note that the borrowing member is ultimately responsible for the project delivery and loan repayment and not all Authority members.

Background:

The Water Infrastructure Finance and Innovation Act (WIFIA) program is a federal credit program administered by the EPA for eligible water and wastewater infrastructure projects. To date, the program has closed 100 loans totaling \$17 billion in credit assistance to finance nearly \$36 billion in infrastructure projects. The WIFIA program can fund development and implementation activities for eligible projects including but not limited to drinking water, wastewater and water recycling, new water supply, drought resilience, energy resilience, and water-related land acquisition and environmental projects.

Eligible borrowers are local, state, tribal, and federal government entities; partnerships and joint ventures; and corporations and trusts. A summary of the benefits of a WIFIA loan include:

- Funding for up to 49% of eligible project costs; the remaining 51% can be funded with low-cost governmental loans, bonds, grants, or cash if the total project funding/assistance provided by the federal government does not exceed 80%.
- A competitive, fixed interest rate. A WIFIA loan's interest rate is equal to the interest rate of a US Treasury security of a similar maturity, plus 0.01%, based on the weighted average life of the loan fixed at the time of close. For example, a 30-year WIFIA loan would have an interest rate of 3.82% based on market conditions as of November 30, 2022. The interest rate is not impacted by the borrower's credit rating.
- Final maturity date may be 35 years after completion of project construction. WIFIA offers repayment deferral periods during construction and up to 5 years post-construction completion. Therefore, a project with a 3-year construction

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period may have a total of 40 years or more from first disbursement to final maturity to repay the WIFIA debt.

- Prepayment without penalty.
- Customized debt payments or subordination to outstanding debt.

The WIFIA application process is in three phases:

Phase 1: Project Selection (Initial Phase): EPA announces the amount of funding it will have available and solicits letters of interest (LOI) from prospective borrowers. In the LOI, prospective borrowers demonstrate their projects eligibility, financial creditworthiness, engineering feasibility, and alignment with EPA's policy priorities. Based on this information, EPA selects projects which it intends to fund and invites them to continue the application process. The Authority submitted its LOI in July 2021 and received an invitation to continue the application process in December 2021 with a one-year window to complete the application; loan application authorized by the Board and submitted in May 2022.

Phase 2: Project Approval (Review and Negotiation Phase): Using this information submitted in the loan application, the WIFIA program conducts a detailed financial, engineering, and environmental review of the project. Based on that review, the WIFIA program proposes terms and conditions for the project and negotiates them with the prospective borrower until they develop a mutually agreeable term sheet. This phase started in August 2022 and this Board action constitutes one of the last actions in the phase. The EPA Administrator demonstrates project approval by executing the project's term sheet.

Phase 3: Closing (Closing Phase): Based on the term sheet, the WIFIA program finalizes the terms of credit assistance to a prospective borrower. At closing, the EPA Administrator and the prospective borrower execute the credit agreement (loan agreement), which is the binding legal document that allows the borrower to receive WIFIA funds.

The EPA offers a master agreement structure to borrowers with multiple projects expected to be constructed over a long timeframe. In the case of the Watershed Connect Program, this will allow the Authority and borrowing members to execute multiple WIFIA loan agreements over the Master Agreement period. A master agreement allows the borrower to negotiate all terms and conditions of the issuance

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upfront with the EPA for multiple loans. We expect that this approach will avoid fees related to drafting and negotiating future loans.

Fiscal Impact:

There is no fiscal impact associated with the requested action at this time; all associated costs with the action including the credit processing fee and the loan servicing fee will be specified in the first loan agreement and paid by SBVMWD.

Attachments:

Resolution No. 014

- Exhibit A: Form of 2023 SBVMWD WIFIA Master Agreement
- Exhibit B: Form of 2023 SBVMWD WIFIA Loan Agreement (Loan 1)
- Exhibit C: Form of 2023 SBVMWD WIFIA Term Sheet (Loan 1)
- Exhibit D: Form of 2023 SBVMWD WIFIA Installment Purchase Agreement
- Exhibit E: Good Faith Estimate Pursuant to Government Code Section 5852.1

RESOLUTION NO. 014

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE UPPER SANTA ANA RIVER WATERSHED INFRASTRUCTURE FINANCING AUTHORITY AUTHORIZING THE EXECUTION AND DELIVERY OF A WIFIA MASTER AGREEMENT, WIFIA LOAN AGREEMENTS, WIFIA NOTES, WIFIA TERM SHEETS AND WIFIA INSTALLMENT PURCHASE AGREEMENTS WITH RESPECT TO THE WATERSHED CONNECT PROGRAM AND AUTHORIZING CERTAIN ACTIONS IN CONNECTION THEREWITH

WHEREAS, the Upper Santa Ana River Watershed Infrastructure Financing Authority (the “Authority”), a joint exercise of powers authority duly organized and existing under and pursuant to the Constitution and laws of the State of California, has been requested to assist the San Bernardino Valley Municipal Water District (“SBVMWD”) in the acquisition of certain improvements to SBVMWD’s water system set forth in the Watershed Connect Program (as more particularly described in the SBVMWD WIFIA Master Agreement referred to below, the “SBVMWD WIFIA Project”); and

WHEREAS, SBVMWD has determined that it would be in the best interests of SBVMWD and citizens of the community to authorize the entry into one or more installment purchase agreements with the Authority (each such installment purchase agreement a “SBVMWD WIFIA Installment Purchase Agreement”) to acquire the SBVMWD WIFIA Project; and

WHEREAS, in order to fulfill its obligation to SBVMWD under the SBVMWD WIFIA Installment Purchase Agreements, the Authority proposes to obtain one or more loans under the authority of the Water Infrastructure Finance and Innovation Act (each a “SBVMWD WIFIA Loan”) from the United States Environmental Protection Agency (the “WIFIA Lender”) pursuant to a master agreement among the Authority, the WIFIA Lender and SBVMWD (the “SBVMWD WIFIA Master Agreement”) and one or more loan agreements (each a “SBVMWD WIFIA Loan Agreement”) among the Authority, the WIFIA Lender and SBVMWD; and

WHEREAS, the terms of the initial SBVMWD WIFIA Loan (the “2023 SBVMWD WIFIA Loan”) are set forth in a term sheet (the “2023 SBVMWD WIFIA Term Sheet”) and a SBVMWD WIFIA Loan Agreement (the “2023 SBVMWD WIFIA Loan Agreement”); and

WHEREAS, SBVMWD has completed its environmental review for and approved the projects to be funded by the 2023 SBVMWD WIFIA Loan in accordance with the California Environmental Quality Act.

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 reference.

SECTION 2. SBVMWD WIFIA Master Agreement, 2023 SBVMWD WIFIA Note, 2023 SBVMWD WIFIA Loan Agreement and 2023 SBVMWD WIFIA Term Sheet. The SBVMWD WIFIA Master Agreement, in substantially the form attached hereto as Exhibit A, the SBVMWD WIFIA Note attached to the SBVMWD WIFIA Master Agreement (the “2023 SBVMWD WIFIA

Note”), the 2023 SBVMWD WIFIA Loan Agreement, in substantially the form attached hereto as Exhibit B, and the 2023 SBVMWD WIFIA Term Sheet, in substantially the form attached hereto as Exhibit C, in each instance with respect to the portion of the SBVMWD WIFIA Project described in the 2023 SBVMWD WIFIA Installment Purchase Agreement are hereby accepted and approved, subject to such changes, insertions and omissions as may be approved by the Chair, the Vice Chair or the Executive Director (each an “Authorized Officer” and together the “Authorized Officers”) who are hereby individually authorized and directed to execute and deliver the SBVMWD WIFIA Master Agreement, the 2023 SBVMWD WIFIA Note, the 2023 SBVMWD WIFIA Loan Agreement and the 2023 SBVMWD WIFIA Term Sheet, said execution being conclusive evidence of such approval.

SECTION 3. 2023 SBVMWD WIFIA Installment Purchase Agreement. A SBVMWD WIFIA Installment Purchase Agreement with respect to the 2023 SBVMWD WIFIA Loan Agreement (the “2023 SBVMWD WIFIA Installment Purchase Agreement”), in substantially the form attached hereto as Exhibit D, is hereby accepted and approved, subject to such changes, insertions and omissions as may be approved by any of the Authorized Officers who are hereby individually authorized and directed to execute and deliver the 2023 SBVMWD WIFIA Installment Purchase Agreement, said execution being conclusive evidence of such approval.

SECTION 4. Good Faith Estimate of Certain Costs. The Board of Directors acknowledges that the good faith estimates of certain costs required by Section 5852.1 of the California Government Code with respect to the 2023 SBVMWD WIFIA Loan Agreement (and related documents) are disclosed in Exhibit E to this Resolution and are available to the public at the meeting at which this Resolution is approved.

SECTION 5. Additional SBVMWD WIFIA Installment Purchase Agreements, SBVMWD WIFIA Loan Agreements and SBVMWD WIFIA Term Sheets. Each Authorized Officer is hereby authorized to execute future SBVMWD WIFIA Loan Agreements, SBVMWD WIFIA Notes in the form attached to the SBVMWD WIFIA Master Agreement, SBVMWD WIFIA Term Sheets and SBVMWD WIFIA Installment Purchase Agreements in accordance with the SBVMWD WIFIA Master Agreement (including any amendments or supplements to the SBVMWD WIFIA Master Agreement and documents and certifications necessary or advisable to effectuate SBVMWD WIFIA Loans under such agreements) so long as the total principal amount of all SBVMWD WIFIA Loans does not exceed \$93,066,896.

SECTION 6. Other Actions. The Authorized Officers, Authority general counsel and bond counsel and such other officers and staff of the Authority are authorized and directed, acting singly, to do any and all things and to execute, deliver and implement any and all documents which such officers may deem necessary or advisable in order to consummate the execution and delivery of the SBVMWD WIFIA Master Agreement, the 2023 SBVMWD WIFIA Note, the 2023 SBVMWD WIFIA Installment Purchase Agreement, the 2023 SBVMWD WIFIA Loan Agreement and the 2023 SBVMWD WIFIA Term Sheet (collectively, the “Initial SBVMWD WIFIA Documents”), and otherwise effectuate the purposes of this Resolution and the Initial SBVMWD WIFIA Documents, and such actions in connection therewith previously taken by such officers and staff are hereby ratified and confirmed.

The Authorized Officers, Authority general counsel and bond counsel and such other officers and staff of the Authority are authorized and directed, acting singly, to do any and all things and to execute, deliver and implement any and all documents which such officers may deem necessary or advisable in order to consummate the execution and delivery of future SBVMWD WIFIA Loan Agreements and SBVMWD WIFIA Notes in the form attached to the SBVMWD WIFIA Master Agreement, SBVMWD WIFIA Term Sheets, and SBVMWD WIFIA Installment Purchase

Agreements and otherwise effectuate the purposes of this Resolution, and such actions in connection therewith previously taken by such officers and staff are hereby ratified and confirmed.

SECTION 7. Definitions. Unless otherwise defined herein, all terms used herein and not otherwise defined shall have the meanings given to such terms in the SBVMWD WIFIA Master Agreement, unless the context otherwise clearly requires.

SECTION 8. Effective Date of Resolution. This Resolution shall take effect immediately.

ADOPTED at a regular meeting of the Board of Directors this 15th day of March 2023.

Paul Kielhold
Chair

Jose Macedo
Secretary

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN BERNARDIO)

I, Jose Macedo, Secretary of the Upper Santa Ana River Watershed Infrastructure Financing Authority, do hereby certify that the foregoing resolution was duly adopted by the Board of Directors of said Authority at a regular meeting held on this 15th day of March 2023, and that it was so adopted by the following vote:

AYES: DIRECTORS

NOES: DIRECTORS

ABSENT: DIRECTORS

ABSTAIN: DIRECTORS

Secretary of Upper Santa Ana River Watershed
Infrastructure Financing Authority

(SEAL)

EXHIBIT A
SBVMWD WIFIA MASTER AGREEMENT

EXHIBIT B
2023 SBVMWD WIFIA LOAN AGREEMENT

EXHIBIT C

2023 SBVMWD WIFIA TERM SHEET

EXHIBIT D

2023 SBVMWD WIFIA INSTALLMENT PURCHASE AGREEMENT

EXHIBIT E

GOOD FAITH ESTIMATES PURSUANT TO GOVERNMENT CODE SECTION 5852.1

The good faith estimates set forth herein are provided with respect to the 2023 SBVMWD WIFIA Loan and the 2023 SBVMWD WIFIA Loan Agreement in accordance with California Government Code Section 5852.1. Such good faith estimates have been provided to the Upper Santa Ana River Watershed Infrastructure Financing Authority (the “Authority”) by Fieldman, Rolapp & Associates, Inc., the Authority’s municipal advisor in connection with the execution of the 2023 SBVMWD WIFIA Loan Agreement (the “Municipal Advisor”).

Principal Amount. The Municipal Advisor has informed the Authority that, based on the Authority’s financing plan and current market conditions, its good faith estimate of the aggregate amount of the 2023 SBVMWD WIFIA Loan is expected to be \$85,155,031 (reflecting a draw of \$69,818,796 and capitalized interest of \$15,336,235).

True Interest Cost of the 2023 SBVMWD WIFIA Loan. The Municipal Advisor has informed the Authority that based on the expected interest rates prevailing at the time of preparation of such estimate, their good faith estimate of the true interest cost of the 2023 SBVMWD WIFIA Loan, which means the rate necessary to discount the amounts payable on the respective principal and interest payment dates to the purchase price received for the 2023 SBVMWD WIFIA Loan, is 3.94%.

Finance Charge of the 2023 SBVMWD WIFIA Loan. The Municipal Advisor has informed the Authority that, assuming that the 2023 SBVMWD WIFIA Loan is executed, their good faith estimate of the finance charge for the 2023 SBVMWD WIFIA Loan, which means the sum of all fees and charges paid to third parties (or costs associated with the 2023 SBVMWD WIFIA Loan), is \$1,508,797.

Amount of Proceeds to be Received. The Municipal Advisor has informed the Authority that based on estimated interest rates prevailing at the time of preparation of such estimate, their good faith estimate of the amount of proceeds expected to be received by the Authority for sale of the 2023 SBVMWD WIFIA Loan, less the finance charge of the 2023 SBVMWD WIFIA Loan, as estimated above, and any reserves or capitalized interest paid or funded with proceeds of the 2023 SBVMWD WIFIA Loan, is \$58,818,796.

Total Payment Amount. The Municipal Advisor has informed the Authority that based on interest rates prevailing at the time of preparation of such estimate, their good faith estimate of the total payment amount, which means the sum total of all payments the Authority will make to pay debt service on the 2023 SBVMWD WIFIA Loan, plus the finance charge for the 2023 SBVMWD WIFIA Loan, as described above, not paid with the proceeds of the 2023 SBVMWD WIFIA Loan, calculated to the final maturity of the 2023 SBVMWD WIFIA Loan, is \$171,369,824, which excludes any reserves funded with proceeds of the 2023 SBVMWD WIFIA Loan (which may offset such total payment amount).

The foregoing estimates constitute good faith estimates only as of February 27, 2023, 2023, and are based on information provided in the draft 2023 SBVMWD WIFIA Loan Agreement at the time of preparation of such estimates. The actual principal amount of the 2023 SBVMWD WIFIA Loan to be incurred, the true interest cost thereof, the finance charges thereof, the amount of proceeds received therefrom and total payment amount with respect thereto may differ from such good faith estimates due to (a) the actual date of the entering into the 2023 SBVMWD WIFIA Loan being different than the date assumed for purposes of such estimates, (b) the actual principal amount of 2023

SBVMWD WIFIA Loan sold being different from the principal amount, (c) the actual amortization of the 2023 SBVMWD WIFIA Loan being different than the amortization assumed for purposes of such estimates, (d) the actual interest rates at the time of sale of the 2023 SBVMWD WIFIA Loan being different than those estimated for purposes of such estimates, (e) other market conditions, (f) alterations in the Authority's financing plan, or a combination of such factors. The actual date of execution of the 2023 SBVMWD WIFIA Loan and the actual principal amount of the 2023 SBVMWD WIFIA Loan sold will be determined by the Authority based on the timing of the need for proceeds of the 2023 SBVMWD WIFIA Loan and other factors. Factors such as the final loan repayment schedule, any changes to the interest rate on the 2023 SBVMWD WIFIA Loan and timing of the execution of the 2023 SBVMWD WIFIA Loan Agreement may be affected by factors beyond the control of the Authority, or the Municipal Advisor.

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

WIFIA MASTER AGREEMENT

With

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

SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT

For the

WATERSHED CONNECT – SAN BERNARDINO MASTER PROGRAM

Dated as of [●], 2023

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WIFIA MASTER AGREEMENT

THIS WIFIA MASTER AGREEMENT (this “**Agreement**”), dated as of [●], 2023, is by and among **UPPER SANTA ANA RIVER WATERSHED INFRASTRUCTURE FINANCING AUTHORITY**, a joint exercise of powers agency duly organized and existing under the laws of the State of California (the “**State**”), with an address at 380 E Vanderbilt Way, San Bernardino, CA 92408 (the “**Borrower**”), **SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT**, a municipal water district duly organized and existing under the laws of the State, with an address at 380 E Vanderbilt Way, San Bernardino, CA 92408 (the “**District**”), and the **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**, an agency of the United States of America, acting by and through the Administrator of the Environmental Protection Agency (the “**Administrator**”), with an address at 1200 Pennsylvania Avenue NW, Washington, DC 20460 (the “**WIFIA Lender**”).

RECITALS:

WHEREAS, the Congress of the United States of America enacted the Water Infrastructure Finance and Innovation Act (“**WIFIA**”), § 5021 *et seq.* of Public Law 113-121 (as amended, and as may be further amended from time to time, the “**Act**”), which is codified as 33 U.S.C. §§ 3901-3915;

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

WHEREAS, the Borrower was formed for the purpose of providing for the financing of public capital improvements for the District;

WHEREAS, pursuant to the Application (as defined herein), the Borrower and the District have proposed the development and construction of multiple Projects (as defined herein) with respect to the System (as defined herein), and desires to obtain WIFIA financial assistance for each Project;

WHEREAS, the Borrower and the WIFIA Lender are entering into this Agreement to set forth certain common terms and conditions applicable to each prospective WIFIA financing;

WHEREAS, the District will request, from time to time, that the WIFIA Lender make a WIFIA Loan (as defined herein) to the Borrower to be used to pay a portion of the Eligible Project Costs (as defined herein) for each Project;

WHEREAS, subject to the terms and conditions set forth herein and in each WIFIA Loan Agreement (as defined herein) and the Act, the WIFIA Lender proposes to make funding available to the Borrower for a portion of the Eligible Project Costs of Projects through the purchase of a WIFIA Note (as defined herein) to be issued by the Borrower for each Project;

WHEREAS, the Borrower will enter into a WIFIA IPA (as defined herein) with the District for each WIFIA Loan, pursuant to which (i) the Borrower will agree to purchase the relevant Project from the District in exchange for the provision of funds, in the amount of such WIFIA

Loan, and (ii) the District will agree to purchase the relevant Project from the Borrower in exchange for the payment of WIFIA Installment Payments (as defined herein) by the District to the Borrower, such payments being secured by the Pledged Collateral (as defined herein);

WHEREAS, the Borrower has agreed to pledge and assign to the WIFIA Lender and grant to the WIFIA Lender Liens for its benefit on (i) all of its right, title and interest to receive the Authority Revenues (as defined herein), (ii) all of its rights to receive amounts from the District from the WIFIA Debt Service Account (as defined herein) and (iii) all of its rights and remedies to enforce each WIFIA IPA upon an event of default under such WIFIA IPA, in each case for the purpose of securing (y) the payment of all sums due and owing by the Borrower to the WIFIA Lender under the relevant WIFIA Loan Agreement and (z) the observance, performance and discharge of each agreement, condition, covenant and term of the Borrower and the District under this Agreement and the relevant WIFIA Loan Agreement and of the District under such WIFIA IPA; and

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

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

ARTICLE I DEFINITIONS AND INTERPRETATION

Section 1. Definitions.

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

“**Acquisition Fund**” means the acquisition fund established and maintained by the District, as agent of the Borrower, pursuant to each WIFIA IPA.

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

“**Additional Construction Contract**” means, with respect to each Project, each Construction Contract entered into after the applicable WIFIA Loan Agreement Effective Date.

“**Additional Obligations**” means Additional Parity Obligations and Additional Subordinate Obligations.

“**Additional Parity Obligations**” means any Parity Obligations permitted under Section 18(a) (*Negative Covenants of the District – Additional Obligations*), which Parity Obligations are issued or incurred on or after the Effective Date.

“**Additional Subordinate Obligations**” means any Subordinate Obligations permitted under Section 18(a) (*Negative Covenants of the District – Additional Obligations*), which Subordinate Obligations are issued or incurred on or after the Effective Date.

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

“**Aggregate Master Program Amount**” means \$[●].

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

“**Application**” means the Borrower’s application for WIFIA financial assistance received by the WIFIA Lender on August 5, 2022.

“**Authority Revenues**” means (a) the WIFIA Installment Payments received by the Borrower pursuant to or with respect to each WIFIA IPA and (b) all interest or gain derived from the investment of amounts in any of the funds or accounts established hereunder or thereunder.

“**Bankruptcy Related Event**” means, with respect to either the Borrower or the District, (a) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of either the Borrower or the District or any of its debts, or of a substantial part of the assets thereof, under any Insolvency Laws, or (ii) the appointment of a receiver, trustee, liquidator, custodian, sequestrator, conservator or similar official for either the Borrower or the District or for a substantial part of the assets thereof and, in any case referred to in the foregoing subclauses (i) and (ii), such proceeding or petition shall continue undismissed for sixty (60) days or an order or decree approving or ordering any of the foregoing shall be entered; (b) either the Borrower or the District (other than with respect to clause (iii) below, which applies to the Borrower only) shall (i) apply for or consent to the appointment of a receiver, trustee, liquidator, custodian, sequestrator, conservator or similar official therefor or for a substantial part of the assets thereof, (ii) generally not be paying its debts as they become due unless such debts are the subject of a bona fide dispute, or become unable to pay its debts generally as they become due, (iii) fail to make a payment of WIFIA Debt Service in accordance with the provisions of Section 8 (*Payment of Principal and Interest*) and such failure is not cured within thirty (30) days following notification by the WIFIA Lender of failure to make such payment, (iv) make a general assignment for the benefit of creditors, (v) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition with respect to it described in clause (a) of this definition, (vi) commence a voluntary proceeding under any Insolvency Law, or file a voluntary petition seeking liquidation, reorganization, an arrangement with creditors or an order for relief, in each case under any Insolvency Law, (vii) file an answer admitting the material allegations of a petition filed against it in any proceeding referred to in the foregoing subclauses (i) through (v), inclusive, of this clause (b), or (viii) take any action for the purpose of effecting any of the foregoing; (c) (i) any Person shall commence a process pursuant to which all or a substantial part of the Pledged Collateral or Authority Revenues may be sold or otherwise disposed of in a public or private sale or disposition pursuant to a foreclosure of the Liens thereon securing the Obligations, or (ii) any Person shall commence a process pursuant to which all or a substantial part of the Pledged Collateral or Authority Revenues may be sold or otherwise disposed of pursuant to a sale or disposition of such Pledged Collateral or Authority Revenues in lieu of foreclosure; or (d) any receiver, trustee, liquidator, custodian, sequestrator, conservator or similar

official shall transfer, pursuant to directions issued by the holders of Obligations, funds on deposit in any of the System (including the Master Program) funds or accounts upon the occurrence and during the continuation of an Event of Default under this Agreement or an event of default under any Obligation Document for application to the prepayment or repayment of any principal amount of the Obligations other than in accordance with the provisions of this Agreement.

“**Base Case Financial Model**” means the financial model, prepared by the District and delivered to the WIFIA Lender as part of the Application, forecasting the capital costs of the System (including the Master Program) and the estimated debt service coverage, rates, revenues, operating expenses and major maintenance requirements of the System for the Forecast Period, and based upon assumptions and methodology provided by the District and acceptable to the WIFIA Lender as of the Effective Date, which model shall be provided to the WIFIA Lender as a fully functional Microsoft Excel-based financial model or such other format requested by the WIFIA Lender.

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

“**Borrower Closing Certificate**” has the meaning provided in Section 11(a)(vi) (*Conditions Precedent – Conditions Precedent to Effectiveness of this Agreement*).

“**Borrower Event of Default**” has the meaning provided in Section 21(a) (*Events of Default*).

“**Borrower Financial Statements**” means the audited income statement and balance sheet of the Borrower as of the end of the Borrower Fiscal Year and the related audited statements of operations and of cash flow of the Borrower for such Borrower Fiscal Year.

“**Borrower Fiscal Year**” means (a) as of the Effective Date, a fiscal year of the Borrower commencing on July 1 of any calendar year and ending on June 30 of the immediately succeeding calendar year or (b) such other fiscal year as the Borrower may hereafter adopt after giving thirty (30) days’ prior written notice to the WIFIA Lender in accordance with Section 16(c) (*Negative Covenants of the Borrower – Borrower Fiscal Year*).

“**Borrower Material Adverse Effect**” means a material adverse effect on (a) the Authority Revenues, (b) the business, operations, properties, condition (financial or otherwise) or prospects of the Borrower with respect to the System, (c) the legality, validity or enforceability of any material provision of any WIFIA Loan Document to which the Borrower is a party, (d) the ability of the Borrower to enter into, perform or comply with any of its material obligations under any WIFIA Loan Document to which it is a party, (e) the validity, enforceability or priority of the Liens provided under the WIFIA Loan Documents on the Authority Revenues or (f) the WIFIA Lender’s rights or remedies available under any WIFIA Loan Document to which the Borrower is a party.

“**Borrower Payment Default**” has the meaning provided in Section 21(a)(i) (*Events of Default and Remedies – Borrower Payment Default*).

“**Borrower Project Closing Certificate**” has the meaning provided in Section 11(b)(vii) (*Conditions Precedent – Conditions Precedent to Effectiveness of Each WIFIA Loan Agreement*).

“**Borrower’s Authorized Representative**” means any Person who shall be designated as such pursuant to Section 25 (*Borrower’s Authorized Representative*).

“**Budgeted Transfers**” means, for any District Fiscal Year, lawfully available amounts, including in the Rate Stabilization Fund, as of the last day of such District Fiscal Year, in each case, (a) which may be lawfully used to pay the WIFIA Installment Payments and (b) that have been transferred to the Revenue Fund, pursuant to a budget process where such amounts have been budgeted and approved by the Board of Directors of the District (and which removal from the Revenue Fund would require a separate budget and approval process by the Board of Directors of the District prior to any such removal), for application solely to the System.

“**Business Day**” means any day other than a Saturday, a Sunday or a day on which offices of the Government or the State are authorized to be closed or on which commercial banks are authorized or required by law, regulation or executive order to be closed in New York, New York or San Bernardino, California.

“**Capitalized Interest Period**” means, with respect to each WIFIA Loan Agreement, the period from (and including) the applicable WIFIA Loan Agreement Effective Date to (but excluding) the date that is six (6) months prior to the applicable Debt Service Payment Commencement Date, subject to earlier termination as set forth in Section 8(b) (*Payment of Principal and Interest – Capitalized Interest*).

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

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

“**Construction Contract**” means, with respect to any Project, any prime contract entered into by the District with respect to such Project that involves any construction activity (such as demolition, site preparation, civil works construction, installation, remediation, refurbishment, rehabilitation, or removal and replacement services). For the avoidance of doubt, “**Construction Contract**” shall include each Existing Construction Contract for the relevant Project and, upon the effectiveness thereof, each Additional Construction Contract for such Project.

“**Construction Contractor**” means any Person (other than the Borrower or the District) party to a Construction Contract.

“**Construction Monitoring Report**” means, with respect to each Project, a report on the status of such Project, substantially in the form of **Exhibit H** (*Form of Construction Monitoring Report*), unless otherwise agreed to be in a different form by the WIFIA Lender.

“**Construction Period**” means, with respect to each WIFIA Loan Agreement, the period from the applicable WIFIA Loan Agreement Effective Date through the applicable Substantial Completion Date.

“**Construction Period Servicing Fee**” has the meaning provided in Section 10(a)(ii) (*Fees and Expenses – Fees*) and, for each WIFIA Loan, shall be in the amount specified in Section 10(b)

(*Fees and Expenses*) of the applicable WIFIA Loan Agreement and paid in accordance with Section 10(a)(ii) and Section 10(b) (*Fees and Expenses*) hereof.

“**Construction Schedule**” has, for each Project, the meaning provided in Section 1 (*Definitions*) of the applicable WIFIA Loan Agreement.

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

“**Date of Operation**” means, with respect to any uncompleted Parity Project, the estimated date by which such uncompleted Parity Project will have been completed and, in the opinion of the District, will be ready for operation by or on behalf of the District.

“**Debt Service**” means, for any period of calculation,

(a) the sum of:

(i) the interest required to be paid during such period on all outstanding Obligations, assuming that all outstanding serial Obligations are retired as scheduled and that all outstanding term Obligations 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 Obligations maturing in such period (but excluding Excluded Principal);

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

(iv) those portions of the Obligations 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); *minus*

(b) the earnings to be derived from the investment of moneys on deposit in debt service reserve funds established for all outstanding Obligations;

provided that, as to any such Obligations 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:

(x) the then current Variable Interest Rate borne by such Obligations plus one percent (1%); and

(y) the highest variable rate borne over the preceding three (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 Obligations 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 Obligations 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;

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

“Debt Service Payment Commencement Date” has, for each WIFIA Loan, the meaning provided in Section 1 (*Definitions*) of the applicable WIFIA Loan Agreement.

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

“Default Rate” means, with respect to each WIFIA Loan, an interest rate equal to the lesser of (a) the sum of (i) the applicable WIFIA Interest Rate plus (ii) two hundred (200) basis points and (b) the maximum interest rate permitted by law.

“Development Default” means, with respect to any Project, (a) the District abandons work related to such Project or fails, in the reasonable judgment of the WIFIA Lender, to diligently prosecute the work related to such Project or (b) the District fails to achieve Substantial Completion of such Project within twenty-four (24) months following the Projected Substantial Completion Date set forth in the relevant WIFIA Loan Agreement as of the applicable WIFIA Loan Agreement Effective Date.

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

“**District Closing Certificate**” has the meaning provided in Section 11(a)(vii) (*Conditions Precedent – Conditions Precedent to Effectiveness of this Agreement*).

“**District Event of Default**” has the meaning provided in Section 21(b) (*Events of Default and Remedies*).

“**District Financial Statements**” means the audited income statement and balance sheet of the District as of the end of the District Fiscal Year and the related audited statements of operations and of cash flow of the District for such District Fiscal Year.

“**District Fiscal Year**” means (a) as of the Effective Date, a fiscal year of the District commencing on July 1 of any calendar year and ending on June 30 of the immediately succeeding calendar year or (b) such other fiscal year as the District may hereafter adopt after giving thirty (30) days’ prior written notice to the WIFIA Lender in accordance with Section 18(e) (*Negative Covenants of the District – District Fiscal Year*).

“**District Material Adverse Effect**” means a material adverse effect on (a) the System (including the Master Program), the Projects or the Pledged Collateral, (b) the business, operations, properties, condition (financial or otherwise) or prospects of the District with respect to the System, (c) the legality, validity or enforceability of any material provision of any WIFIA Loan Document to which the District is a party, (d) the ability of the District to enter into, perform or comply with any of its material obligations under any WIFIA Loan Document to which it is a party, (e) the validity, enforceability or priority of the Liens provided under the WIFIA Loan Documents on the Pledged Collateral or (f) the WIFIA Lender’s rights or remedies available under any WIFIA Loan Document to which the District is a party.

“**District Payment Default**” has the meaning provided in Section 21(b)(i) (*Events of Default and Remedies – District Payment Default*).

“**District Project Closing Certificate**” has the meaning provided in Section 11(b)(viii) (*Conditions Precedent – Conditions Precedent to Effectiveness of Each WIFIA Loan Agreement*).

“**District’s Authorized Representative**” means any Person who shall be designated as such pursuant to Section 26 (*District’s Authorized Representative*).

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

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

“**Eligible Project Costs**” means, with respect to each Project, amounts in the Project Budget relating to such Project that have been approved by the WIFIA Lender and which are paid by or for the account of the District, as agent of the Borrower pursuant to the applicable WIFIA IPA, in connection with such Project (including, as applicable, Project expenditures incurred prior to the receipt of WIFIA credit assistance, or the repayment of amounts borrowed to make such expenditures prior to the receipt of WIFIA credit assistance), which shall arise from the following:

(a) development-phase activities, including planning, feasibility analysis (including any related analysis necessary to carry out an eligible project), revenue

forecasting, environmental review, permitting, preliminary engineering and design work and other preconstruction activities;

(b) construction, reconstruction, rehabilitation, and replacement activities;

(c) the acquisition of real property or an interest in real property (including water rights, land relating to such Project and improvements to land), environmental mitigation (including acquisitions pursuant to Section 3905(8) of Title 33 of the United States Code), construction contingencies, and acquisition of equipment; or

(d) capitalized interest (with respect to Obligations other than the WIFIA Loans) necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction;

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

“Eligible Project Costs Documentation” means, with respect to each Project, all supporting documentation with respect to the Eligible Project Costs for such Project, including copies of invoices and records evidencing incurred or previously paid Eligible Project Costs for such Project, which documentation should contain sufficient detail satisfactory to the WIFIA Lender (e.g. if the District, as agent of the Borrower pursuant to the applicable WIFIA IPA, intends to utilize WIFIA Loan proceeds to make construction progress payments for Eligible Project Costs for such Project, the documentation should demonstrate that such progress payments are commensurate with the cost of the work that has been completed).

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

“Environmental Laws” has the meaning provided in Section 13(j)(iii) (*Representations and Warranties of the District – Compliance with Laws*).

“EPA” means the United States Environmental Protection Agency.

“Event of Default” means any District Event of Default or any Borrower Event of Default.

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

“Existing Construction Contract” means, with respect to any Project, each Construction Contract of the District existing as of the applicable WIFIA Loan Agreement Effective Date, as

set forth in Schedule 13(m) (*Existing Construction Contracts*) to the applicable WIFIA Loan Agreement.

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

“**Final Disbursement Date**” means, with respect to each WIFIA Loan, the earliest of (a) the date on which such WIFIA Loan has been disbursed in full; (b) the last anticipated date of disbursement set forth in the then-current WIFIA Loan Disbursement Schedule for such WIFIA Loan; (c) the date on which the Borrower has certified to the WIFIA Lender that it will not request any further disbursements under such WIFIA Loan; (d) the date on which the WIFIA Lender terminates its obligations relating to disbursements of any undisbursed amounts of such WIFIA Loan in accordance with Section 21 (*Events of Default and Remedies*); and (e) the date that is one (1) year after the Substantial Completion Date of the Project relating to such WIFIA Loan.

“**Final Maturity Date**” has, for each WIFIA Loan, the meaning provided in Section 1 (*Definitions*) of the applicable WIFIA Loan Agreement.

“**Flow of Funds**” means the requirements specified in Section 5.02 (*Allocation of Revenues*) of each WIFIA IPA, a copy of such section, as of the Effective Date, is attached hereto as **Schedule 7(d)** (*Flow of Funds*) (all capitalized terms used in **Schedule 7(d)** shall have the meanings provided in such WIFIA IPA).

“**Flow of Funds Following Acceleration**” means the requirements specified in Section 8.02 (*Application of Funds Upon Acceleration*) of each WIFIA IPA.

“**Forecast Period**” means, as of any date, the time period from and including the then-current District Fiscal Year until the later ending date of either (a) the four (4) immediately succeeding District Fiscal Years or (b) the end of the District Fiscal Year in which the District’s then-currently effective capital improvement plan for the System concludes.

“**GAAP**” 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.

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

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

“**Governmental Authority**” means any federal, state, provincial, county, city, town, village, municipal or other government or governmental department, commission, council, court, board, bureau, agency, authority or instrumentality (whether executive, legislative, judicial, administrative or regulatory), of or within the United States of America or its territories or possessions, including the State and its counties and municipalities, and their respective courts,

agencies, instrumentalities and regulatory bodies, or any entity that acts “on behalf of” any of the foregoing, whether as an agency or authority of such body.

“**Indemnitee**” has the meaning provided in Section 37 (*Indemnification*).

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

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

“**Installment Payment Date**” means the fifth (5th) day prior to each Interest Payment Date, or if said date is not a Business Day, then the preceding Business Day.

“**Interest Only Period**” has, for each WIFIA Loan, the meaning provided in Section 1 (*Definitions*) of the applicable WIFIA Loan Agreement.

“**Interest Payment Date**” has, for each WIFIA Loan, the meaning provided in Section 1 (*Definitions*) of the applicable WIFIA Loan Agreement.

“**Interim Financing**” means interim bond anticipation notes, commercial paper or other short-term temporary financing, in each case with a maturity occurring on or before the Projected Substantial Completion Date under the applicable WIFIA Loan Agreement in effect on the date on which such short-term temporary financing is issued or incurred.

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

“**Investment Policy**” means that certain San Bernardino Valley Municipal Water District Statement of Investment Policy, adopted on August 13, 2020, as may be amended by the District from time to time.

“**JPA Agreement**” means that certain Joint Exercise of Powers Agreement, dated July 20, 2021, by and among the District, the San Bernardino Valley Water Conservation District, the Yucaipa Valley Water District and the other parties from time to time party thereto, pursuant to which the Borrower was established.

“**Lien**” means any mortgage, pledge, hypothecation, assignment, mandatory deposit arrangement, encumbrance, attachment, lien (statutory or other), charge or other security interest,

or preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever, including any sale-leaseback arrangement, any conditional sale or other title retention agreement, any financing lease having substantially the same effect as any of the foregoing, and the filing of any financing statement or similar instrument under the UCC or any other applicable law.

“**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.

“**Master Availability Period**” means the period from the Effective Date until the date that is five (5) years following the Effective Date.

“**Master Program**” means the District’s anticipated improvements to the System through the development and construction of each Project component as set forth on **Schedule I** (*Master Program*), as may be amended from time to time with approval of the WIFIA Lender in its sole discretion.

“**Master Program Budget**” means the total estimated aggregate budget for the Project components attached to this Agreement as **Schedule II** (*Master Program Budget*), as updated from time to time to reflect updated Project Budgets as provided in Section 11(b)(vi) (*Conditions Precedent – Conditions Precedent to Effectiveness of Each WIFIA Loan Agreement*), or as otherwise amended from time to time with approval of the WIFIA Lender in its sole discretion.

“**Material Adverse Effect**” means a material adverse effect on (a) the System (including the Master Program), the Projects, the Pledged Collateral or the Authority Revenues, (b) the business, operations, properties, condition (financial or otherwise) or prospects of either (i) the Borrower or (ii) the District with respect to the System, (c) the legality, validity or enforceability of any material provision of any WIFIA Loan Document, (d) the ability of either the Borrower or the District to enter into, perform or comply with any of its material obligations under any WIFIA Loan Document to which it is a party, (e) the validity, enforceability or priority of the Liens provided under the WIFIA Loan Documents on the Pledged Collateral or the Authority Revenues or (f) the WIFIA Lender’s rights or remedies available under any WIFIA Loan Document.

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

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

“**NEPA Determination**” means, with respect to each Project, the final NEPA decision issued for such Project by EPA in accordance with NEPA.

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

“**Obligation Document**” means any indenture, installment purchase agreement, bond, credit agreement, note, reimbursement agreement, letter of credit, guarantee or any other agreement, contract, instrument or document pursuant to which any Obligation is incurred by the District.

“**Obligations**” means, collectively the Parity Obligations and the Subordinate Obligations.

“**Operating Period Servicing Fee**” has the meaning provided in Section 10(a)(iii) (*Fees and Expenses – Fees*) and, for each WIFIA Loan, shall be in the amount specified in Section 10(c) (*Fees and Expenses*) of the applicable WIFIA Loan Agreement and paid in accordance with Section 10(a)(iii) and Section 10(b) (*Fees and Expenses*) hereof.

“**Operation and Maintenance Costs**” means:¹

(a) costs spent or incurred for maintenance and operation of the System (including the Master Program) in a District Fiscal Year calculated in accordance with GAAP, including (among other things) the reasonable expenses of management and repair and other expenses 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 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) required to be paid by it to comply with the terms of this Agreement or any other Obligation Document or of any other resolution or indenture authorizing the issuance of any Obligations or of such Obligations; and

(b) 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 including but not limited to payments under the Water Supply Contract;

but excluding in all cases (i) depreciation, replacement and obsolescence charges or reserves therefor and amortization of intangibles or other bookkeeping entries of a similar or non-cash nature, (ii) all capital charges, (iii) any State water project costs paid from taxes described in clause (ii) in the definition of Revenues or from sources other than Revenues, and (iv) all amounts allocable to the District under the JPA Agreement for capital costs

¹ **Note to Borrower:** With reference to the carve-out for JPA capital costs, the EPA team requests that you please advise whether there will be any operating/capital costs under the JPA and, if so, how such operating/capital costs will be shared among the members, or whether such operating/capital costs will be assumed solely by San Bernardino.

thereof, including principal and interest on any bonds, notes or other evidence of indebtedness of the Borrower.

“**Organizational Documents**” means (a) with respect to the District, the Municipal Water District Law of 1911 of the State of California (being Division 20 of the Water Code of the State of California, as amended) and all laws amendatory thereof or supplemental thereto, and (b) with respect to the Borrower, the JPA Agreement.

“**Outstanding**” means, with respect to Obligations, Obligations that have not been cancelled or legally defeased or discharged.

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

“**Parity Debt Service**” means, for any period of calculation,

(a) the sum of:

(i) the interest required to be paid during such period on all outstanding Parity Obligations, assuming that all outstanding serial Parity Obligations are retired as scheduled and that all outstanding term Parity Obligations 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 Parity Obligations maturing in such period (but excluding Excluded Principal);

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

(iv) those portions of the Parity Obligations 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); *minus*

(b) the earnings to be derived from the investment of moneys on deposit in debt service reserve funds established for all outstanding Parity Obligations;

provided that, as to any such Parity Obligations bearing or comprising interest at other than a fixed rate, the rate of interest used to calculate Parity Debt Service shall, for all purposes, be assumed to be a fixed rate equal to the higher of:

(x) the then current Variable Interest Rate borne by such Parity Obligations plus one percent (1%); and

(y) the highest variable rate borne over the preceding three (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 Parity Obligations 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), Parity Debt Service shall be determined for the period of determination as if the principal of and interest on such series or issue of such Parity Obligations 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;

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

provided further that the amount on deposit in a debt service reserve fund on any date of calculation of Parity Debt Service shall be deducted from the amount of principal due at the final maturity of the Parity Obligations 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.

“Parity Obligations” means the WIFIA Installment Payments and all other obligations of the District which (a) are secured by a pledge of and lien on the Pledged Collateral (or a portion thereof) and rank *pari passu* in right of payment and right of security with the WIFIA Installment Payments, including any Additional Parity Obligations, and (b) constitute “Bonds” or “Contracts” under each WIFIA IPA.

“Parity Project” means any acquisition of land, additions, betterments, extensions or improvements to the District’s facilities (including the Master Program) designated by the Board of Directors of the District as a “Project”, the acquisition and construction of which is to be paid for with the proceeds of any Parity Obligations.

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

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

“**Payment Default**” means any Borrower Payment Default or any District Payment Default.

“**Permitted Investment**” means any investment permitted by both State law and the Investment Policy.

“**Permitted Liens**” means:

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

(b) Liens imposed by law, including Liens for taxes that are not yet due or are being contested in compliance with Section 15(g) (*Affirmative Covenants of the Borrower – Material Obligations; Payment of Claims*) and Section 17(k) (*Affirmative Covenants of the District – Material Obligations; Payment of Claims*);

(c) carriers’, warehousemen’s, mechanics’, materialmen’s, repairmen’s and other like Liens imposed by law, arising in the ordinary course of business and securing obligations that are not overdue by more than thirty (30) days or are being contested in compliance with Section 15(g) (*Affirmative Covenants of the Borrower – Material Obligations; Payment of Claims*) and Section 17(k) (*Affirmative Covenants of the District – Material Obligations; Payment of Claims*);

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

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

(f) judgment Liens in respect of judgments that do not constitute an Event of Default under Section 21(a)(iv) (*Events of Default and Remedies – Borrower Material Adverse Judgment*) or Section 21(b)(vi) (*Events of Default and Remedies – District Material Adverse Judgment*); and

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

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

“**Pledged Collateral**” has the meaning provided in Section 7(a) (*Security and Priority; Flow of Funds*).

“**Principal Payment Date**” has, for each WIFIA Loan, the meaning provided in Section 1 (*Definitions*) of the applicable WIFIA Loan Agreement.

“**Project**” has, for each WIFIA Loan Agreement, the meaning provided in Section 1 (*Definitions*) of the applicable WIFIA Loan Agreement.

“**Project Budget**” has, for each Project, the meaning provided in Section 1 (*Definitions*) of the applicable WIFIA Loan Agreement.

“**Project Term Sheet**” means a term sheet substantially in the form attached hereto as **Exhibit J** (*Form of WIFIA Project Term Sheet*) entered into by the Borrower and the WIFIA Lender in respect of each WIFIA Loan.

“**Projected Substantial Completion Date**” has, for each WIFIA Loan, the meaning provided in Section 1 (*Definitions*) of the applicable WIFIA Loan Agreement.

“**Public Benefits Report**” has the meaning provided in Section 20(d) (*Reporting Requirements of the District – Public Benefits Report*).

“**Rate Stabilization Fund**” means the rate stabilization fund maintained by the District in accordance with each WIFIA IPA.

“**Related Documents**” means the WIFIA Loan Documents and each other Obligation Document.

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

“**Revenue Fund**” means the revenue fund maintained by the District in accordance with each WIFIA IPA.

“**Revenues**” means all income, rents, rates, fees, charges and other moneys derived by the District from the ownership or operation of the System, including, without limiting the generality of the foregoing:

(a) all income, rents, rates, fees, charges and other moneys derived by the District from the sale, furnishing and supplying of the water or other services, facilities, and commodities sold, furnished or supplied through the facilities of or in the conduct or operation of the business of the System, including but not limited to income received from retail water agencies under take-or-pay contracts for water produced by the Project;

(b) all proceeds of the County of San Bernardino and County of Riverside 1% ad valorem property tax allocated to and received by the District, including all proceeds of the unitary tax received by the District;

(c) pass-through payments from redevelopment or successor agencies pursuant to the Health and Safety Code of the State;

(d) all other income, rents, rates, fees, charges, business interruption insurance proceeds or other moneys received by the District; and

(e) the earnings on and income derived from the investment of amounts described in clauses (a) – (d) above and from District unrestricted reserves;

but excluding:

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

(ii) any proceeds of taxes or assessments levied by the District to pay the Water Supply Contract and any other bonds, notes, contracts or obligations hereafter issued or executed.

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

“**Sanctions Laws**” means collectively, any applicable anti-drug trafficking, anti-terrorism, anti-money laundering, anti-bribery, or anti-corruption laws or regulations, as applicable, including those contained in the Bank Secrecy Act of 1970 (as amended) and the U.S. Patriot Act.

“**Service**” means the water service that is made available or provided by the District.

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

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

“**Servicing Set-Up Fee**” has the meaning provided in Section 10(a)(i) (*Fees and Expenses – Fees*) and, for each WIFIA Loan, shall be in the amount provided in Section 10(a) (*Fees and Expenses*) of the applicable WIFIA Loan Agreement and paid in accordance with Section 10(a)(i) (*Fees and Expenses – Fees*) hereof.

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

“**Subordinate Debt Service**” means, for any period of calculation,

(a) the sum of:

(i) the interest required to be paid during such period on all outstanding Subordinate Obligations, assuming that all outstanding serial Subordinate Obligations are retired as scheduled and that all outstanding term Subordinate Obligations 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 Subordinate Obligations maturing in such period (but excluding Excluded Principal);

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

(iv) those portions of the Subordinate Obligations 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); *minus*

(b) the earnings to be derived from the investment of moneys on deposit in debt service reserve funds established for all outstanding Subordinate Obligations;

provided that, as to any such Subordinate Obligations bearing or comprising interest at other than a fixed rate, the rate of interest used to calculate Subordinate Debt Service shall, for all purposes, be assumed to be a fixed rate equal to the higher of:

(x) the then current Variable Interest Rate borne by such Subordinate Obligations plus one percent (1%); and

(y) the highest variable rate borne over the preceding three (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 Subordinate Obligations 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), Subordinate Debt Service shall be determined for the period of determination as if the principal of and interest on such series or issue of such Subordinate Obligations 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;

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

provided further that the amount on deposit in a debt service reserve fund on any date of calculation of Subordinate Debt Service shall be deducted from the amount of principal due at the

final maturity of the Subordinate Obligations 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.

“Subordinate Obligations” means all obligations of the District which (a) are secured by a pledge of and lien on the Pledged Collateral (or a portion thereof) and rank subordinate in right of payment and right of security to the WIFIA Installment Payments, including any Additional Subordinate Obligations, and (b) constitute “Subordinate Debt” under each WIFIA IPA.

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

“Substantial Completion Date” means, with respect to each Project, the date on which the District certifies to the WIFIA Lender, with evidence satisfactory to the WIFIA Lender, that Substantial Completion for such Project has occurred.

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

“Total Project Costs” means, with respect to each Project, (a) the costs paid or incurred or to be paid or incurred by the District, as agent of the Borrower pursuant to the relevant WIFIA IPA, in connection with or incidental to the acquisition, design, construction and equipping of such Project, including legal, administrative, engineering, planning, design, insurance and financing (including costs of issuance); (b) amounts, if any, required by the WIFIA Loan Documents to be paid into any fund or account upon the incurrence of the applicable WIFIA Loan or any other Obligation, in each case in respect of such Project; (c) payments when due (whether at the maturity of principal, the due date of interest, or upon optional or mandatory prepayment) during the Construction Period of such Project in respect of any obligations of the District in connection with such Project (other than the WIFIA Loan in respect of such Project); and (d) costs of equipment and supplies and initial working capital and reserves required by the District for the commencement of operation of such Project, including general administrative expenses and overhead of the District.

“Uncontrollable Force” means any cause beyond the control of the Borrower and the District, including: (a) a hurricane, tornado, flood or similar occurrence, landslide, earthquake, fire or other casualty, strike or labor disturbance, freight embargo, act of a public enemy, explosion, war, blockade, terrorist act, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, sabotage, global pandemic or act of God (provided that neither the Borrower nor the District shall be required to settle any strike or labor disturbance in which it may be involved) or (b) the order or judgment of any federal, state or local court, administrative agency or governmental officer or body, if it is not also the result of willful or negligent action or a lack of reasonable diligence of the Borrower or the District and neither the Borrower nor the District controls the administrative agency or governmental officer or body; provided that the diligent contest in good faith of any such order or judgment shall not constitute

or be construed as a willful or negligent action or a lack of reasonable diligence of the Borrower or the District.

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

“**Unique Entity Identifier**” means, with respect to any Person, the unique entity identifier issued by the Government through SAM.gov for such Person.

“**Updated Financial Model/Plan**” means (a) an updated Base Case Financial Model or (b) a financial plan in a format agreed with the WIFIA Lender, in each case reflecting the then-current and projected conditions for the Forecast Period, in accordance with Section 20(a) (*Reporting Requirements of the District – Updated Financial Model/Plan*).

“**Variable Interest Rate**” means a variable interest rate to be borne by any Obligations. The method of computing such variable interest rate shall be specified in the Obligation Document pursuant to which such Obligations are incurred. Such Obligation Document shall also specify either (a) the particular period or periods of time for which each value of such variable interest rate shall remain in effect or (b) the time or times upon which any change in such variable interest rate shall become effective.

“**Variable Interest Rate Obligations**” means Obligations which bear a Variable Interest Rate but does not include any Obligations for which the interest rate has been fixed during the remainder of the term thereof to maturity.

“**Water Supply Contract**”² means the Water Supply Contract, dated December 30, 1960, between the State of California Department of Water Resources and the District, as amended to the date hereof and as may be amended or extended from time to time in accordance therewith and including an interim or renewal arrangement with respect thereto.

“**Weighted Average Life**” means, with respect to any WIFIA Loan, as of any date of determination, the number of years (rounded to the nearest one-twelfth (1/12th)) obtained by dividing (a) the sum of the Weighted Payments with respect to such WIFIA Loan by (b) the Outstanding WIFIA Loan Balance with respect to such WIFIA Loan.

“**Weighted Payment**” means, with respect to any WIFIA Loan, as of any date of determination, each product obtained by multiplying (a) the amount of principal with respect to such WIFIA Loan payable as of any Principal Payment Date under the applicable WIFIA Loan Agreement by (b) the number of years (rounded to the nearest one-twelfth (1/12th)) that will elapse between such date of determination and such Principal Payment Date.

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

“**WIFIA Borrower Resolution**” means Resolution No. [●], adopted by the Borrower on [●], 2023, authorizing the execution and delivery of this Agreement, each WIFIA Loan

² **Note to District:** Please provide a copy of this contract and any amendments.

Agreement, each WIFIA IPA and each WIFIA Note and certain related actions by the Borrower in connection therewith.

“**WIFIA CUSIP Number**” has the meaning provided in Section 11(b)(vii)(B) (*Conditions Precedent – Conditions Precedent to Effectiveness of Each WIFIA Loan Agreement*).

“**WIFIA Debt Service**” means, with respect to each WIFIA Loan, for any Payment Date occurring on or after the Debt Service Payment Commencement Date for such WIFIA Loan, the principal portion of the Outstanding WIFIA Loan Balance and any interest payable thereon (including interest accruing after the date of any filing by the Borrower of any petition in bankruptcy or the commencement of any bankruptcy, insolvency or similar proceeding with respect to the Borrower), in each case, (a) as set forth on Exhibit A (*WIFIA Loan Amortization Schedule*) of the applicable WIFIA Loan Agreement and (b) due and payable on such Payment Date in accordance with the provisions of Section 8(a) (*Payment of Principal and Interest – Payment of WIFIA Debt Service*).

“**WIFIA Debt Service Account**” means the debt service account established and maintained by the District, as agent of the Borrower pursuant to each WIFIA IPA, pursuant to Section 17(i) (*Affirmative Covenants of the District – WIFIA Debt Service Account*).

“**WIFIA District Resolution**” means Resolution No. [●], adopted by the District on [●], 2023, authorizing the execution and delivery of this Agreement, each WIFIA Loan Agreement and each WIFIA IPA and certain related actions by the District in connection therewith.

“**WIFIA Installment Payments**” means, for each WIFIA IPA, the installment payments of interest and principal scheduled to be paid by the District under and pursuant to such WIFIA IPA.

“**WIFIA Interest Rate**” means, for each WIFIA Loan, the rate specified in Section 6 (*Interest Rate*) of the applicable WIFIA Loan Agreement, which shall be computed in accordance with Section 6 (*Interest Rate*) hereof.

“**WIFIA IPA**” means, for each WIFIA Loan, an Installment Purchase Agreement substantially in the form attached hereto as **Exhibit L** (*Form of WIFIA IPA*) entered into by and between the District and the Borrower with respect to the Project corresponding to such WIFIA Loan.

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

“**WIFIA Lender’s Authorized Representative**” means the Administrator and any other Person who shall be designated as such pursuant to Section 27 (*WIFIA Lender’s Authorized Representative*).

“**WIFIA Loan**” has, for each WIFIA Loan Agreement, the meaning provided in Section 1 (*Definitions*) thereof.

“**WIFIA Loan Agreement**” means, for each WIFIA Loan, a loan agreement substantially in the form attached hereto as **Exhibit K** (*Form of WIFIA Loan Agreement*) entered into by the Borrower, the District and the WIFIA Lender in respect of the relevant Project.

“**WIFIA Loan Agreement Effective Date**” has, for each WIFIA Loan Agreement, the meaning provided in Section 1 (*Definitions*) thereof.

“**WIFIA Loan Amortization Schedule**” has, for each WIFIA Loan, the meaning provided in Section 1 (*Definitions*) of the applicable WIFIA Loan Agreement.

“**WIFIA Loan Commitment Amount**” has the meaning provided in Section 3(a) (*WIFIA Loans Under the Master Program*).

“**WIFIA Loan Disbursement Schedule**” means, for each WIFIA Loan, the disbursement schedule set forth in the WIFIA Loan Amortization Schedule for such WIFIA Loan, reflecting the anticipated disbursement of proceeds of such WIFIA Loan, as such schedule may be amended from time to time pursuant to Section 4(d) (*Disbursement Conditions*).

“**WIFIA Loan Documents**” means this Agreement, the WIFIA Notes, the WIFIA IPAs, the WIFIA Loan Agreements and the WIFIA Resolutions.

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

“**WIFIA Notes**” means, collectively, each “WIFIA Note” as defined in Section 1 (*Definitions*) of each WIFIA Loan Agreement..

“**WIFIA Resolutions**” means, collectively, the WIFIA District Resolution and the WIFIA Borrower Resolution.

Section 2. Interpretation.

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

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

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

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

(e) Whenever the Borrower’s knowledge or the District’s knowledge is implicated in this Agreement or the phrase “to the Borrower’s knowledge” or the phrase “to the District’s knowledge” or a similar phrase is used in this Agreement, the Borrower’s knowledge or the District’s knowledge or such phrase(s) shall be interpreted to mean to the best of the Borrower’s

knowledge or the best of the District's knowledge, as applicable, after reasonable and diligent inquiry. Unless the context shall otherwise require, references to any Person shall be deemed to include such Person's successors and permitted assigns.

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

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

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

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

(j) Every request, order, demand, application, appointment, notice, statement, certificate, consent or similar communication or action hereunder by any party shall, unless otherwise specifically provided, be delivered in writing in accordance with Section 36 (*Notices*) and signed by a duly authorized representative of such party.

(k) References to "disbursements of WIFIA Loan proceeds" or similar phrasing shall be construed as meaning the same thing as "paying a portion of the purchase price of the WIFIA Notes".

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

(m) If any provision of this Agreement (or any other WIFIA Loan Document) conflicts with any provision of a WIFIA Loan Agreement, the provisions of such WIFIA Loan Agreement shall prevail.

ARTICLE II THE WIFIA LOAN

Section 3. WIFIA Loans Under the Master Program.

(a) Subject to the terms and conditions set forth in this Agreement and, with respect to each WIFIA Loan requested pursuant to the terms hereof, the terms and conditions set

forth in the relevant WIFIA Loan Agreement (and Project Term Sheet related thereto), the Borrower may request WIFIA Loans for the Projects under the Master Program from time to time during the Master Availability Period in an aggregate principal amount for (i) the Master Program, not to exceed the Aggregate Master Program Amount and (ii) each Project component, not to exceed the principal amount set forth in **Schedule II (Master Program Budget)** for such Project component (such principal amount, the “**WIFIA Loan Commitment Amount**”); provided that (x) the aggregate WIFIA Loan Commitment Amount at any time shall not exceed the Aggregate Master Program Amount and (y) the availability of the WIFIA Loan for each Project shall be subject to the availability of budgetary authority at the time the WIFIA Loan Request for such WIFIA Loan is made. Such availability of budgetary authority shall be determined by the WIFIA Lender in accordance with the Act and applicable law. WIFIA Loan proceeds to be drawn shall be disbursed from time to time to pay for Eligible Project Costs for the applicable Project in accordance with Section 4 (*Disbursement Conditions*), Section 11(c) (*Conditions Precedent – Conditions Precedent to Disbursements*), and the terms of the applicable WIFIA Loan Agreement related thereto.

(b) Prior to the execution of the relevant WIFIA Loan Agreement, (i) any Project component included in **Schedule I (Master Program)** and **Schedule II (Master Program Budget)** may be replaced with one or more other Project components and (ii) any WIFIA Loan Commitment Amount included in **Schedule II (Master Program Budget)** may be adjusted as necessary, so long as, following such adjustment, (x) the maximum principal amount of the relevant WIFIA Loan, together with the amount of any other credit assistance provided under the Act to the Borrower, would not exceed forty-nine percent (49%) of reasonably anticipated Eligible Project Costs for such Project and (y) the aggregate WIFIA Loan Commitment Amount does not exceed the Aggregate Master Program Amount. In connection with any such modification, the Borrower shall amend **Schedule I (Master Program)** and **Schedule II (Master Program Budget)** by submitting a revised version thereof to the WIFIA Lender no later than thirty (30) days prior to the proposed effective date of such modification, together with a detailed explanation of the reasons therefor. Each such revised schedule shall become effective upon the WIFIA Lender’s approval thereof, which approval shall be granted in the WIFIA Lender’s sole discretion.

Section 4. Disbursement Conditions.

(a) From time to time after the Effective Date but in any event (x) not more than once every sixty (60) days and (y) no later than one hundred eighty (180) days prior to the end of the Master Availability Period, the District, as agent of the Borrower pursuant to the applicable WIFIA IPA, may, with respect to each relevant Project, request that the WIFIA Lender enter into a WIFIA Loan Agreement and related WIFIA Loan Documents in respect of such Project by delivering to the WIFIA Lender a written notice in the form of **Exhibit D (Form of WIFIA Loan Request)** (a “**WIFIA Loan Request**”), which shall specify the Project components to which such WIFIA Loan Request relates, together with (i) a description of such Project components, (ii) the most recent Updated Financial Model/Plan delivered to the WIFIA Lender in accordance with Section 20(a) (*Reporting Requirements of the District – Updated Financial Model/Plan*), and (iii) such additional information relating to such Project as may be requested by the WIFIA Lender; provided that a WIFIA Loan Request shall not be required in connection with the initial WIFIA Loan Agreement; provided further that no more than five (5) WIFIA Loan Requests shall be delivered during the Master Availability Period. For each WIFIA Loan, the WIFIA Lender and

the District, as agent of the Borrower pursuant to the applicable WIFIA IPA, shall, subject to the terms and conditions set forth herein and the applicable WIFIA Loan Agreement, promptly and in good faith, negotiate, finalize and enter into the Project Term Sheet, WIFIA Loan Agreement and the other WIFIA Loan Documents related to such Project.

(b) Pursuant to each WIFIA IPA, the Borrower shall appoint the District as its agent to request funds from time to time under this Agreement and the WIFIA Loan Agreements, and the District shall accept such appointment and assume all rights, liabilities, duties and responsibilities of the Borrower under this Agreement and the WIFIA Loan Agreements regarding the requisition of funds from time to time hereunder and thereunder. WIFIA Loan proceeds shall be disbursed solely in respect of Eligible Project Costs paid or incurred and approved for payment by or on behalf of the Borrower in connection with the applicable Project, including for the purpose of paying or redeeming, in whole or in part, amounts owed by the District under an Interim Financing the proceeds of which were applied to pay Eligible Project Costs. If the Borrower intends to utilize the WIFIA Loan proceeds to make progress payments for construction work performed under the Construction Contracts with respect to such Project, the District, as agent of the Borrower pursuant to the applicable WIFIA IPA, shall demonstrate to the satisfaction of the WIFIA Lender that such progress payments are commensurate with the cost of the work that has been completed. Each disbursement of the applicable WIFIA Loan shall be made pursuant to a requisition and certification (a “**Requisition**”) in the form set forth in **Appendix One** (*Form of Requisition*) to **Exhibit B** (*Requisition Procedures*), along with all documentation and other information required thereby, submitted by the District, as agent of the Borrower pursuant to the applicable WIFIA IPA, to, and approved by, the WIFIA Lender, all in accordance with the procedures of **Exhibit B** (*Requisition Procedures*) and subject to the requirements of this Section 4 and the conditions set forth in Section 11(c) (*Conditions Precedent – Conditions Precedent to Disbursements*) and Section 11(b) (*Conditions Precedent – Conditions Precedent to Disbursements*) of the applicable WIFIA Loan Agreement; provided that no disbursements of WIFIA Loan proceeds shall be made after the Final Disbursement Date with respect to such WIFIA Loan.

(c) Each Requisition shall include a certification by the District, as agent of the Borrower pursuant to the applicable WIFIA IPA, certifying as to the following: (i) whether reimbursement or payment is being requested with respect to (A) Eligible Project Costs that have been submitted by it pursuant to Section 20(c)(iii) (*Reporting Requirements of the District – Construction Reporting – Quarterly Certification of Eligible Project Costs*) and approved by the WIFIA Lender pursuant to Section 20(c)(iii) or (B) other Eligible Project Costs incurred by the District, as agent of the Borrower pursuant to such WIFIA IPA; (ii) the amount for which reimbursement or payment is being requested has not been reimbursed or paid by any previous disbursement of WIFIA Loan proceeds; and (iii) to the extent any Eligible Project Costs described in clause (i)(B) above are included in the Requisition, that such Eligible Project Costs have not and will not be submitted by the District for approval pursuant to Section 20(c)(iii).

(d) Subject to this Section 4, with respect to any WIFIA Loan, any scheduled disbursement (as reflected in the applicable WIFIA Loan Disbursement Schedule) of such WIFIA Loan that remains undrawn as of its scheduled date shall automatically be available for the next scheduled disbursement date, up to the Final Disbursement Date, with the effect of automatically updating such WIFIA Loan Disbursement Schedule (and the WIFIA Loan Amortization Schedule

for such WIFIA Loan) without need for the WIFIA Lender's approval. The District may also amend such WIFIA Loan Disbursement Schedule by submitting a revised version thereof to the WIFIA Lender no later than thirty (30) days prior to the proposed effective date of such amendment, together with a detailed explanation of the reasons for such revisions. Such revised WIFIA Loan Disbursement Schedule shall become effective upon the WIFIA Lender's approval thereof, which approval shall be deemed granted if the WIFIA Lender has not objected within thirty (30) days from receipt of the revised schedule, and which approval shall have the effect of updating the WIFIA Loan Amortization Schedule for such WIFIA Loan to reflect the updated WIFIA Loan Disbursement Schedule. Notwithstanding the foregoing, the date of the first disbursement of any WIFIA Loan shall not be earlier than the initial date of disbursement for such WIFIA Loan set out in the applicable WIFIA Loan Amortization Schedule as of the applicable WIFIA Loan Agreement Effective Date.

Section 5. Term. The term of each WIFIA Loan shall extend from the applicable WIFIA Loan Agreement Effective Date to the Final Maturity Date of such WIFIA Loan or to such earlier date as all amounts due or to become due to the WIFIA Lender under such WIFIA Loan Agreement have been irrevocably paid in full in immediately available funds.

Section 6. Interest Rate. With respect to each WIFIA Loan, interest will accrue and be computed on each Outstanding WIFIA Loan Balance (as well as on any past due interest) from time to time at the relevant WIFIA Interest Rate on the basis of a three hundred sixty (360) day year of twelve (12) thirty (30) day months; provided that, upon the occurrence of an Event of Default, the Borrower shall pay interest on the Outstanding WIFIA Loan Balance at the Default Rate, (a) in the case of any Payment Default, from (and including) its due date to (but excluding) the date of actual payment and (b) in the case of any other Event of Default, from (and including) the date of such occurrence to (but excluding) the earlier of the date on which (i) such Event of Default has been cured or waived (if applicable) in accordance with the terms of this Agreement and the relevant WIFIA Loan Agreement and (ii) the Outstanding WIFIA Loan Balance has been irrevocably paid in full by the Borrower in immediately available funds. For the avoidance of doubt, interest on each WIFIA Loan and each WIFIA Note shall accrue and be payable only on those amounts for which a Requisition has been submitted and funds (or such portion of funds as have been approved by the WIFIA Lender) have been disbursed to the Borrower for use on the relevant Project in accordance with Section 4 (*Disbursement Conditions*).

Section 7. Security and Priority; Flow of Funds.

(a) Pursuant to each WIFIA IPA, as security for the WIFIA Installment Payments under such WIFIA IPA, and concurrently with the issuance and delivery of the applicable WIFIA Loan Agreement, the District shall pledge, assign and grant to the Borrower for its benefit, Liens on (w) all Revenues, the Revenue Fund and all amounts on deposit in the Revenue Fund, (x) the Rate Stabilization Fund and all amounts on deposit in the Rate Stabilization Fund, (y) the Acquisition Fund and all amounts on deposit in the Acquisition Fund and (z) the WIFIA Debt Service Account and all amounts on deposit in the WIFIA Debt Service Account (collectively, the "**Pledged Collateral**"). The obligation of the District to make the WIFIA Installment Payments under each WIFIA IPA shall (i) be secured by the Liens on the Pledged Collateral, (ii) not be subordinate in right of payment or in right of security to any Lien on the Pledged Collateral, (iii) be *pari passu* in right of payment and right of security only to the Lien on

the Pledged Collateral for the benefit of the Parity Obligations and (iv) be senior in right of payment and right of security to the Lien on the Pledged Collateral for the benefit of the Subordinate Obligations, in each case, without the need for any notice to or from any Person, physical delivery, recordation, filing or further act. The obligation of the District to make the WIFIA Installment Payments under each WIFIA IPA constitutes Parity Obligations under this Agreement and “Contracts” under each WIFIA IPA, and each WIFIA IPA constitutes a “Contract” under each WIFIA IPA.

(b) Except (i) for Permitted Liens, or (ii) to the extent otherwise provided in Section 7(a), the Pledged Collateral shall be free and clear of any pledge, Lien, charge or encumbrance thereon or with respect thereto, that is of equal rank with or senior to the pledge of the Borrower created under the WIFIA Loan Documents for the benefit of the WIFIA Lender, and all organizational, regulatory or other necessary action on the part of the District with respect to the foregoing has been duly and validly taken.

(c) The Borrower hereby unconditionally pledges and assigns to the WIFIA Lender and grants to the WIFIA Lender Liens for its benefit on (i) all of its right, title and interest to receive the Authority Revenues, (ii) all of its rights to receive amounts from the District from the WIFIA Debt Service Account and (iii) all of its rights and remedies to enforce each WIFIA IPA upon an event of default under such WIFIA IPA, in each case for the purpose of securing (x) the payment of all sums due and owing to the WIFIA Lender under this Agreement and the relevant WIFIA Loan Agreement and (y) the observance, performance and discharge of each agreement, condition, covenant and term of the Borrower and the District under this Agreement and the relevant WIFIA Loan Agreement and of the District under such WIFIA IPA. The District hereby consents to such pledge, assignment and grant. Notwithstanding anything in this Agreement or any other WIFIA Loan Document to the contrary, the Borrower does not and shall not assign, and the WIFIA Lender does not and shall not assume, any obligation, duty or liability of the Borrower under each WIFIA IPA. Each WIFIA Loan is and shall be secured by the Liens on the Authority Revenues. The Authority Revenues shall be free and clear of any pledge, Lien, charge or encumbrance thereon or with respect thereto other than the Liens with respect to each WIFIA Loan. The WIFIA Debt Service Account shall be free and clear of any pledge, Lien, charge or encumbrance thereon or with respect thereto other than the Liens with respect to the WIFIA Installment Payments under each WIFIA IPA.

(d) The District shall not use any Pledged Collateral to make any payments or satisfy any obligations other than in accordance with the Flow of Funds, the provisions of this Section 7 and the Related Documents and shall not apply any portion of the Pledged Collateral in contravention of this Agreement or the other Related Documents. The District shall not use any amounts on deposit in the WIFIA Debt Service Account to make any payments or satisfy any obligations other than the payment of WIFIA Debt Service on the Borrower’s behalf.

(e) The Borrower shall not use any Authority Revenues to make any payments or satisfy any obligations other than the payment of WIFIA Debt Service and other amounts payable to the WIFIA Lender under this Agreement, the relevant WIFIA Loan Agreement and the relevant WIFIA Note.

(f) All Revenues shall, immediately upon receipt thereof, be deposited by the District into the Revenue Fund. Amounts deposited in the Revenue Fund shall be applied in the order of priority described in, and in accordance with, the Flow of Funds, which includes payment of WIFIA Debt Service in accordance with Section 5.02 (*Allocation of Revenues*) of the relevant WIFIA IPA.

(g) Following the acceleration of amounts payable by the Borrower under this Agreement and the relevant WIFIA Loan Agreement or payable by the District under the relevant WIFIA IPA pursuant to Section 21(c) (*Events of Default and Remedies*) or Section 21(d)(vii) (*Events of Default and Remedies*) hereof or Section 21(c) (*Events of Default and Remedies*) of such WIFIA Loan Agreement, amounts deposited in the Revenue Fund shall be applied in the order of priority described in, and in accordance with, the Flow of Funds Following Acceleration.

Section 8. Payment of Principal and Interest.

(a) Payment of WIFIA Debt Service.

(i) Pursuant to the applicable WIFIA IPA, not later than each Installment Payment Date occurring on or after the applicable Debt Service Payment Commencement Date, the District shall, from moneys in the Revenue Fund, transfer to the WIFIA Debt Service Account the WIFIA Installment Payment under such WIFIA IPA due and payable on the relevant Payment Date. All WIFIA Installment Payments under the applicable WIFIA IPA shall be paid directly by the District to the WIFIA Debt Service Account for the benefit of the WIFIA Lender. All WIFIA Installment Payments under the applicable WIFIA IPA and any other amounts deposited into the WIFIA Debt Service Account shall be held by the District, as agent of the Borrower pursuant to such WIFIA IPA, in trust for the benefit of the WIFIA Lender until the immediately succeeding Payment Date, whereupon such money shall be applied to the payment of WIFIA Debt Service.

(ii) No WIFIA Debt Service under the applicable WIFIA Loan Agreement shall be due or payable prior to the applicable Debt Service Payment Commencement Date. The Borrower shall pay, or the District, as agent of the Borrower pursuant to the applicable WIFIA IPA, shall transfer from the WIFIA Debt Service Account on the Borrower's behalf, (A) WIFIA Debt Service in the amounts and manner and on the Payment Dates as set forth in the applicable WIFIA Loan Amortization Schedule, as the same may be revised pursuant to Section 8(f) (*Adjustments to WIFIA Loan Amortization Schedule*) and (B) payments of any other amounts on each other date on which payment thereof is required to be made hereunder or under the applicable WIFIA Loan Agreement (including the applicable Final Maturity Date and any date on which payment is due hereunder or thereunder or under the applicable WIFIA Note by reason of the mandatory redemption or prepayment or the acceleration of the maturity of the applicable WIFIA Loan or otherwise); provided that if any such date is not a Business Day, payment shall be made on the next Business Day following such date. WIFIA Loan proceeds borrowed and repaid may not be reborrowed.

(iii) Notwithstanding anything herein to the contrary, each Outstanding WIFIA Loan Balance and any accrued interest thereon shall be due and payable in full on

the Final Maturity Date of the related WIFIA Loan (or on any earlier date on which the related WIFIA Loan and WIFIA Note are subject to mandatory redemption or prepayment prior to the maturity thereof).

(iv) Any defeasance of the applicable WIFIA Loan in accordance with applicable law shall not be deemed a repayment or prepayment of such WIFIA Loan in full, and each of the Borrower and the District shall comply with all of its respective obligations hereunder and under the other WIFIA Loan Documents (other than with respect to payments of WIFIA Debt Service, which payments shall continue to be made in accordance with the applicable WIFIA Loan Amortization Schedule by the succeeding entity assuming the Borrower's payment obligations), unless otherwise agreed by the WIFIA Lender, until the irrevocable payment in full in immediately available funds by the Borrower of the Outstanding WIFIA Loan Balance with respect to such WIFIA Loan, together with all accrued interest, fees and expenses with respect thereto.

(b) Capitalized Interest. No payment of the principal of or interest on any WIFIA Loan is required to be made during the applicable Capitalized Interest Period. On each applicable Payment Date occurring during the applicable Capitalized Interest Period, and on the day immediately following the end of such Capitalized Interest Period, interest accrued on the applicable WIFIA Loan in the six (6) month period ending immediately prior to such date (or such shorter period if such Capitalized Interest Period ends on a date other than the date immediately prior to an Interest Payment Date) shall be capitalized and added to the relevant Outstanding WIFIA Loan Balance. The accrual of interest on amounts capitalized during the applicable Capitalized Interest Period pursuant to this Section 8(b) shall commence on the date such amounts are added to the relevant Outstanding WIFIA Loan Balance. Within thirty (30) days after the end of the applicable Capitalized Interest Period, the WIFIA Lender shall give written notice to the Borrower and the District stating the Outstanding WIFIA Loan Balance of the related WIFIA Loan as of the close of business on the last day of such Capitalized Interest Period, which statement thereof shall be deemed conclusive absent manifest error; provided that no failure to give or delay in giving such notice shall affect any payment obligation or other obligation of the Borrower hereunder or under any other WIFIA Loan Document to which the Borrower is a party, or any payment obligation of the District under the applicable WIFIA IPA or any other obligation of the District under this Agreement or under any other WIFIA Loan Document to which the District is a party. Notwithstanding the foregoing, the applicable Capitalized Interest Period shall end immediately upon written notification to the Borrower or the District by the WIFIA Lender that an Event of Default under the relevant WIFIA Loan Agreement has occurred, in which case the provisions of this Section 8(b) shall no longer apply and payments of principal and interest shall be currently due and payable in accordance with the terms hereof and of such WIFIA Loan Agreement and interest shall no longer be capitalized. For purposes of this Section 8(b), an Event of Default under Section 21(b)(v) (*Events of Default and Remedies – Cross Default with Obligation Documents*) shall be deemed to have occurred upon the occurrence of any nonpayment of principal of, interest on or redemption price of any Parity Obligations (other than the WIFIA Loan) when due, regardless of whether any holder of the applicable Parity Obligations, or any legal order, has waived or permitted deferral of any such payment. To the extent that any prepayment of any WIFIA Loan is made during the applicable Capitalized Interest Period, such prepayment shall be applied to the relevant Outstanding WIFIA Loan Balance as provided in

Section 9(d) (*Prepayment – General Prepayment Instructions*) and reflected in a revised Exhibit A (*WIFIA Loan Amortization Schedule*) to the relevant WIFIA Loan Agreement.

(c) Interest Payments and Interest Only Period.

(i) Interest shall accrue on each WIFIA Loan commencing on the date of the first disbursement of such WIFIA Loan and shall be payable commencing on the applicable Debt Service Payment Commencement Date.

(ii) During the applicable Interest Only Period, the WIFIA Debt Service payable by the Borrower shall consist of one hundred percent (100%) of the amount of interest then due and payable on the relevant Outstanding WIFIA Loan Balance, and no payment of principal will be due and payable.

(d) WIFIA Notes. As evidence of the Borrower's obligation to repay each WIFIA Loan, the Borrower shall issue and deliver to the WIFIA Lender, on or prior to the applicable WIFIA Loan Agreement Effective Date, a WIFIA Note substantially in the form of **Exhibit A** (*Form of WIFIA Note*), having the maximum principal amount (excluding interest to be capitalized in accordance with the terms hereof and thereof) specified in the WIFIA Loan Agreement for such WIFIA Loan, bearing interest at the applicable WIFIA Interest Rate and having principal and interest payable on the same dates as those set forth in such WIFIA Loan Agreement. Any payment in respect of any WIFIA Note shall be treated as a payment in respect of the corresponding WIFIA Loan and any prepayment of principal in respect of any WIFIA Loan shall be treated as a redemption in respect of the corresponding WIFIA Note.

(e) Manner of Payment. The Borrower hereby assigns all its right and interest in and to the WIFIA Installment Payments under each WIFIA IPA to the WIFIA Lender and directs the District to transfer, on the Borrower's behalf, all amounts on deposit in the WIFIA Debt Service Account to the WIFIA Lender by wire transfer on or before each applicable Payment Date in Dollars and in immediately available funds (without counterclaim, offset or deduction) in accordance with the payment instructions provided by the WIFIA Lender prior to the relevant payment, as may be modified in writing from time to time by the WIFIA Lender; provided that neither the assignment of such rights by the Borrower nor such direction by the Borrower to the District with respect to payments hereunder or under the applicable WIFIA Loan Agreement shall affect in any manner any payment obligation or other obligation of the Borrower hereunder or under any other WIFIA Loan Document to which the Borrower is a party, or any payment obligation of the District under such WIFIA IPA or other obligation of the District hereunder or under any WIFIA Loan Document to which the District is a party.

(f) Adjustments to WIFIA Loan Amortization Schedule.

(i) Each Outstanding WIFIA Loan Balance will be (A) increased on each occasion on which the WIFIA Lender disburses proceeds of the applicable WIFIA Loan under the applicable WIFIA Loan Agreement by the amount of such disbursement of loan proceeds; (B) increased on each occasion on which interest on the WIFIA Loan is capitalized pursuant to the provisions of Section 8(b) (*Payment of Principal and Interest – Capitalized Interest*), by the amount of interest so capitalized; and (C) decreased upon each

payment or prepayment of the Outstanding WIFIA Loan Balance for the applicable WIFIA Loan by the amount of principal so paid. The WIFIA Lender may in its discretion at any time and from time to time, or when so requested by the Borrower or the District, advise the Borrower or the District by written notice of the amount of such Outstanding WIFIA Loan Balance as of the date of such notice, and its determination of such amount in any such notice shall be deemed conclusive absent manifest error.

(ii) The WIFIA Lender is hereby authorized to modify any WIFIA Loan Amortization Schedule from time to time, in accordance with the principles set forth below in this Section 8(f), to reflect (A) any change to the Outstanding WIFIA Loan Balance for the applicable WIFIA Loan, (B) any change to the date and amount of any principal or interest due and payable or to become due and payable by the Borrower under this Agreement or the corresponding WIFIA Loan Agreement, (C) any mathematical corrections as the WIFIA Lender may determine are necessary and (D) with the consent of the Borrower (not to be unreasonably withheld), such other information as the WIFIA Lender may determine is necessary for administering such WIFIA Loan or such WIFIA Loan Agreement. Any calculations described above shall be rounded up to the nearest whole cent. Any adjustments or revisions to such WIFIA Loan Amortization Schedule as a result of changes in such Outstanding WIFIA Loan Balance shall be applied to reduce future payments due with respect to such WIFIA Loan in inverse order of maturity, other than prepayments which shall be applied in accordance with Section 9(d) (*Prepayment – General Prepayment Instructions*). Absent manifest error, the WIFIA Lender’s determination of such matters as set forth on Exhibit A (*WIFIA Loan Amortization Schedule*) attached to each WIFIA Loan Agreement shall be conclusive evidence thereof; provided that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner any payment obligation or other obligation of the Borrower hereunder or under any other WIFIA Loan Document to which the Borrower is a party, or any payment obligation of the District under each WIFIA IPA or other obligation of the District hereunder or under any WIFIA Loan Document to which the District is a party. The WIFIA Lender shall provide the Borrower and the District with a copy of such Exhibit A (*WIFIA Loan Amortization Schedule*) as revised pursuant to this Section 8(f)(ii), but no failure to provide or delay in providing the Borrower or the District with such copy shall affect any of the obligations of the Borrower or the District under this Agreement or the other WIFIA Loan Documents.

(g) WIFIA Loan Not District Indebtedness. Each WIFIA Loan and each WIFIA Note are limited obligations of the Borrower, payable solely from the Authority Revenues, and do not constitute a debt of the State or any of its political subdivisions (including the District), except the Borrower. Notwithstanding anything to the contrary set forth in this Agreement, the District is not a borrower with respect to each WIFIA Loan, each WIFIA Note, or this Agreement and the District has no obligation to make any payment or provision for payment of such WIFIA Loan or such WIFIA Note. This Agreement does not constitute a contract between the District and the WIFIA Lender by which the District has incurred an indebtedness.

Section 9. Prepayment.

(a) Mandatory Prepayment from Insurance Proceeds or Eminent Domain Proceeds. The Borrower, or the District as agent of the Borrower, shall prepay each WIFIA Loan from and in the amount of any prepayments of the WIFIA Installment Payments received from the District pursuant to the WIFIA IPA for such WIFIA Loan, Section 17(f)(viii) (*Affirmative Covenants of the District – Insurance; Net Proceeds*) and Section 17(s)(ii) (*Affirmative Covenants of the District – Eminent Domain; Net Proceeds*). The amount of any such prepayment shall be equal to the portion of the Outstanding WIFIA Loan Balance for such WIFIA Loan required to be prepaid hereunder plus accrued interest thereon to the date of prepayment. All such prepayments shall be paid to the WIFIA Lender by the District as agent of the Borrower substantially concurrently with the receipt of such amount by the Borrower and applied against such Outstanding WIFIA Loan Balance in accordance with Section 9(d) (*Prepayment – General Prepayment Instructions*).

(b) Optional Prepayments. After the Final Disbursement Date for a WIFIA Loan, the Borrower (or the District as agent of the Borrower) may prepay such WIFIA Loan in whole or in part (and, if in part, the amounts thereof to be prepaid shall be determined by the Borrower; provided that such prepayments shall be in principal amounts of \$500,000 or any integral multiple of \$1.00 in excess thereof), from time to time, but not more than annually, without penalty or premium, by paying to the WIFIA Lender such principal amount of such WIFIA Loan to be prepaid, together with the unpaid interest accrued on the amount of principal so prepaid to the date of such prepayment, which shall be a Payment Date under the applicable WIFIA Loan Agreement unless otherwise agreed by the WIFIA Lender. Each prepayment of a WIFIA Loan pursuant to this Section 9(b) shall be made on such Payment Date and in such principal amount as shall be specified by the Borrower in a written notice delivered to the WIFIA Lender not less than ten (10) days or more than thirty (30) days prior to the date set for prepayment, unless otherwise agreed by the WIFIA Lender. At any time between delivery of such written notice and the applicable optional prepayment, the Borrower may, without penalty or premium, rescind its announced optional prepayment by further written notice to the WIFIA Lender. Anything in this Section 9(b) to the contrary notwithstanding, the failure by the Borrower to make any optional prepayment shall not constitute a breach or default under this Agreement or the applicable WIFIA Loan Agreement.

(c) Borrower's Certificate. Each prepayment pursuant to this Section 9 shall be accompanied by a certificate signed by the Borrower's Authorized Representative identifying the provision of this Agreement pursuant to which such prepayment is being made and containing a calculation in reasonable detail of the amount of such prepayment.

(d) General Prepayment Instructions. Upon the WIFIA Lender's receipt of confirmation that payment in full in immediately available funds of the entire Outstanding WIFIA Loan Balance with respect to any WIFIA Loan and any unpaid interest, fees and expenses with respect thereto has occurred as a result of a mandatory or optional prepayment, the WIFIA Lender shall surrender the corresponding WIFIA Note to the Borrower or its representative by mail in accordance with Section 36 (*Notices*) or as otherwise agreed between the parties hereto. If the Borrower prepays only part of the unpaid balance of principal of any WIFIA Loan, the WIFIA Lender may make a notation on Exhibit A (*WIFIA Loan Amortization Schedule*) attached to the

applicable WIFIA Loan Agreement, indicating the amount of principal of and interest on such WIFIA Loan then being prepaid. Absent manifest error, the WIFIA Lender's determination of such matters as set forth on such Exhibit A (*WIFIA Loan Amortization Schedule*) shall be conclusive evidence thereof; provided that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner any payment obligation or other obligation of the Borrower hereunder or under any other WIFIA Loan Document to which the Borrower is a party, or any payment obligation of the District under the WIFIA IPA with respect to such WIFIA Loan or any other obligation of the District hereunder or under any WIFIA Loan Document to which the District is a party. All partial prepayments of principal shall be applied to reduce future payments due on the applicable WIFIA Loan on a pro rata basis. If such funds have not been so paid on the prepayment date, such principal amount of such WIFIA Loan shall continue to bear interest until payment thereof at the rate provided in the applicable WIFIA Loan Agreement.

Section 10. Fees and Expenses.

(a) Fees. The District shall pay, on behalf of the Borrower, to the WIFIA Lender for each WIFIA Loan:

(i) a servicing set-up fee equal to the amount specified in clause (a) of Section 10 (*Fees and Expenses*) of the applicable WIFIA Loan Agreement (the “**Servicing Set-Up Fee**”), which shall be due and payable within thirty (30) days after receipt of an invoice from the WIFIA Lender with respect thereto (or, if earlier, the first disbursement date of the related WIFIA Loan);

(ii) an annual construction period servicing fee equal to the amount specified in clause (b) of Section 10 (*Fees and Expenses*) of the applicable WIFIA Loan Agreement (the “**Construction Period Servicing Fee**”), which shall accrue on the first Business Day of the then-current Federal Fiscal Year and shall be due and payable on or prior to each November 15 during the Construction Period under the applicable WIFIA Loan Agreement (including the Federal Fiscal Year during which the applicable Substantial Completion Date occurs); provided that the initial Construction Period Servicing Fee shall be due and payable within thirty (30) days after receipt of an invoice from the WIFIA Lender with respect thereto (or, if earlier, the first disbursement date of the WIFIA Loan), in an amount pro-rated from the applicable WIFIA Loan Agreement Effective Date through the last day of the then-applicable Federal Fiscal Year; and

(iii) an annual operating period servicing fee equal to the amount specified in clause (c) of Section 10 (*Fees and Expenses*) of the applicable WIFIA Loan Agreement (the “**Operating Period Servicing Fee**”), which shall accrue on the first Business Day of the then-current Federal Fiscal Year and shall be due and payable on or prior to each November 15, beginning with the first November 15 following the end of the Federal Fiscal Year during which the applicable Substantial Completion Date occurs, until (and including) the applicable Final Maturity Date; provided that any Operating Period Servicing Fee due and payable with respect to any Federal Fiscal Year during which such Final Maturity Date occurs shall be equal to the pro-rata monthly portion of the then applicable Operating Period Servicing Fee multiplied by the number of partial or whole months remaining between October 1 and such Final Maturity Date.

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

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

(i) the review of each WIFIA Loan Request and the negotiation, preparation, execution, delivery, and performance of each Project Term Sheet, WIFIA Loan Agreement, and the other WIFIA Loan Documents related to the relevant Project;

(ii) the enforcement of or attempt to enforce, or the protection or preservation of any right or claim under, the Liens on the Pledged Collateral or any provision of this Agreement or any other WIFIA Loan Document or the rights of the WIFIA Lender thereunder;

(iii) any amendment, modification, waiver, or consent with respect to this Agreement or any other Related Document; and

(iv) any work-out, restructuring, or similar arrangement of the obligations of the Borrower or the District under this Agreement or the other WIFIA Loan Documents, including during the pendency of any Event of Default; provided that nothing in this Section 10(c) shall obligate the District to pay principal or interest on any WIFIA Loan or WIFIA Note.

(d) The obligations of the District under this Section 10 shall survive the payment or prepayment in full in accordance with Section 8 or Section 9, respectively, of any WIFIA Note, the enforcement of any provision of this Agreement or the other WIFIA Loan Documents, any such amendments, waivers or consents, any Event of Default, and any such workout, restructuring, or similar arrangement.

ARTICLE III CONDITIONS PRECEDENT

Section 11. Conditions Precedent.

(a) Conditions Precedent to Effectiveness of this Agreement. Notwithstanding anything in this Agreement to the contrary, this Agreement shall not become effective until each

of the following conditions precedent has been satisfied or waived in writing by the WIFIA Lender in its sole discretion:

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

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

(iii) The District shall have delivered to the WIFIA Lender a copy of the WIFIA District Resolution, along with a certification that the WIFIA District Resolution is in full force and effect, all conditions contained in the WIFIA District Resolution that are necessary to the closing of the WIFIA transactions contemplated hereby have been fulfilled, and no further instruments or documents (including any resolutions, ordinances, and supplements) are necessary for the District to execute and deliver, and to perform its obligations under, this Agreement and each other WIFIA Loan Document to which the District is a party and to consummate and implement the transactions contemplated by this Agreement and each other WIFIA Loan Document to which the District is a party.

(iv) The Borrower shall have delivered to the WIFIA Lender a copy of the WIFIA Borrower Resolution, along with a certification that the WIFIA Borrower Resolution is in full force and effect, all conditions contained in the WIFIA Borrower Resolution that are necessary to the closing of the WIFIA transactions contemplated hereby have been fulfilled, and no further instruments or documents (including any resolutions, ordinances, and supplements) are necessary for the Borrower to execute and deliver, and to perform its obligations under, this Agreement and each other WIFIA Loan Document to which the Borrower is a party and to consummate and implement the transactions contemplated by this Agreement and each other WIFIA Loan Document to which the Borrower is a party.

(v) (A) Counsel to the Borrower shall have rendered to the WIFIA Lender legal opinions satisfactory to the WIFIA Lender in its sole discretion (including those opinions set forth on **Exhibit E-1** (*Opinions Required from Counsel to Borrower*)), (B) bond counsel to the Borrower shall have rendered to the WIFIA Lender legal opinions satisfactory to the WIFIA Lender in its sole discretion (including those opinions set forth on **Exhibit E-2** (*Opinions Required from Borrower Bond Counsel*)), (C) counsel to the District shall have rendered to the WIFIA Lender legal opinions satisfactory to the WIFIA Lender in its sole discretion (including those opinions set forth on **Exhibit E-3** (*Opinions Required from Counsel to District*)), and (D) bond counsel to the District shall have rendered to the WIFIA Lender legal opinions satisfactory to the WIFIA Lender in its sole discretion (including those opinions set forth on **Exhibit E-4** (*Opinions Required from District Bond Counsel*)).

(vi) The Borrower shall have delivered to the WIFIA Lender a certificate, signed by the Borrower's Authorized Representative, substantially in the form attached hereto as **Exhibit F-1** (*Form of Closing Certificate of Borrower*) (the "**Borrower Closing Certificate**"), designating the Borrower's Authorized Representative, confirming such person's position and incumbency, and certifying as to the satisfaction of the following conditions precedent (and, if requested by the WIFIA Lender, shall have provided evidence satisfactory to the WIFIA Lender of such satisfaction):

(A) the representations and warranties of the Borrower set forth in this Agreement and in each other WIFIA Loan Document to which the Borrower is a party are true and correct on and as of the date hereof, except to the extent that such representations and warranties expressly relate to an earlier date, in which case such representations and warranties were true and correct as of such earlier date; and

(B) no Borrower Material Adverse Effect, or any event or condition that could reasonably be expected to have a Borrower Material Adverse Effect, has occurred or arisen since the date of the Application.

(vii) The District shall have delivered to the WIFIA Lender a certificate, signed by the District's Authorized Representative, substantially in the form attached hereto as **Exhibit F-2** (*Form of Closing Certificate of District*) (the "**District Closing Certificate**"), designating the District's Authorized Representative, confirming such person's position and incumbency, and certifying as to the satisfaction of the following conditions precedent (and, if requested by the WIFIA Lender, shall have provided evidence satisfactory to the WIFIA Lender of such satisfaction):

(A) the District has (x) obtained a Federal Employer Identification Number, (y) obtained a Unique Entity Identifier, and (z) registered with, and obtained confirmation of active registration status from, the federal System for Award Management (www.SAM.gov);

(B) the representations and warranties of the District set forth in this Agreement and in each other WIFIA Loan Document to which the District is a party are true and correct on and as of the date hereof, except to the extent that such representations and warranties expressly relate to an earlier date, in which case such representations and warranties were true and correct as of such earlier date; and

(C) no District Material Adverse Effect, or any event or condition that could reasonably be expected to have a District Material Adverse Effect, has occurred or arisen since the date of the Application.

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

(ix) The District shall have provided evidence to the WIFIA Lender's satisfaction of the (A) establishment by the District of the WIFIA Debt Service Account and (B) the pledge of such account by the District for the sole benefit of the Borrower.

(x) The District shall have delivered to the WIFIA Lender a copy of the Investment Policy.

(b) Conditions Precedent to Effectiveness of Each WIFIA Loan Agreement. Notwithstanding anything in this Agreement to the contrary, no WIFIA Loan Agreement shall become effective until each of the following conditions precedent has been satisfied or waived in writing by the WIFIA Lender in its sole discretion:

(i) The District shall have duly executed and delivered to the WIFIA Lender, except with respect to the initial WIFIA Loan Agreement, a WIFIA Loan Request that complies with the provisions of Section 4(a) (*Disbursement Conditions*).

(ii) The Borrower and the District shall each have duly executed and delivered to the WIFIA Lender, (A) a Project Term Sheet with respect to the applicable Project, (B) the WIFIA Loan Agreement with respect to such Project and (C) the WIFIA IPA with respect to such Project, in each case in form and substance satisfactory to the WIFIA Lender.

(iii) The Borrower shall have duly executed and delivered to the WIFIA Lender the WIFIA Note with respect to the applicable WIFIA Loan Agreement in form and substance satisfactory to the WIFIA Lender.

(iv) The Borrower and the District shall each have delivered to the WIFIA Lender complete and fully executed copies of each Related Document (to the extent not previously delivered to the WIFIA Lender) and Existing Construction Contract to which it is a party with respect to the applicable Project, together with any amendments, supplements, waivers or modifications thereto, that has been entered into on or prior to the applicable WIFIA Loan Agreement Effective Date, along with a certification in the applicable Borrower Project Closing Certificate and District Project Closing Certificate, respectively, that each such document is complete, fully executed and in full force and effect.

(v) (A) Counsel to the Borrower shall have rendered to the WIFIA Lender legal opinions satisfactory to the WIFIA Lender in its sole discretion (including those opinions set forth on **Exhibit E-1** (*Opinions Required from Counsel to Borrower*)), (B) bond counsel to the Borrower shall have rendered to the WIFIA Lender legal opinions satisfactory to the WIFIA Lender in its sole discretion (including those opinions set forth on **Exhibit E-2** (*Opinions Required from Borrower Bond Counsel*)), (C) counsel to the District shall have rendered to the WIFIA Lender legal opinions satisfactory to the WIFIA Lender in its sole discretion (including those opinions set forth on **Exhibit E-3** (*Opinions Required from Counsel to District*)), and (D) bond counsel to the District shall have rendered to the WIFIA Lender legal opinions satisfactory to the WIFIA Lender in its sole

discretion (including those opinions set forth on **Exhibit E-4** (*Opinions Required from District Bond Counsel*)), in each case for the relevant Project.

(vi) The Borrower and the District shall each have delivered to the WIFIA Lender (A) each Project Budget for the relevant Project and (B) except with respect to the initial WIFIA Loan Agreement, a revised Master Program Budget reflecting such Project Budget.

(vii) The Borrower shall have delivered to the WIFIA Lender a certificate with respect to the relevant Project, signed by the Borrower's Authorized Representative, substantially in the form attached hereto as **Exhibit F-3** (*Form of Project Closing Certificate of Borrower*) (the "**Borrower Project Closing Certificate**"), confirming the Borrower's Authorized Representative previously designated and such person's position and incumbency as previously provided to the WIFIA Lender remain unchanged and in full force and effect (or if changed, designating such new Borrower's Authorized Representative and confirming such person's position and incumbency, in form and substance satisfactory to the WIFIA Lender) and certifying as to the satisfaction of the following conditions precedent (and, if requested by the WIFIA Lender, shall have provided evidence satisfactory to the WIFIA Lender of such satisfaction):

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

(B) (1) with respect to the initial WIFIA Loan Agreement, the Borrower has obtained a CUSIP number for the initial WIFIA Loan (the "**WIFIA CUSIP Number**") for purposes of monitoring through EMMA, and (2) with respect to each other WIFIA Loan Agreement, the Borrower (x) has maintained such WIFIA CUSIP Number and (y) confirmed that the expiration date of such WIFIA CUSIP Number is no earlier than the Final Maturity Date of the relevant WIFIA Loan or has extended the expiration date of the WIFIA CUSIP Number to be no earlier than the Final Maturity Date of the relevant WIFIA Loan;

(C) the representations and warranties of the Borrower set forth in the relevant WIFIA Loan Agreement and in each other WIFIA Loan Document to which the Borrower is a party are true and correct on and as of the relevant WIFIA Loan Agreement Effective Date, except to the extent that such representations and warranties expressly relate to an earlier date, in which case such representations and warranties were true and correct as of such earlier date; and

(D) no Borrower Material Adverse Effect, or any event or condition that could reasonably be expected to have a Borrower Material Adverse Effect, has occurred or arisen since the Effective Date.

(viii) The District shall have delivered to the WIFIA Lender a certificate with respect to the relevant Project, signed by the District's Authorized Representative, substantially in the form attached hereto as **Exhibit F-4** (*Form of Project Closing Certificate of District*) (the "**District Project Closing Certificate**"), confirming the District's Authorized Representative previously designated and such person's position and incumbency as previously provided to the WIFIA Lender remain unchanged and in full force and effect (or if changed, designating such new District's Authorized Representative and confirming such person's position and incumbency, in form and substance satisfactory to the WIFIA Lender) and certifying as to the satisfaction of the following conditions precedent (and, if requested by the WIFIA Lender, shall have provided evidence satisfactory to the WIFIA Lender of such satisfaction):

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

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

(C) the District has maintained (x) the Federal Employer Identification Number provided to the WIFIA Lender as a condition precedent to the Effective Date, (y) the Unique Entity Identifier provided to the WIFIA Lender as a condition precedent to the Effective Date, and (z) an active registration status with the federal System for Award Management (www.SAM.gov);

(D) the representations and warranties of the District set forth in the relevant WIFIA Loan Agreement and in each other WIFIA Loan Document to which the District is a party are true and correct on and as of the relevant WIFIA Loan Agreement Effective Date, except to the extent that such representations and warranties expressly relate to an earlier date, in which case such representations and warranties were true and correct as of such earlier date; and

(E) no District Material Adverse Effect, or any event or condition that could reasonably be expected to have a District Material Adverse Effect, has occurred or arisen since the Effective Date.

(ix) The Borrower shall have provided evidence to the WIFIA Lender's satisfaction of the assignment by at least one (1) Nationally Recognized Rating Agency of a public Investment Grade Rating to the applicable WIFIA Loan, along with a certification in the Borrower Project Closing Certificate that no such rating has been reduced, withdrawn or suspended as of such WIFIA Loan Agreement Effective Date.

(x) The District shall have delivered to the WIFIA Lender the most recent Updated Financial Model/Plan in compliance with the requirements of Section 20(a) (*Reporting Requirements of the District – Updated Financial Model/Plan*).

(xi) The District shall have delivered to the WIFIA Lender a Public Benefits Report for the relevant Project.

(xii) To the extent not previously paid, the District shall have paid in full (A) any outstanding Servicing Fees due and payable under Section 10 (*Fees and Expenses*) and (B) all invoices delivered by the WIFIA Lender to the District as of the relevant WIFIA Loan Agreement Effective Date for the fees and expenses of the WIFIA Lender's counsel and financial advisors and any auditors or other consultants retained by the WIFIA Lender for the purposes of the WIFIA Loan Documents.

(c) Conditions Precedent to Disbursements. Notwithstanding anything in this Agreement to the contrary, the WIFIA Lender shall have no obligation to make any disbursement of any proceeds with respect to any WIFIA Loan to the Borrower until each of the following conditions precedent has been satisfied or waived in writing by the WIFIA Lender in its sole discretion:

(i) The District, as agent of the Borrower pursuant to the relevant WIFIA IPA, shall have delivered to the WIFIA Lender a Requisition that complies with the provisions of Section 4 (*Disbursement Conditions*) (including satisfactory Eligible Project Costs Documentation relating to such Requisition), and the WIFIA Lender shall have approved (or be deemed to have approved in accordance with Section 20(c)(iii) (*Reporting Requirements of the District – Construction Reporting – Quarterly Certification of Eligible Project Costs*)) such Requisition. The District's Authorized Representative shall also certify in such Requisition that:

(A) at the time of, and immediately after giving effect to, any disbursement of WIFIA Loan proceeds then currently requested, (1) no Default or Event of Default hereunder and no event of default under any other Related Document to which the District is a party shall have occurred and be continuing and (2) no event that, with the giving of notice or the passage of time or both, would constitute an event of default under any other Related Document to which the District is a party shall have occurred and be continuing;

(B) no District Material Adverse Effect, or any event or condition that could reasonably be expected to result in a District Material Adverse Effect, shall have occurred since the Effective Date;

(C) the aggregate amount of all disbursements of such WIFIA Loan (including the requested disbursement but excluding any interest that is capitalized in accordance with the terms hereof and of the relevant WIFIA Loan Agreement) will not exceed (1) the maximum principal amount of such WIFIA Loan, (2) the aggregate amount of the Eligible Project Costs with respect to the applicable Project paid or incurred by the District, as agent of the Borrower pursuant to the relevant WIFIA IPA;

(D) the Eligible Project Costs with respect to the applicable Project for which reimbursement or payment is being requested has not been reimbursed or paid by any previous disbursement of such WIFIA Loan or any other source of funding for such Project as identified in the Project Budget for such Project;

(E) (1) the District and each of the contractors and subcontractors at all tiers with respect to the relevant Project have complied with all applicable laws, rules, regulations and requirements, including 40 U.S.C. §§3141-3144, 3146, and 3147 (relating to Davis-Bacon Act requirements) (and regulations relating thereto) and 33 U.S.C. §3914 (relating to American iron and steel products); and (2) supporting documentation, such as certified payroll records and certifications for all iron and steel products used for the relevant Project, are being maintained and are available for review upon request by the WIFIA Lender;

(F) the representations and warranties of the District set forth in this Agreement (including Section 13 (*Representations and Warranties of the District*)) and in each other WIFIA Loan Document to which the District is a party shall be true and correct as of each date on which any disbursement of the applicable WIFIA Loan is made, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date);

(G) the District has delivered all required deliverables under and in compliance with the requirements of Section 20 (*Reporting Requirements of the District*), except as has been otherwise agreed by the WIFIA Lender; and

(H) Eligible Project Costs Documentation evidencing Eligible Project Costs in an amount equal to the amount requested for such disbursement, either (1) has been previously submitted to and approved by the WIFIA Lender in accordance with **Exhibit B** (*Requisition Procedures*) and Section 20 (*Reporting Requirements of the District*) of this Agreement or (2) has been submitted to the WIFIA Lender, together with a summary of such Eligible Project Costs in the Requisition (or attached separately to the Requisition), for approval by the WIFIA Lender.

(ii) To the extent necessary to make the corresponding representations and warranties true, correct and complete as of the date of the applicable disbursement, the District shall have delivered a schedule, in form and substance satisfactory to the WIFIA Lender, listing any exceptions with respect to the representations and warranties set forth in Section 12(f) (*Representations and Warranties of the Borrower – Litigation*), Section 13(f) (*Representations and Warranties of the District – Litigation*) and Section 13(j)(iii) (*Representations and Warranties of the District – Compliance with Laws*).

(iii) The Borrower's Authorized Representative shall have delivered to the WIFIA Lender a certificate in the form of **Appendix Two** (*Form of Borrower Disbursement Certificate*) to **Exhibit B** (*Requisition Procedures*) certifying that:

(A) at the time of, and immediately after giving effect to, any disbursement of any proceeds with respect to the applicable WIFIA Loan then currently requested, (1) no Default or Event of Default hereunder and no event of default under any other Related Document to which the Borrower is a party shall have occurred and be continuing and (2) no event that, with the giving of notice or the passage of time or both, would constitute an event of default under any other Related Document to which the Borrower is a party shall have occurred and be continuing;

(B) no Borrower Material Adverse Effect, or any event or condition that could reasonably be expected to result in a Borrower Material Adverse Effect, shall have occurred since the Effective Date;

(C) the representations and warranties of the Borrower set forth in this Agreement (including Section 12 (*Representations and Warranties of the Borrower*)) and in each other WIFIA Loan Document to which the Borrower is a party shall be true and correct as of each date on which any disbursement of such WIFIA Loan is made, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date); and

(D) the Borrower has delivered all required deliverables under and in compliance with the requirements of Section 19 (*Reporting Requirements of the Borrower*), except as has been otherwise agreed by the WIFIA Lender.

(iv) The District shall have paid in full (A) any outstanding Servicing Fees due and payable under Section 10 (*Fees and Expenses*) and (B) all invoices received from the WIFIA Lender as of the date of disbursement of the relevant WIFIA Loan and delivered by the WIFIA Lender to the District, for the fees and expenses of the WIFIA Lender's counsel and financial advisors and any auditors or other consultants retained by the WIFIA Lender for the purposes of the WIFIA Loan Documents.

ARTICLE IV REPRESENTATIONS AND WARRANTIES

Section 12. Representations and Warranties of the Borrower. The Borrower hereby represents and warrants that, as of the Effective Date (other than with respect to the representations and warranties contained in Section 12(k) (*Representations and Warranties of the Borrower – Credit Ratings*)) and as of each WIFIA Loan Agreement Effective Date (other than with respect to the representations and warranties contained in Section 12(u) (*Representations and Warranties of the Borrower – Existing System Indebtedness*)) and, as to each of the representations and warranties other than those (x) contained in Section 12(b) (*Representations and Warranties of the Borrower – Officers’ Authorization*), Section 12(k) (*Representations and Warranties of the Borrower – Credit Ratings*), the first sentence of Section 12(f) (*Representations and Warranties of the Borrower – Litigation*) and Section 12(u) (*Representations and Warranties of the Borrower – Existing System Indebtedness*), or (y) which expressly relate only to the District, as of each date on which any disbursement of a WIFIA Loan is requested or made:

(a) Organization; Power and Authority. The Borrower is a joint exercise of powers agency duly organized and validly existing under its Organizational Documents and the laws of the State, has full legal right, power and authority to do business in the State and to enter into the Related Documents then in existence to which it is a party, to execute and deliver this Agreement and the other Related Documents to which it is a party, and to carry out and consummate all transactions contemplated hereby and thereby, and has duly authorized the execution, delivery and performance of this Agreement and the other Related Documents to which it is a party.

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

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

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

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

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

(f) Litigation. Except as set forth in **Schedule 12(f)** (*Litigation*), there is no action suit, proceeding or, to the knowledge of the Borrower, any inquiry or investigation, in any case before or by any court or other Governmental Authority pending or, to the knowledge of the Borrower, threatened against or affecting the System or the ability of the Borrower to execute, deliver and perform its obligations under the Related Documents to which the Borrower is a party. Except as set forth in **Schedule 12(f)** (*Litigation*), there is no action, suit, proceeding or, to the knowledge of the Borrower, any inquiry or investigation before or by any court or other Governmental Authority pending, or to the knowledge of the Borrower, threatened against or affecting the System, the Borrower or the assets, properties or operations of the Borrower, that in any case could reasonably be expected to result in a Borrower Material Adverse Effect.

(g) Security Interests. (i) This Agreement and Section 5451 of the California Government Code establish, and (ii) the Borrower has taken all necessary action to pledge, assign, and grant, in each case in favor of the WIFIA Lender, legal, valid, binding and enforceable Liens on the Authority Revenues and the Borrower's rights with respect to the WIFIA Debt Service Account purported to be created, pledged, assigned, and granted pursuant to and in accordance with this Agreement, irrespective of whether any Person has notice of the pledge and without the need for any physical delivery, recordation, filing, or further act. Such Liens are in full force and effect and are the only Liens in respect of the Authority Revenues or the Borrower's rights with respect to the WIFIA Debt Service Account. The Borrower has taken all necessary action to assign to the WIFIA Lender all of its rights (A) to receive the Authority Revenues, (B) with respect to the WIFIA Debt Service Account and (C) to enforce each WIFIA IPA upon an event of default under such WIFIA IPA without the need for any further act. The Borrower is not in breach of any covenant set forth in Section 15(a) (*Affirmative Covenants of the Borrower – Securing Liens*) or in any other WIFIA Loan Document to which the Borrower is a party with respect to the matters described in Section 15(a) (*Affirmative Covenants of the Borrower – Securing Liens*). All documents and instruments have been recorded or filed for record in such manner and in such places as are required and all other action as is necessary or desirable has been taken to establish

a legal, valid, binding, and enforceable Lien on the Authority Revenues for the benefit of the WIFIA Lender, and all taxes and filing fees that are due and payable in connection with the execution, delivery or recordation of any WIFIA Loan Document or any instruments, certificates or financing statements in connection with the foregoing, have been paid. Neither the attachment, validity, enforceability or priority of the security interest in the Authority Revenues or the Borrower's rights with respect to the WIFIA Debt Service Account is governed by Article 9 of the UCC.

(h) No Debarment. The Borrower has fully complied with its verification obligations under 2 C.F.R. § 180.320 and confirms, based on such verification, that, to its knowledge, neither the Borrower nor any of its principals (as defined in 2 C.F.R. § 180.995 and supplemented by 2 C.F.R. § 1532.995) (i) is debarred, suspended or voluntarily excluded from participation in Government contracts, procurement or non-procurement matters, (ii) is presently indicted for or otherwise criminally or civilly charged by a Governmental Authority with commission of any of the offenses listed in 2 C.F.R. § 180 or 2 C.F.R. § 1532; or (iii) has, within the three (3) year period preceding the Effective Date, (x) been convicted for or had a civil judgment rendered against the Borrower for any of the offenses within such period or (y) had any public transactions (federal, state or local) terminated for cause or default.

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

(j) Compliance with Laws. The Borrower has complied with all applicable laws, rules, regulations and requirements.

(k) Credit Rating. As of any WIFIA Loan Agreement Effective Date, the corresponding WIFIA Loan has received a public Investment Grade Rating from at least one (1) Nationally Recognized Rating Agency, written evidence of such rating has been provided to the WIFIA Lender, and no such rating has been reduced, withdrawn or suspended.

(l) No Defaults. No Default or Event of Default, and no default or event of default by the Borrower under any other Related Document to which the Borrower is a party, has occurred and is continuing.

(m) Information. Neither the WIFIA Loan Documents to which the Borrower is a party, nor any documents, certificates or statements provided to the WIFIA Lender by representatives of the Borrower in connection with the transactions contemplated thereby, which for purposes of this Section 12(m) shall consist of all documents or statements related to the Application or the Master Program, cash flow schematics, responses to due diligence interrogatories or requests from the WIFIA Lender or its advisors, and documents uploaded to the online WIFIA SharePoint data room made accessible to the Borrower by the WIFIA Lender, to the extent such documents, certificates, statements or other materials relate to the Borrower (including its finances or operations) or the Master Program, contains any untrue statement of any material fact or omits to state any material fact necessary so as to make such WIFIA Loan

Documents, documents, certificates, statements or other materials so provided to the WIFIA Lender, in light of the circumstances under which they were made, not misleading.

(n) Insurance. The Borrower is in compliance with all insurance obligations applicable to the Borrower required under each Related Document to which the Borrower is a party as of the date on which this representation and warranty is made. To the extent the Borrower self-insures, the Borrower's self-insurance program is actuarially sound.

(o) No Prohibited Liens. Except for Permitted Liens, the Borrower has not created, and is not under any obligation to create, and has not entered into any transaction or agreement that would result in the imposition of, any Lien on the Authority Revenues or its rights with respect to the WIFIA Debt Service Account. The Authority Revenues and the Borrower's rights with respect to the WIFIA Debt Service Account are free and clear of any pledge, Lien, charge or encumbrance thereon or with respect thereto other than the pledge and Lien thereon for the benefit of the WIFIA Lender.

(p) Borrower Financial Statements. Each Borrower Financial Statement delivered to the WIFIA Lender by the Borrower pursuant to Section 19(a) (*Reporting Requirements of the Borrower – Annual Financial Statements*) has been, as of such delivery date, prepared in accordance with GAAP and presents fairly, in all material respects, the financial condition of the Borrower as of the respective dates of the balance sheets included therein and the results of operations of the Borrower for the respective periods covered by the statements of income included therein. Except as reflected in such Borrower Financial Statements, there are no liabilities or obligations of the Borrower of any nature whatsoever for the periods to which such Borrower Financial Statements relate that are required to be disclosed in accordance with GAAP.

(q) Securities Laws. Under existing law, each WIFIA Note may be issued and sold without registration under the Securities Act of 1933, as amended, and any State blue sky laws.

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

(s) Taxes; No Federal Debt. The Borrower has paid all applicable taxes and other material taxes and assessments payable by it that have become due (other than those taxes or assessments that it is contesting in good faith and by appropriate proceedings, for which adequate reserves have been established to the extent required by GAAP). The Borrower has no delinquent federal debt (including tax liabilities but excluding any delinquencies that have been resolved with the appropriate federal agency in accordance with the standards of the Debt Collection Improvement Act of 1996).

(t) No Lobbying. Pursuant to 31 U.S.C. § 1352, to the best of the Borrower’s knowledge and belief, (i) no Federal appropriated funds have been paid or will be paid, by or on behalf of the Borrower, to any Person for influencing or attempting to influence an officer or employee of an agency, a member (or employee of a member), officer, or employee of the Congress, in connection with the making of any WIFIA Loan, execution (including amendments or modifications) of any WIFIA Loan Document, or any other federal action under 31 U.S.C. § 1352(a)(2); and (ii) if any funds other than Federal appropriated funds have been paid or will be paid to any Person for influencing or attempting to influence an officer or employee of any agency, a member (or employee of a member), officer, or employee of the Congress in connection with any WIFIA Loan, the Borrower has completed and submitted to the WIFIA Lender Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

(u) Existing System Indebtedness. As of the Effective Date, except as set forth in **Schedule 12(u)** (*Existing System Indebtedness*), no indebtedness of the Borrower on behalf of the District with respect to the System is outstanding.

Section 13. Representations and Warranties of the District. The District hereby represents and warrants that, as of the Effective Date (other than with respect to the representations and warranties contained in the first sentence of Section 13(m) (*Representations and Warranties of the District – Construction Contracts*) and Section 13(o) (*Representations and Warranties of the District – Credit Rating*)) and as of each WIFIA Loan Agreement Effective Date (other than with respect to the representations and warranties contained in the first sentence of Section 13(w) (*Representations and Warranties of the District – Existing Obligations*)) and, as to each of the representations and warranties other than those (x) contained in Section 13(b) (*Representations and Warranties of the District – Officers’ Authorization*), the first sentence of Section 13(f) (*Representations and Warranties of the District – Litigation*), the first sentence of Section 13(m) (*Representations and Warranties of the District – Construction Contracts*), Section 13(o) (*Representations and Warranties of the District – Credit Rating*) and the first sentence of Section 13(w) (*Representations and Warranties of the District – Existing Obligations*) or (y) which expressly relate only to the Borrower, as of each date on which any disbursement of a WIFIA Loan is requested or made:

(a) Organization; Power and Authority. The District is a municipal water district duly organized and validly existing under the statutes of the State, has full legal right, power and authority to do business in the State and to enter into the Related Documents then in existence to which it is a party, to execute and deliver this Agreement and the other Related Documents to which it is a party, and to carry out and consummate all transactions contemplated hereby and thereby, and has duly authorized the execution, delivery and performance of this Agreement and the other Related Documents to which it is a party.

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

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

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

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

(f) Litigation. Except as set forth in **Schedule 12(f)** (*Litigation*), there is no action suit, proceeding or, to the knowledge of the District, any inquiry or investigation, in any case before or by any court or other Governmental Authority pending or, to the knowledge of the District, threatened against or affecting the System (including the Master Program) or the ability of the District to execute, deliver and perform its obligations under the Related Documents to which the District is a party. Except as set forth in **Schedule 12(f)** (*Litigation*), there is no action, suit, proceeding or, to the knowledge of the District, any inquiry or investigation before or by any court or other Governmental Authority pending, or to the knowledge of the District, threatened against or affecting the System (including the Master Program), the District or the assets, properties or operations of the District, that in any case could reasonably be expected to result in a District Material Adverse Effect.

(g) Security Interests. (i) Each WIFIA IPA and Section 5451 of the California Government Code establish, and (ii) the District has taken all necessary action to pledge, assign, and grant, in each case in favor of the Borrower, legal, valid, binding and enforceable Liens on the Pledged Collateral purported to be created, pledged, assigned, and granted pursuant to and in accordance with such WIFIA IPA, irrespective of whether any Person has notice of the pledge and without the need for any physical delivery, recordation, filing, or further act. The Liens on the Pledged Collateral in favor of the Borrower are in full force and effect and are (A) not subordinate or junior to any other Liens in respect of the Pledged Collateral, (B) not *pari passu* with any Liens in respect of the Pledged Collateral other than the Liens on the Pledged Collateral for the benefit of the Parity Obligations and (C) senior to the Liens on the Pledged Collateral for the benefit of the Subordinate Obligations. The Lien on the WIFIA Debt Service Account in favor of the Borrower is the only Lien with respect to the WIFIA Debt Service Account. The District is not in breach of any covenant set forth in Section 17(b) (*Affirmative Covenants of the District – Securing Liens*) or in any WIFIA Loan Document to which the District is a party with respect to the matters described in Section 17(b) (*Affirmative Covenants of the District – Securing Liens*). All documents and instruments have been recorded or filed for record in such manner and in such places as are required and all other action as is necessary or desirable has been taken to establish a legal, valid, binding, and enforceable Lien on the Pledged Collateral for the benefit of the Borrower, and all taxes and filing fees that are due and payable in connection with the execution, delivery or recordation of any WIFIA Loan Document or any instruments, certificates or financing statements in connection with the foregoing, have been paid. Neither the attachment, validity, enforceability or priority of the security interest in the Pledged Collateral granted pursuant to any WIFIA IPA is governed by Article 9 of the UCC.

(h) No Debarment. The District has fully complied with its verification obligations under 2 C.F.R. § 180.320 and confirms, based on such verification, that, to its knowledge, neither the District nor any of its principals (as defined in 2 C.F.R. § 180.995 and supplemented by 2 C.F.R. § 1532.995) is (i) debarred, suspended or voluntarily excluded from participation in Government contracts, procurement or non-procurement matters, (ii) is presently indicted for or otherwise criminally or civilly charged by a Governmental Authority with commission of any of the offenses listed in 2 C.F.R. § 180 or 2 C.F.R. § 1532; or (iii) has, within the three (3) year period preceding the Effective Date, (x) been convicted for or had a civil judgment rendered against the District for any of the offenses within such period or (y) had any public transactions (federal, state or local) terminated for cause or default.

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

(j) Compliance with Laws.

(i) The District has complied, and has required its contractors and subcontractors at all tiers with respect to the Master Program to comply, with all applicable laws, rules, regulations and requirements, including 40 U.S.C. §§ 3141-3144, 3146, and 3147 (relating to Davis-Bacon Act requirements) (and regulations relating thereto), 33

U.S.C. § 3914 (relating to American iron and steel products), 20 C.F.R. § 180.320 and 20 C.F.R. § 1532 (relating to non-debarment), 31 U.S.C. § 1352 (relating to non-lobbying), and any applicable Sanctions Laws.

(ii) To ensure such compliance, the District has included in all contracts with respect to the Master Program (A) the contract clauses relating to the Davis-Bacon Act requirements that are set forth in the Code of Federal Regulations, Title 29 Part 5.5 and (B) requirements that its contractors shall (1) comply with all applicable laws, rules, regulations, and requirements set forth in this Section 13(j) and follow applicable federal guidance and (2) incorporate in all subcontracts (and cause all subcontractors to include in lower tier subcontracts) such terms and conditions as are required to be incorporated therein by any applicable laws, rules, regulations and requirements set forth in this Section 13(j) (including with respect to the Davis-Bacon Act requirements).

(iii) The District is in compliance with all laws applicable to the System (including the Master Program) relating to environmental, health or safety matters (collectively, the “**Environmental Laws**”).

(k) No Defaults. No Default or Event of Default, and no default or event of default by the District under any other Related Document to which the District is a party, has occurred and is continuing.

(l) Governmental Approvals. All Governmental Approvals required as of the Effective Date and required as of any subsequent date on which this representation is made (or deemed made) for the undertaking and completion by the District, as agent of the Borrower pursuant to each WIFIA IPA, of the Master Program, and for the operation and management thereof, have been obtained or effected and are in full force and effect and there is no basis for, nor proceeding that is pending or threatened that could reasonably be expected to result in, the revocation of or a default under any such Governmental Approval.

(m) Construction Contracts. As of any WIFIA Loan Agreement Effective Date, attached as Schedule 13(m) (*Existing Construction Contracts*) to the applicable WIFIA Loan Agreement is a list of the Existing Construction Contracts. With respect to each Construction Contract executed as of any date on which this representation and warranty is made, such Construction Contract is in full force and effect.

(n) Information. Neither the WIFIA Loan Documents to which the District is a party, nor any documents, certificates or statements provided to the WIFIA Lender by representatives of the District in connection with the transactions contemplated thereby, which for purposes of this Section 13(n) shall consist of all financial models, project budgets, documents or statements related to the Application or the Master Program, cash flow schematics, responses to due diligence interrogatories or requests from the WIFIA Lender or its advisors, and documents uploaded to any data room made accessible to the District by the WIFIA Lender (or its advisors) or provided to the WIFIA Lender in an electronic written communication, to the extent such documents, certificates, statements or other materials relate to the District (including its finances or operations) or the Master Program, contains any untrue statement of any material fact or omits to state any material fact necessary so as to make such WIFIA Loan Documents, documents,

certificates, statements or other materials so provided to the WIFIA Lender, in light of the circumstances under which they were made, not misleading.

(o) Credit Rating. As of any WIFIA Loan Agreement Effective Date, the corresponding WIFIA Loan has received a public Investment Grade Rating from at least one (1) Nationally Recognized Rating Agency, written evidence of such rating has been provided to the WIFIA Lender, and no such rating has been reduced, withdrawn or suspended.

(p) Insurance. The District is in compliance with all insurance obligations required under each Related Document to which the District is a party as of the date on which this representation and warranty is made. To the extent the District self-insures, the District's self-insurance program is actuarially sound.

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

(r) District Financial Statements. Each District Financial Statement delivered to the WIFIA Lender by the District pursuant to Section 20(b) (*Reporting Requirements of the District – Annual Financial Statements*) has been prepared in accordance with GAAP and presents fairly, in all material respects, the financial condition of the District as of the respective dates of the balance sheets included therein and the results of operations of the District for the respective periods covered by the statements of income included therein. Except as reflected in such District Financial Statements, there are no liabilities or obligations of the District of any nature whatsoever for the periods to which such District Financial Statements relate that are required to be disclosed in accordance with GAAP.

(s) Sufficient Funds. The amount of the WIFIA Loans, when combined with all other funds committed for the development and construction of the Projects as set forth under the various sources of funds in the Project Budgets and identified in the Base Case Financial Model, will be sufficient to carry out the Master Program, pay all Total Project Costs anticipated for the development and construction of the Projects and achieve Substantial Completion with respect to each Project by the Projected Substantial Completion Date with respect to such Project. The total federal assistance provided to each Project, including the maximum principal amount of the WIFIA Loan for such Project (excluding any interest that is capitalized in accordance with the terms hereof), does not exceed eighty percent (80%) of Total Project Costs for such Project. The Updated Financial Model/Plan most recently delivered to the WIFIA Lender pursuant to Section 20(a) (*Reporting Requirements of the District – Updated Financial Model/Plan*) demonstrates that the projected Revenues and Authority Revenues are sufficient to meet the WIFIA Loan Amortization Schedule for each Project. The District has developed, and identified adequate revenues to implement, a plan for operating, maintaining, and repairing each Project over the useful life of such Project.

(t) Sovereign Immunity. The District either has no immunity from the jurisdiction of any court of competent jurisdiction or from any legal process therein which could be asserted in any action to enforce the obligations of the District under any of the Related

Documents to which the District is a party or the transactions contemplated hereby or thereby, including the obligations of the District hereunder and thereunder, or, to the extent that the District has such immunity, the District has waived such immunity pursuant to Section 17(n) (*Affirmative Covenants of the District – Immunity*).

(u) Taxes; No Federal Debt. The District has paid all applicable taxes and other material taxes and assessments payable by it that have become due (other than those taxes or assessments that it is contesting in good faith and by appropriate proceedings, for which adequate reserves have been established to the extent required by GAAP). The District has no delinquent federal debt (including tax liabilities but excluding any delinquencies that have been resolved with the appropriate federal agency in accordance with the standards of the Debt Collection Improvement Act of 1996).

(v) No Lobbying. Pursuant to 31 U.S.C. § 1352, to the best of the District’s knowledge and belief, (i) no Federal appropriated funds have been paid or will be paid, by or on behalf of the District, to any Person for influencing or attempting to influence an officer or employee of an agency, a member (or employee of a member), officer, or employee of the Congress, in connection with the making of any WIFIA Loan, execution (including amendments or modifications) of any WIFIA Loan Document, or any other federal action under 31 U.S.C. § 1352(a)(2); and (ii) if any funds other than Federal appropriated funds have been paid or will be paid to any Person for influencing or attempting to influence an officer or employee of any agency, a member (or employee of a member), officer, or employee of the Congress in connection with any WIFIA Loan, the District has completed and submitted to the WIFIA Lender Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

(w) Existing Obligations. As of the Effective Date, except as set forth in **Schedule 12(u)** (*Existing System Indebtedness*), no Obligations of the District are Outstanding. No obligations of the District which are senior or prior in right of payment or right of security with respect to the Pledged Collateral (or a portion thereof) to the Parity Obligations (including the WIFIA Installment Payments) exist or are permitted or will be incurred.

Section 14. Representations and Warranties of WIFIA Lender. The WIFIA Lender represents and warrants that:

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

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

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

ARTICLE V COVENANTS

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

(a) Securing Liens. The Borrower shall at any and all times, to the extent permitted by law, pass, make, do, execute, acknowledge and deliver, all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable in connection with assuring, conveying, granting, assigning, securing and confirming the Liens on the Authority Revenues (whether now existing or hereafter arising) and the Borrower's rights with respect to the WIFIA Debt Service Account granted to the WIFIA Lender for its benefit pursuant to the WIFIA Loan Documents to which the Borrower is a party, or intended so to be granted pursuant to the WIFIA Loan Documents to which the Borrower is a party, or which the Borrower may become bound to grant, and the Borrower shall at all times maintain the Authority Revenues and its rights with respect to the WIFIA Debt Service Account free and clear of any pledge, Lien, charge or encumbrance thereon or with respect thereto other than the Liens with respect to the WIFIA Loans, and all organizational, regulatory or other necessary action on the part of the Borrower to that end shall be duly and validly taken at all times. The Borrower shall at all times, to the extent permitted by law, defend, preserve and protect the Liens on the Authority Revenues granted pursuant to the WIFIA Loan Documents and for the benefit of the WIFIA Lender under the WIFIA Loan Documents against all claims and demands of all Persons whomsoever.

(b) Use of Proceeds. The Borrower shall use, and shall cause the District pursuant to the relevant WIFIA IPA to use, the proceeds of each WIFIA Loan solely for purposes permitted by this Agreement and the relevant WIFIA Loan Agreement.

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

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

(e) Maintain Legal Structure. The Borrower shall maintain its existence as a joint exercise of powers agency organized and existing under its Organizational Documents and the laws of the State.

(f) Compliance with Laws. The Borrower shall comply with all applicable laws, rules, regulations and requirements.

(g) Material Obligations; Payment of Claims.

(i) The Borrower shall pay its material obligations with respect to the System promptly and in accordance with their terms.

(ii) The Borrower shall pay and discharge promptly all taxes, assessments and governmental charges or levies imposed upon it or upon the Authority Revenues, before the same shall become delinquent or in default; provided that such payment and discharge shall not be required with respect to any such tax, assessment, charge, levy, claim or Lien so long as the validity or amount thereof shall be contested by the Borrower in good faith by appropriate proceedings and so long as the Borrower shall have set aside adequate reserves with respect thereto in accordance with and to the extent required by GAAP, applied on a consistent basis.

(iii) The Borrower shall pay and discharge any and all lawful claims for labor, materials or supplies which, if unpaid, might become a Lien on the Authority Revenues.

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

(i) Accounting and Audit Procedures.

(i) The Borrower shall establish fiscal controls and accounting procedures sufficient to assure proper accounting for Authority Revenues, debt issued and outstanding and debt payments. The Borrower shall use accounting, audit and fiscal procedures conforming to GAAP, including, with respect to the WIFIA Loans, accounting of principal and interest payments, disbursements, prepayments and calculation of interest and principal amounts Outstanding.

(ii) The Borrower shall have a single or program-specific audit conducted in accordance with 2 C.F.R. Part 200 Subpart F and 31 U.S.C. § 7502 from (and including) the first Borrower Fiscal Year in which a disbursement is made under the initial WIFIA Loan Agreement and annually thereafter to the extent required by applicable law, except to the extent biennial audits are permitted for the Borrower pursuant to 2 C.F.R. § 200.504 and 31 U.S.C. § 7502(b). Upon reasonable notice, the Borrower shall cooperate fully in the conduct of any periodic or compliance audits conducted by the WIFIA Lender, or designees thereof, pursuant to 40 C.F.R. Part 35, 31 U.S.C. § 7503(b), or 31 U.S.C. § 6503(h) and shall provide full access to any books, documents, papers or other records that are pertinent to the WIFIA Loans, to the WIFIA Lender, or the designee thereof, for any such project or programmatic audit.

(j) Access; Records.

(i) So long as any WIFIA Loan or any portion thereof shall remain outstanding and until five (5) years after such WIFIA Loan shall have been paid in full, the WIFIA Lender shall have the right, upon reasonable prior notice, to examine books of account and records of the Borrower relating to the relevant Project, to make copies and extracts therefrom at the District's expense, and to discuss the Borrower's affairs, finances and accounts relating to such WIFIA Loan with, and to be advised as to the same by, its officers and employees and its independent public accountants (and by this provision the Borrower irrevocably authorizes its independent public accountants to discuss with the WIFIA Lender the affairs, finances and accounts of the Borrower, whether or not any representative of the Borrower is present, it being understood that nothing contained in this Section 15(j) is intended to confer any right to exclude any such representative from such discussions), all at such reasonable times and intervals as the WIFIA Lender may request.

(ii) The Borrower shall maintain and retain all pertinent files relating to the WIFIA Loans, as may be necessary for the WIFIA Lender to facilitate an effective and accurate audit and performance evaluation of the Master Program, until five (5) years after the later of the date on which (A) all rights and duties under this Agreement and under the WIFIA Loan Agreements and the corresponding WIFIA Notes (including payments) have been fulfilled and any required audits have been performed and (B) any litigation relating to the Master Program, the WIFIA Loans, this Agreement or the WIFIA Loan Agreements is finally resolved or, if the WIFIA Lender has reasonable cause to extend such date, a date to be mutually agreed upon by the WIFIA Lender and the Borrower.

(k) Compliance with Contracts. The Borrower shall comply with, keep, observe and perform all agreements, conditions, covenants and terms, express or implied, required to be performed by it contained in all contracts affecting or involving the System (including the Master Program), to the extent that the Borrower is a party thereto.

(l) Further Assurances. The Borrower shall 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 of the WIFIA Loan Agreements and for the better assuring and confirming unto the WIFIA Lender the rights and benefits provided to it herein and in the WIFIA Loan Agreements.

Section 16. Negative Covenants of the Borrower. The Borrower covenants and agrees as follows until the date each WIFIA Note and all of the obligations of the Borrower under this Agreement and each WIFIA Loan Agreement (other than contingent indemnity obligations to the extent applicable) are irrevocably paid in full by the Borrower in immediately available funds and the WIFIA Lender no longer has any commitment to make disbursements to the Borrower, unless the WIFIA Lender waives compliance in writing:

(a) No Lien Extinguishment or Adverse Amendments. The Borrower shall not, and shall not permit any Person to, without the prior written consent of the WIFIA Lender, (i) extinguish or impair the Liens on the Authority Revenues or the Borrower's rights with respect to the WIFIA Debt Service Account granted pursuant to this Agreement, (ii) amend, modify,

terminate, assign, replace or supplement, or permit a waiver of any provision of, any WIFIA IPA, (iii) amend, modify, replace or supplement any Related Document to which the Borrower is a party (other than any WIFIA IPA) or permit a waiver of any provision thereof in a manner that could adversely affect the WIFIA Lender or could reasonably be expected to result in a Borrower Material Adverse Effect, or (iv) terminate or assign any Related Document to which the Borrower is a party (other than any WIFIA IPA) in a manner that could adversely affect the WIFIA Lender or could reasonably be expected to have a Borrower Material Adverse Effect. The Borrower shall not take or omit to take any action under any contract if the effect of such act or failure to act would in any manner impair or adversely affect the ability of the District to secure adequate Revenues to meet the requirements of the WIFIA Loan Documents.

(b) No Prohibited Liens. Except for the Liens with respect to the WIFIA Loans for the benefit of the WIFIA Lender, the Borrower shall not create, incur, assume or permit to exist any Lien on the Authority Revenues or its rights with respect to the WIFIA Debt Service Account.

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

(d) Hedging. The Borrower shall not enter into any swap or hedging transaction that is speculative or creates extraordinary leverage or risk, without the prior written consent of the WIFIA Lender.

Section 17. Affirmative Covenants of the District. The District covenants and agrees as follows until the date each WIFIA Note and all of the obligations of the Borrower and the District under this Agreement and each WIFIA Loan Agreement (other than contingent indemnity obligations to the extent applicable) are irrevocably paid in full by the Borrower and the District in immediately available funds and the WIFIA Lender no longer has any commitment to make disbursements to the Borrower or the District, unless the WIFIA Lender waives compliance in writing:

(a) Rate Covenant.

(i) To the fullest extent permitted by law, the District shall fix and prescribe, at the commencement of each District 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 District Fiscal Year (A) Net Revenues equal to one hundred twenty-five percent (125%) of the Parity Debt Service payable in such District Fiscal Year and (B) Net Revenues remaining after payment of Parity Debt Service payable in such District Fiscal Year equal to one hundred ten percent (110%) of the Subordinate Debt Service payable in such District Fiscal Year. Budgeted Transfers, in an amount not to exceed twenty-five percent (25%) of Parity Debt Service referred to in the preceding sentence, as of the last day of the immediately preceding District Fiscal Year may be credited towards the District's obligations under this clause (i).

(ii) 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 Section 17(a)(i) (*Affirmative Covenants of the District – Rate Covenant*).

(iii) For avoidance of doubt, so long as the District has complied with its obligations set forth in Section 17(a)(i) (*Affirmative Covenants of the District – Rate Covenant*) and Section 17(a)(ii) (*Affirmative Covenants of the District – Rate Covenant*), the failure of Net Revenues to meet the thresholds set forth in Section 17(a)(i) at the end of a District Fiscal Year shall not constitute a Default or an Event of Default so long as the District has complied with Section 17(a)(i) and Section 17(a)(ii) at the commencement of the immediately succeeding District Fiscal Year.

(iv) In accordance with Section 6.14 (*Collection of Rates and Charges*) of each WIFIA IPA, the District shall 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.

(b) Securing Liens. The District shall at any and all times, to the extent permitted by law, pass, make, do, execute, acknowledge and deliver, all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable in connection with assuring, conveying, granting, assigning, securing and confirming the Liens on the Pledged Collateral (whether now existing or hereafter arising) granted to the Borrower for its benefit pursuant to each WIFIA IPA, or intended so to be granted pursuant to each WIFIA IPA, or which the District may become bound to grant, and the District shall at all times maintain the Pledged Collateral free and clear of any pledge, Lien, charge or encumbrance thereon or with respect thereto that has priority over, or equal rank with, the Liens created by such WIFIA IPA, other than as permitted by this Agreement, the relevant WIFIA Loan Agreement and such WIFIA IPA, and all organizational, regulatory or other necessary action on the part of the District to that end shall be duly and validly taken at all times. The District shall at all times, to the extent permitted by law, defend, preserve and protect the Liens on the Pledged Collateral granted for the benefit of the Borrower pursuant to each WIFIA IPA against all claims and demands of all Persons whomsoever, subject to Permitted Liens.

(c) Use of Proceeds. The District shall use the proceeds of each WIFIA Loan solely for purposes permitted by applicable law, the relevant WIFIA IPA and the other Related Documents to which the District is a party.

(d) Prosecution of Work; Verification Requirements.

(i) The District, as agent of the Borrower pursuant to each WIFIA IPA, shall diligently prosecute the work relating to, and complete, each Project in accordance with the Construction Schedule for such Project, the Governmental Approvals in connection with such Project, and the highest standards of the District's industry.

(ii) The District shall comply with Subpart C of 2 C.F.R. Part 180, as supplemented by Subpart C of 2 C.F.R. Part 1532 (relating to debarment), including the

verification requirements set forth in 2 C.F.R. §§ 180.300 and 180.320, and shall include in its contracts with respect to each Project similar terms or requirements for compliance.

(e) Maintenance and Operation of the System. The District shall maintain and preserve the Projects and the System in good repair and working order at all times, operate the Project and the System in an efficient and economical manner and substantially in accordance with its maintenance and operation plan (that incorporates the Master Program) and pay all Operation and Maintenance Costs as they become due and payable. The District shall at all times do or cause to be done all things necessary to obtain, preserve, renew, extend and keep in full force and effect the Governmental Approvals and any other rights, licenses, franchises, and authorizations material to the conduct of its business.

(f) Insurance; Net Proceeds.

(i) The District shall 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 damage 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 from reputable insurance companies at reasonable rates.

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

(iii) Any insurance required to be maintained by Section 17(f)(i) and Section 17(f)(ii) 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 facilities similar to the System and is, in the opinion of an accredited actuary, actuarially sound.

(iv) Except for any self-insurance, the District shall cause all liability insurance policies that it maintains (excluding property damage, automobile or workers' compensation insurance), to reflect the WIFIA Lender as an additional insured to the extent of its insurable interest.

(v) All policies of insurance required to be maintained herein shall provide that the Borrower shall be given thirty (30) days written notice of any intended cancellation thereof or reduction of coverage provided thereby, and promptly upon receipt of such notice, the Borrower shall deliver to the WIFIA Lender a copy of such notice.

(vi) Promptly upon request by the WIFIA Lender, the District shall deliver to the WIFIA Lender certificates of insurance and copies of any underlying insurance policies obtained by or on behalf of the Borrower or the District in respect of Master Program or, as applicable, a letter of self-insurance. All such insurance policies shall be available at all reasonable times for inspection by the WIFIA Lender, its agents and representatives.

(vii) In the event of any damage to or destruction of the System caused by the perils covered by any insurance on the System, 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.

(viii) 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 each WIFIA Loan as provided in Section 9(a) (*Prepayment – Mandatory Prepayment from Insurance Proceeds or Eminent Domain Proceeds*) and in part to such other funds or accounts as may be appropriate and used for the retirement of the Parity Obligations (other than the WIFIA Loans) in the same proportion which the Outstanding WIFIA Loan Balance for such WIFIA Loan then bears to the aggregate unpaid principal amount of the Parity Obligations (other than such WIFIA Loan). If such Net Proceeds are sufficient to enable the District to retire the entire Outstanding WIFIA Loan Balance (and all interest accrued thereon) for each WIFIA Loan prior to the Final Maturity Date of such WIFIA Loan as well as all Parity Obligations 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 in full of such WIFIA Loan as provided in Section 9(a) (*Prepayment – Mandatory Prepayment from Insurance Proceeds or Eminent Domain Proceeds*) and to the retirement in full of all Parity Obligations.

(g) Maintain Legal Structure. The District shall maintain its existence as a municipal water district organized and existing under its Organizational Documents and the laws of the State.

(h) Revenue Fund; Permitted Investments.

(i) The District shall maintain the Revenue Fund in accordance with the terms hereof and the other WIFIA Loan Documents. All Revenues received shall be deposited in the Revenue Fund when and as received in trust for the benefit of the holders of the Obligations, subject to the application of Revenues in accordance with Section 5.02 (*Allocation of Revenues*) of each WIFIA IPA. The District shall maintain and hold separate and apart from other funds the Revenue Fund so long as any Parity Obligations remain unpaid. Moneys in the Revenue Fund shall be used and applied by the District as provided in the Flow of Funds.

(ii) All moneys held by the District in the Revenue Fund shall be invested in Permitted Investments and the investment earnings thereon shall remain on deposit in such fund, except as otherwise provided herein.

(i) WIFIA Debt Service Account. The District, as agent of the Borrower pursuant to each WIFIA IPA, shall (i) establish the “WIFIA Debt Service Account” on or prior to the Effective Date and (ii) maintain the WIFIA Debt Service Account in accordance with such WIFIA IPA for the benefit of the Borrower. The WIFIA Debt Service Account shall be subject to a Lien and has been pledged by the District under such WIFIA IPA to the Borrower as security solely for the benefit of the Borrower and shall not be subject to any security interest in favor of any Person other than the Borrower. Amounts on deposit in the WIFIA Debt Service Account shall be applied by the District, as agent of the Borrower pursuant to such WIFIA IPA, solely to pay WIFIA Debt Service and other amounts due with respect to the applicable WIFIA Loan or WIFIA Note.

(j) Compliance with Laws.

(i) The District shall, and shall require the contractors and subcontractors at all tiers with respect to the Master Program to, comply with all applicable laws, rules, regulations and requirements, including 40 U.S.C. §§3141-3144, 3146, and 3147 (relating to Davis-Bacon Act requirements) (and regulations relating thereto), 33 U.S.C. §3914 (relating to American iron and steel products), 20 C.F.R. § 180.320 and 20 C.F.R. §1532 (relating to non-debarment), 31 U.S.C. §1352 (relating to non-lobbying), and any applicable Sanctions Laws.

(ii) To ensure such compliance, the District shall include in all contracts with respect to the Master Program (A) the contract clauses relating to the Davis-Bacon Act requirements that are set forth in the Code of Federal Regulations, Title 29 Part 5.5 and (B) requirements that its contractors (1) shall comply with all applicable laws, rules, regulations, and requirements set forth in this Section 17(j) and follow applicable federal guidance and (2) incorporate in all subcontracts (and cause all subcontractors to include in lower tier subcontracts) such terms and conditions as are required to be incorporated therein by any applicable laws, rules, regulations and requirements set forth in this Section 17(j) (including with respect to the Davis-Bacon Act requirements).

(k) Material Obligations; Payment of Claims.

(i) The District shall pay its material obligations with respect to the System promptly and in accordance with their terms.

(ii) The District shall pay and discharge promptly all taxes, assessments and governmental charges or levies imposed upon it or upon the Pledged Collateral or other assets of the System (including the Master Program), before the same shall become delinquent or in default; provided that such payment and discharge shall not be required with respect to any such tax, assessment, charge, levy, claim or Lien so long as the validity or amount thereof shall be contested by the District in good faith by appropriate proceedings and so long as the District shall have set aside adequate reserves with respect thereto in accordance with and to the extent required by GAAP, applied on a consistent basis.

(iii) The District shall pay and discharge any and all lawful claims for labor, materials or supplies which, if unpaid, might become a Lien on the System (or any part thereof), the WIFIA Debt Service Account, the Master Program, the Pledged Collateral or any fund or account of the District pledged to pay Parity Obligations.

(l) SAM Registration. The District shall obtain prior to the Effective Date (and provide such registration information to the WIFIA Lender) and maintain through each Final Disbursement Date an active registration status with the federal System for Award Management (www.SAM.gov) (or any successor system or registry).

(m) Unique Entity Identifier. The District shall obtain prior to the Effective Date (and provide to the WIFIA Lender) and maintain through each Final Maturity Date a Unique Entity Identifier.

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

(o) Accounting and Audit Procedures.

(i) The District shall establish fiscal controls and accounting procedures sufficient to assure proper accounting for all of the following: (A) Revenues, and Operation and Maintenance Costs, and, with respect to the System, capital expenses, depreciation, reserves, debt issued and outstanding and debt payments; and (B) Project-related costs, WIFIA Loan requisitions submitted, WIFIA Loan proceeds received, payments made by the District, as an agent of the Borrower pursuant to each WIFIA IPA, with regard to the Projects, and other sources of funding for the Projects (including amounts paid from such sources for Project costs so that audits may be performed to ensure compliance with and enforcement of this Agreement and the WIFIA Loan Agreements). The District shall use accounting, audit and fiscal procedures conforming to GAAP, including, with respect to the WIFIA Installment Payments, accounting of principal and interest payments, disbursements, prepayments and calculation of interest and principal amounts Outstanding.

(ii) The District shall have a single or program-specific audit conducted in accordance with 2 C.F.R. Part 200 Subpart F and 31 U.S.C. § 7502 from (and including) the first District Fiscal Year in which a disbursement is made under the initial WIFIA Loan Agreement and annually thereafter to the extent required by applicable law, except to the extent biennial audits are permitted for the District pursuant to 2 C.F.R. § 200.504 and 31 U.S.C. § 7502(b). Upon reasonable notice, the District shall cooperate fully in the conduct of any periodic or compliance audits conducted by the WIFIA Lender, or designees thereof, pursuant to 40 C.F.R. Part 35, 31 U.S.C. § 7503(b), or 31 U.S.C. § 6503(h) and shall provide full access to any books, documents, papers or other records that are pertinent to the Master Program or the WIFIA Loans, to the WIFIA Lender, or the designee thereof, for any such project or programmatic audit.

(p) Access; Records.

(i) So long as any WIFIA Loan or any portion thereof shall remain outstanding and until five (5) years after such WIFIA Loan shall have been paid in full by the Borrower, the WIFIA Lender shall have the right, upon reasonable prior notice, to visit and inspect any portion of the relevant Project, to examine books of account and records of the District relating to such Project, to make copies and extracts therefrom at the District's expense, and to discuss the District's affairs, finances and accounts relating to such Project with, and to be advised as to the same by, its officers and employees and its independent public accountants (and by this provision the District irrevocably authorizes its independent public accountants to discuss with the WIFIA Lender the affairs, finances and accounts of the District, whether or not any representative of the District is present, it being understood that nothing contained in this Section 17(p) is intended to confer any right to exclude any such representative from such discussions), all at such reasonable times and intervals as the WIFIA Lender may request. The District agrees to pay all out-of-pocket expenses incurred by the WIFIA Lender in connection with the WIFIA Lender's exercise of its rights under this Section 17(p) at any time when an Event of Default shall have occurred and be continuing.

(ii) The District shall maintain and retain all pertinent files relating to the Master Program and the WIFIA Loans, as may be necessary for the WIFIA Lender to facilitate an effective and accurate audit and performance evaluation of the Master Program, until five (5) years after the later of the date on which (A) all rights and duties of the District or the Borrower under this Agreement and under the WIFIA Loan Agreements and corresponding WIFIA Notes (including payments) have been fulfilled and any required audits have been performed and (B) any litigation relating to the Master Program, the WIFIA Loans, this Agreement or the WIFIA Loan Agreements is finally resolved or, if the WIFIA Lender has reasonable cause to extend such date, a date to be mutually agreed upon by the WIFIA Lender and the District. The District shall provide to the WIFIA Lender in a timely manner all records and documentation relating to the Master Program that the WIFIA Lender may reasonably request from time to time.

(q) Compliance with Contracts. The District shall comply with, keep, observe and perform all agreements, conditions, covenants and terms, express or implied, 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 (including the Master Program), to the extent that the District is a party thereto.

(r) Protection of Security and Rights of the Borrower. The District shall preserve and protect the security and the rights of the Borrower and the WIFIA Lender to the WIFIA Installment Payments and the WIFIA Debt Service Account under each WIFIA IPA and shall warrant and defend such rights against all claims and demands of all persons.

(s) Eminent Domain; Net 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:

(i) If (A) the District files with the Borrower and the WIFIA Lender a certificate showing (1) the estimated loss of annual Net Revenues, if any, suffered or to be suffered by the District by reason of such eminent domain proceedings, (2) a general description of the additions, betterments, extensions or improvements to the System proposed to be acquired and constructed by the District from such Net Proceeds, and (3) an estimate of the additional annual Net Revenues to be derived from such additions, betterments, extensions or improvements, and (B) the District, on the basis of such certificate filed with the Borrower and the WIFIA 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.

(ii) If any of the conditions set forth in Section 17(s)(i) is not met, then such Net Proceeds shall be applied by the District in part to the prepayment of the WIFIA Loan as provided in Section 9(a) (*Prepayment – Mandatory Prepayment from Insurance Proceeds or Eminent Domain Proceeds*) and in part to such other funds or accounts as may be appropriate and used for the retirement of the Parity Obligations (other than the WIFIA Loan) in the same proportion which the Outstanding WIFIA Loan Balance then bears to the aggregate unpaid principal amount of the Parity Obligations (other than the WIFIA Loan).

(t) 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 of the WIFIA Loan Agreements and for the better assuring and confirming unto the WIFIA Lender the rights and benefits provided to it herein and in the WIFIA Loan Agreements.

Section 18. Negative Covenants of the District. The District covenants and agrees as follows until the date each WIFIA Note and all of the obligations of the Borrower and the District under this Agreement and each WIFIA Loan Agreement (other than contingent indemnity obligations to the extent applicable) are irrevocably paid in full by the Borrower and the District in immediately available funds and the WIFIA Lender no longer has any commitment to make disbursements to the Borrower or the District, unless the WIFIA Lender waives compliance in writing:

(a) Additional Obligations.

(i) The District shall not create, incur or suffer to exist (A) any obligations which are senior or prior in right of payment or right of security with respect to the Pledged Collateral to the Parity Obligations; (B) any obligations, all or a portion of the proceeds of which are or will be applied at any time to fund all or any portion of Total Project Costs of any Project, that are secured by a Lien on any assets or property of the

District other than the Pledged Collateral; or (C) any obligations, all or a portion of the proceeds of which are or will be applied at any time to fund any purchase, construction, condemnation, acquisition or expansion of the System, that are secured by a Lien on the Pledged Collateral or payable from the Pledged Collateral except in either case, Parity Obligations or Subordinate Obligations. While an Event of Default relating to a Payment Default or a Bankruptcy Related Event has occurred and is continuing, the District shall not incur any indebtedness of any kind payable from, secured or supported by the Pledged Collateral without the prior written consent of the WIFIA Lender.

(ii) The District may incur Additional Parity Obligations in accordance with the terms hereof; provided that:

(A) the Net Revenues for the last audited District Fiscal Year or for any consecutive twelve (12) calendar month period during the eighteen (18) calendar month period preceding the date of adoption by the Board of Directors of the District of the resolution authorizing the issuance of such Additional Parity Obligations or the date of the execution of such Additional Parity Obligations, 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-five percent (125%) of the Parity Debt Service for such District Fiscal Year or twelve (12) month period;

(B) the Net Revenues for the last audited District Fiscal Year or for any consecutive twelve (12) calendar month period during the eighteen (18) calendar month period preceding the date of adoption by the Board of Directors of the District of the resolution authorizing the issuance of such Additional Parity Obligations or the date of the execution of such Additional Parity Obligations, as the case may be, including adjustments to give effect as of the first day of such District Fiscal Year or other twelve (12) 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-five percent (125%) of the sum of (1) the Parity Debt Service for such District Fiscal Year or other twelve (12) month period, plus (2) the Parity Debt Service which would have accrued on any Parity Obligations executed or issued since the end of such District Fiscal Year or other twelve (12) month period, assuming that such Parity Obligations had been executed or issued at the beginning of such District Fiscal Year or other twelve (12) month period, plus (3) the Parity Debt Service which would have accrued had such proposed Additional Parity Obligations been executed or issued at the beginning of such District Fiscal Year or other twelve (12) month period; and

(C) the estimated Net Revenues for the then current District Fiscal Year and for each District Fiscal Year thereafter to and including the first complete District Fiscal Year after the latest Date of Operation of any uncompleted

Parity Project, as evidenced by a certificate of the Manager on file with the District, including (after giving effect to the completion of all such uncompleted Parity Projects) an allowance for estimated Net Revenues for each such District Fiscal Year arising from any increase in the income, rents, fees, rates and charges estimated to be fixed and prescribed or received for the Service and which are economically feasible and reasonably considered necessary based on projected operations for such period, as evidenced by a certificate of the Manager on file with the District, shall produce a sum equal to at least one hundred twenty-five percent (125%) of the estimated Parity Debt Service for each of such District Fiscal Years, after giving effect to the incurrence of all Parity Obligations estimated to be required to be incurred to pay the costs of completing all uncompleted Parity Projects within such District Fiscal Years, assuming that all such Parity Obligations have maturities, interest rates and proportionate principal repayment provisions similar to the Parity Obligation last incurred or then being incurred for the purpose of acquiring and constructing any of such uncompleted Parity Projects.

(D) For purposes of this clause (ii), the amount of Net Revenues may be increased by Budgeted Transfers (measured as of the last day of the immediately preceding District Fiscal Year), such amount to be no greater than twenty-five percent (25%) of Parity Debt Service payable in the applicable District Fiscal Year.

(iii) Notwithstanding Section 18(a)(ii), Additional Parity Obligations may be incurred to refund outstanding Parity Obligations if the Parity Debt Service in each District Fiscal Year after the District Fiscal Year in which such Additional Parity Obligations are issued or executed is not greater than one hundred ten percent (110%) of the Parity Debt Service which would have been payable in each such District Fiscal Year prior to the issuance or execution of such Additional Parity Obligations.

(iv) The District may incur Additional Subordinate Obligations in accordance with the terms hereof; provided that:

(A) the Net Revenues remaining after payment of Parity Debt Service for the last audited District Fiscal Year, or any consecutive twelve (12) calendar month period during the eighteen (18) calendar month period preceding the date of the issuance or execution of such Additional Subordinate Obligations, 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 District Fiscal Year or other twelve (12) month period; and

(B) the Net Revenues remaining after payment of Parity Debt Service for the last audited District Fiscal Year, or any consecutive twelve (12) calendar month period during the eighteen (18) calendar month period preceding the date of issuance or the execution of such Additional Subordinate Obligations, including adjustments to give effect as of the first day of such District Fiscal Year

or other twelve (12) 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 sum of (1) the Subordinate Debt Service for such District Fiscal Year or other twelve (12) month period, plus (2) the Subordinate Debt Service which would have accrued on any Subordinate Obligations issued since the end of such District Fiscal Year or other twelve (12) month period, assuming that such Subordinate Obligations had been issued or executed at the beginning of such District Fiscal Year or other twelve (12) month period, plus (3) the Subordinate Debt Service which would have accrued had such proposed Additional Subordinate Obligations been issued or executed at the beginning of such District Fiscal Year or other twelve (12) month period.

(C) For purposes of this clause (iv), the amount of Net Revenues may be increased by Budgeted Transfers (measured as of the last day of the immediately preceding District Fiscal Year), such amount to be no greater than ten percent (10%) of Subordinate Debt Service payable in the applicable District Fiscal Year.

(v) Notwithstanding Section 18(a)(iv), Additional Subordinate Obligations may be incurred to refund outstanding Parity Obligations or Subordinate Obligations if the sum of the Parity Debt Service and Subordinate Debt Service in each District Fiscal Year after the District Fiscal Year in which such Additional Subordinate Obligations are incurred is not greater than one hundred ten percent (110%) of the sum of the Parity Debt Service and Subordinate Debt Service which would have been payable in each such District Fiscal Year prior to the incurrence of such Additional Subordinate Obligations.

(vi) Upon the incurrence of any Additional Obligations, the District shall provide to the WIFIA Lender a certificate signed by the District's Authorized Representative (x) specifying the closing date with respect to such Additional Obligations and (y) confirming that such Additional Obligations are authorized pursuant to, and satisfy the applicable requirements under, this Section 18(a).

(b) No Lien Extinguishment or Adverse Amendments. The District shall not, and shall not permit any Person to, without the prior written consent of the WIFIA Lender, (i) extinguish or impair the Liens on the Pledged Collateral granted pursuant to any WIFIA IPA, (ii) amend, modify, terminate, assign, replace or supplement, or permit a waiver of any provision of, any WIFIA IPA, (iii) amend, modify, replace or supplement any Related Document to which the District is a party (other than any WIFIA IPA) or permit a waiver of any provision thereof in a manner that could adversely affect the WIFIA Lender or could reasonably be expected to result in a Material Adverse Effect, or (iv) terminate or assign any Related Document to which the District is a party (other than any WIFIA IPA) in a manner that could adversely affect the WIFIA Lender or could reasonably be expected to have a Material Adverse Effect. The District shall not take or omit to take any action under any contract if the effect of such act or failure to act would in any

manner impair or adversely affect the ability of the District to secure adequate Revenues to meet the requirements of the WIFIA IPAs.

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

(d) Restricted Payments and Transfers. The District shall not permit Revenues or any funds in any other fund or account held by or on behalf of the District with respect to the System, to be paid or transferred or otherwise applied for purposes that would violate the terms of Section 5.02 (*Allocation of Revenues*) of each WIFIA IPA.

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

(f) Hedging. The District shall not enter into any swap or hedging transaction that is speculative or creates extraordinary leverage or risk, without the prior written consent of the WIFIA Lender.

(g) Against Sale or Other Disposition of Property. The District shall 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 each WIFIA Installment Payments, or which would otherwise materially impair the rights of the Borrower under each WIFIA IPA 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.

(h) Against Competitive Facilities. The District and the Borrower hereby acknowledge among themselves that certain public and private agencies, corporations, districts or other political subdivisions, other than the District, currently operate water supply and distribution systems within the boundaries of the District and that nothing contained in this Agreement is intended to alter or affect such activities. The District shall not: (i) to the extent permitted by law, acquire, construct, maintain or operate, any water importation and treatment facility that is competitive with the System; or (ii) 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 service area of the System any water importation and treatment facility that is competitive with the System.

Section 19. Reporting Requirements of the Borrower.

(a) Annual Financial Statements. The Borrower shall deliver to the WIFIA Lender, as soon as available, and within one hundred eighty (180) days after the end of each Borrower Fiscal Year (provided that the failure of the Borrower to furnish the documents required by this Section 19(a) within such one hundred eighty (180)-day period shall not constitute a Default or an Event of Default hereunder or under the WIFIA Loan Agreements so long as the Borrower furnishes to the WIFIA Lender such documents within ninety (90) days after the end of such period, and provided further that the parties agree that delivering the documents required by this Section 19(a) within such additional ninety (90) day period shall not, in and of itself, constitute a default under this Agreement or the WIFIA Loan Agreements, an event of acceleration under this Agreement, the WIFIA Loan Agreements, the WIFIA Loans, or the WIFIA Notes, a termination event under this Agreement, the WIFIA Loan Agreements, the WIFIA Loans, or the WIFIA Notes, a modification of terms with respect to this Agreement, the WIFIA Loan Agreements, the WIFIA Loans, or the WIFIA Notes, or other similar event under this Agreement, the WIFIA Loan Agreements, the WIFIA Loans, or the WIFIA Notes reflecting financial difficulties), a copy of the audited Borrower Financial Statements as of the end of such Borrower Fiscal Year, (i) setting forth in each case in comparative form the figures for the previous fiscal year, (ii) certified without qualification or exception, or qualification as to the scope of the audit, by an independent public accounting firm selected by the Borrower and (iii) which shall be complete and correct in all material respects and shall be prepared in reasonable detail and in accordance with GAAP applied consistently throughout the periods reflected therein (except for changes approved or required by the independent public accountants certifying such statements and disclosed therein); provided that the delivery of such audited Borrower Financial Statements can be accomplished through the posting of such document on EMMA under the WIFIA CUSIP Number.

(b) Notices.

(i) The Borrower shall, within fifteen (15) days after it learns of the occurrence, give the WIFIA Lender notice of any of the following events or receipt of any of the following notices, as applicable, setting forth details of such event (provided that the Borrower shall not be obligated to provide such notice to the WIFIA Lender if notice of such event has already been provided to the WIFIA Lender by the District):

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

(B) Litigation: (1) the filing of any litigation, suit or action, or the commencement of any proceeding, against the Borrower before any arbitrator, Governmental Authority, alternative dispute resolution body, or other neutral third-party, or the receipt by the Borrower in writing of any threat of litigation, suit, action, or proceeding, or of any written claim against the Borrower that, in each case, could reasonably be expected to have a Borrower Material Adverse Effect, and any material changes in the status of such litigation, suit, action or claim, and (2) any judgments against the Borrower that could reasonably be expected to have a Borrower Material Adverse Effect, either individually or in the aggregate;

(C) Amendments: except as otherwise agreed by the WIFIA Lender in writing, copies of fully executed amendments, modifications,

replacements or supplements to any Related Document to which the Borrower is a party within ten (10) days following execution thereof; provided that such notice can be accomplished through the posting of the relevant documents on EMMA under the WIFIA CUSIP Number;

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

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

(F) Issuance of Indebtedness: copies of any final issuing instrument (together with any continuing disclosure documents, ordinances, official statement, certifications or cash flow projections in connection therewith), prepared in connection with the incurrence of any indebtedness; provided that such notice can be accomplished through the posting of the relevant documents on EMMA under the WIFIA CUSIP Number;

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

(H) Other Adverse Events: the occurrence of any other event or condition that could reasonably be expected to result in a Material Adverse Effect.

(ii) Within thirty (30) calendar days after the Borrower learns of the occurrence of an event specified in clause (i) above (other than sub-clauses (C) (*Amendments*), (F) (*Issuance of Indebtedness*) or (G) (*Postings on EMMA*)), the Borrower's Authorized Representative shall provide a statement to the WIFIA Lender setting forth the actions the Borrower proposes to take with respect thereto; provided that the Borrower shall not be required to provide such information if and to the extent such information has been provided by the District. The Borrower shall also provide the WIFIA Lender with any further information reasonably requested by the WIFIA Lender from time to time concerning the matters described in clause (i) above.

(c) Requested Information. The Borrower shall, at any time while any WIFIA Loan remains outstanding, promptly deliver to the WIFIA Lender such additional information regarding the business, financial, legal or organizational affairs of the Borrower or the Authority

Revenues as the WIFIA Lender may from time to time reasonably request. The Borrower agrees that the delivery of any documents or information under and pursuant to this Agreement shall not be construed as compliance with, or affect in any manner, any obligations of the Borrower under any other contracts, agreements, decrees, Governmental Approvals, or other documents with EPA (other than the WIFIA Loan Documents) or the Government.

Section 20. Reporting Requirements of the District.

(a) Updated Financial Model/Plan. The District shall provide to the WIFIA Lender not later than one hundred eighty (180) days after the end of each District Fiscal Year, an Updated Financial Model/Plan. The Updated Financial Model/Plan shall reflect the District's reasonable expectations, using assumptions that the District believes to be reasonable, and include: (i) the District's capital improvement plan, major maintenance plan, projected rates and charges, projected debt outstanding and annual debt service, projected Revenues, projected Authority Revenues, and projected Operation and Maintenance Costs for a reasonable projection period consistent with the District's operating and financial planning and demonstrating that the District has developed and identified adequate revenues to implement a plan for operating, maintaining, and repairing the System (including the Master Program); (ii) evidence of compliance with the requirements specified in Section 17(a) (*Affirmative Covenants of the District – Rate Covenant*), in each case, for the most recent District Fiscal Year for which the District Financial Statements are available and the projected debt service coverage ratios (including projected coverages with respect to the requirements specified in Section 17(a)) through the Forecast Period; and (iii) a written narrative identifying any material changes to the underlying assumptions from the previous Updated Financial Model/Plan.

(b) Annual Financial Statements. The District shall deliver to the WIFIA Lender, as soon as available, and within one hundred eighty (180) days after the end of each District Fiscal Year (provided that the failure of the District to furnish the documents required by this Section 20(b) within such one hundred eighty (180)-day period shall not constitute a Default or an Event of Default hereunder or under the WIFIA Loan Agreements so long as the District furnishes to the WIFIA Lender such documents within ninety (90) days after the end of such period, and provided further that the parties agree that delivering the documents required by this Section 20(b) within such additional ninety (90) day period shall not, in and of itself, constitute a default under this Agreement or the WIFIA Loan Agreements, an event of acceleration under this Agreement, the WIFIA Loan Agreements, the WIFIA Loans, or the WIFIA Notes, a termination event under this Agreement, the WIFIA Loan Agreements, the WIFIA Loans, or the WIFIA Notes, a modification of terms with respect to this Agreement, the WIFIA Loan Agreements, the WIFIA Loans, or the WIFIA Notes, or other similar event under this Agreement, the WIFIA Loan Agreements, the WIFIA Loans, or the WIFIA Notes reflecting financial difficulties), a copy of the audited District Financial Statements as of the end of such District Fiscal Year, (i) setting forth in each case in comparative form the figures for the previous fiscal year, (ii) certified without qualification or exception, or qualification as to the scope of the audit, by an independent public accounting firm selected by the District and (iii) which shall be complete and correct in all material respects and shall be prepared in reasonable detail and in accordance with GAAP applied consistently throughout the periods reflected therein (except for changes approved or required by the independent public accountants certifying such statements and disclosed therein); provided

that the delivery of such audited District Financial Statements can be accomplished through the posting of such document on EMMA under the WIFIA CUSIP Number.

(c) Construction Reporting.

(i) Construction Monitoring. The WIFIA Lender shall have the right in its sole discretion to monitor (or direct its agents to monitor) the development of the Master Program, including environmental compliance, design, and construction of the Projects. The District shall be responsible for administering construction oversight of each Project in accordance with applicable federal, state and local governmental requirements. The District agrees to cooperate in good faith with the WIFIA Lender in the conduct of such monitoring by promptly providing the WIFIA Lender with any Construction Contracts (together with any related contracts, side letters or other understandings) and such reports, documentation or other information as shall be requested by the WIFIA Lender or its agents, including any independent engineer reports, documentation or information.

(ii) Construction Monitoring Report. During the period beginning from the first quarter following bid advertisement of the first Construction Contract entered into for each Project, through and until Substantial Completion of such Project, the District shall furnish to the WIFIA Lender, on a quarterly basis, a Construction Monitoring Report for such Project in substantially the form attached hereto as **Exhibit H** (*Form of Construction Monitoring Report*). Each Construction Monitoring Report shall be delivered to the WIFIA Lender within thirty (30) days of the end of each such quarter (or if such day is not a Business Day, on the next following Business Day). If the then-current projection for the Substantial Completion Date of any Project is a date later than the Projected Substantial Completion Date of such Project, the District shall provide in such Construction Monitoring Report a description in reasonable detail to the reasonable satisfaction of the WIFIA Lender of the reasons for such projected delay or difference. The Projected Substantial Completion Date for such Project shall automatically be adjusted to the new date specified by the District in such Construction Monitoring Report unless the WIFIA Lender objects to the adjustment in writing to the District within sixty (60) days following receipt of such Construction Monitoring Report on the basis that such report does not demonstrate the matters specified in this paragraph.

(iii) Quarterly Certification of Eligible Project Costs. With respect to any Project, if requested by the WIFIA Lender, on a basis not more frequently than quarterly, the District shall submit to the WIFIA Lender, concurrently with the delivery of the relevant Construction Monitoring Report, a certificate, in the form of **Exhibit C** (*Form of Certification of Eligible Project Costs Documentation*), signed by the District's Authorized Representative, and attaching Eligible Project Costs Documentation as applicable. If there are no applicable Eligible Project Costs for such quarter for such Project, the District may notify the WIFIA Lender by written confirmation of the same by email in accordance with Section 36 (*Notices*). Within sixty (60) days following the receipt of such certificate and accompanying Eligible Project Costs Documentation (if applicable), the WIFIA Lender shall notify the District confirming (A) which Eligible Project Costs set forth in the certification have been approved or denied (and, if denied, the reasons therefor)

and (B) the cumulative amount of Eligible Project Costs that have been approved as of the date of such notice. Any such approved amounts of Eligible Project Costs shall then be deemed to be available for disbursement at such time as the District submits a Requisition in respect of such approved amounts in accordance with Section 4 (*Disbursement Conditions*).

(iv) Final Specifications. The District shall deliver to the WIFIA Lender, prior to bid advertisement for each Project (including each sub-project or component, if applicable), a copy of the final specifications relating to the development and construction of such Project (or such sub-project or component, as the case may be), demonstrating compliance with all applicable federal requirements, and including a summary of the scope of work thereunder. For the avoidance of doubt, no prior consent or approval by the WIFIA Lender shall be required for the District to proceed with such bid advertisement and the relevant procurement for the development and construction of such Project.

(d) Public Benefits Report. With respect to each Project, the District shall deliver to the WIFIA Lender a report, in the form of **Exhibit I** (*Form of Public Benefits Report*) (the “**Public Benefits Report**”), (i) prior to the applicable WIFIA Loan Agreement Effective Date, (ii) within ninety (90) days following the applicable Substantial Completion Date and (iii) within ninety (90) days following the fifth (5th) anniversary of such Substantial Completion Date. The District agrees that information described under this Section 20(d) may be made publicly available by the WIFIA Lender at its discretion.

(e) Operations and Maintenance. The WIFIA Lender shall have the right, in its sole discretion, to monitor (or direct its agents to monitor) each Project’s operations and, as the WIFIA Lender may request from time to time, to receive reporting on the operation and management of each Project, and copies of any contracts relating to the operation and maintenance of each Project. The District agrees to cooperate in good faith with the WIFIA Lender in the conduct of such monitoring by promptly providing the WIFIA Lender with such reports, documentation, or other information requested by the WIFIA Lender. The WIFIA Lender has the right, in its sole discretion, to retain such consultants or advisors, to carry out the provisions of this Section 20(e).

(f) Notices.

(i) The District shall, within fifteen (15) days after it learns of the occurrence, give the WIFIA Lender notice of any of the following events or receipt of any of the following notices, as applicable, setting forth details of such event (provided that the District shall not be obligated to provide such notice to the WIFIA Lender if notice of such event has already been provided to the WIFIA Lender by the Borrower):

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

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

(C) Litigation: (1) the filing of any litigation, suit or action, or the commencement of any proceeding, against the District before any arbitrator, Governmental Authority, alternative dispute resolution body, or other neutral third-party, or the receipt by the District in writing of any threat of litigation, suit, action, or proceeding, or of any written claim against the District that, in each case, could reasonably be expected to have a District Material Adverse Effect, and any material changes in the status of such litigation, suit, action or claim, and (2) any judgments against the District that could reasonably be expected to have a District Material Adverse Effect, either individually or in the aggregate;

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

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

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

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

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

(I) Rating Changes: any change in the rating assigned to any WIFIA Loan or any other Obligations by any Nationally Recognized Rating Agency that has provided a public rating on such WIFIA Loan or such Obligations, and any notices, reports or other written materials (other than those that are

ministerial in nature) received from any such rating agencies; provided that such notice can be accomplished through the posting of the relevant documents on EMMA under the WIFIA CUSIP Number;

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

(K) SAM; Unique Entity Identifier: any change in the District's SAM registration status (including any exclusions, expiration or inactive registration) or Unique Entity Identifier (including any expiration or change in effectiveness); provided that such notice can be accomplished through the posting of the relevant document on EMMA under the WIFIA CUSIP Number;

(L) Issuance of Obligations: copies of any final issuing instrument (together with any continuing disclosure documents, ordinances, official statement, certifications or cash flow projections in connection therewith), prepared in connection with the incurrence of any Additional Obligations (including any Variable Interest Rate Obligations); provided that such notice can be accomplished through the posting of the relevant documents on EMMA under the WIFIA CUSIP Number;

(M) Amendments to Policies: any material amendment or modification to the Investment Policy, along with a copy of such amendment or modification; and

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

(ii) Within thirty (30) calendar days after the District learns of the occurrence of an event specified in clause (i) above (other than sub-clauses (A) (*Substantial Completion*), (F) (*Amendments*), (I) (*Ratings Changes*) (in the case of a ratings upgrade), (L) (*Issuance of Obligations*) or (M) (*Amendments to Policies*)), the District's Authorized Representative shall provide a statement to the WIFIA Lender setting forth the actions the District proposes to take with respect thereto. The District shall also provide the WIFIA Lender with any further information reasonably requested by the WIFIA Lender from time to time concerning the matters described in clause (i) above.

(g) Requested Information. The District shall, at any time while the WIFIA Loan remains outstanding, promptly deliver to the WIFIA Lender such additional information regarding the business, financial, legal or organizational affairs of the District or regarding the System (including the Master Program) or the Pledged Collateral as the WIFIA Lender may from time to time reasonably request. The District agrees that the delivery of any documents or

information under and pursuant to this Agreement shall not be construed as compliance with, or affect in any manner, any obligations of the District under any other contracts, agreements, decrees, Governmental Approvals, or other documents with EPA (other than the WIFIA Loan Documents) or the Government.

ARTICLE VI EVENTS OF DEFAULT

Section 21. Events of Default and Remedies.

(a) A “**Borrower Event of Default**” shall exist under this Agreement and each WIFIA Loan Agreement if any of the following occurs; provided that any event described in Section 21(a)(vii) (*Events of Default and Remedies – Additional Borrower Events of Default*) shall be a Borrower Event of Default solely under the WIFIA Loan Agreement for the relevant Project to which such event relates and not under this Agreement or any other WIFIA Loan Agreement:

(i) Borrower Payment Default. The Borrower shall fail to (A) pay when due any part of the principal amount of or interest on any WIFIA Loan (including WIFIA Debt Service required to have been paid pursuant to the provisions of Section 8 (*Payment of Principal and Interest*)) or (B) make any mandatory prepayment required pursuant to the provisions of Section 9 (*Prepayment*), in each case, when and as the payment thereof shall be required under this Agreement, any WIFIA Loan Agreement or any WIFIA Note or on any Final Maturity Date (each such failure, a “**Borrower Payment Default**”).

(ii) Borrower Covenant Default. The Borrower shall fail to observe or perform any covenant, agreement or obligation of the Borrower under this Agreement, any WIFIA Loan Agreement, any WIFIA Note or any other WIFIA Loan Document to which the Borrower is a party (other than in the case of any Borrower Payment Default), and such failure shall not be cured within thirty (30) days after the earlier to occur of (A) receipt by the Borrower from the WIFIA Lender of written notice thereof or (B) the Borrower’s knowledge of such failure; provided that if such failure is capable of cure but cannot reasonably be cured within such thirty (30) day cure period, then no Borrower Event of Default shall be deemed to have occurred or be continuing under this Section 21(a)(ii), and such thirty (30) day cure period shall be extended by up to one hundred fifty (150) additional days, if and so long as (x) within such thirty (30) day cure period the Borrower shall commence actions reasonably designed to cure such failure and shall diligently pursue such actions until such failure is cured and (y) such failure is cured within one hundred eighty (180) days of the date specified in either (A) or (B) above, as applicable.

(iii) Borrower Misrepresentation Default. Any of the representations, warranties or certifications of the Borrower made in or delivered pursuant to any WIFIA Loan Document to which the Borrower is a party (or in any certificates delivered by the Borrower in connection with any WIFIA Loan Document to which the Borrower is a party) shall prove to have been false or misleading in any material respect when made or deemed made (or any representation and warranty or certification that is subject to a materiality qualifier shall prove to have been false or misleading in any respect); provided that no

Borrower Event of Default shall be deemed to have occurred under this Section 21(a)(iii) if and so long as (A) such misrepresentation is not intentional, (B) such misrepresentation is not a misrepresentation in respect of Section 12(h) (*Representations and Warranties of the Borrower – No Debarment*), or Section 12(j) (*Representations and Warranties of the Borrower – Compliance with Laws*), (C) in the reasonable determination of the WIFIA Lender, such misrepresentation has not had, and would not reasonably be expected to result in, a Borrower Material Adverse Effect, (D) in the reasonable determination of the WIFIA Lender, the underlying issue giving rise to the misrepresentation is capable of being cured and (E) the underlying issue giving rise to the misrepresentation is cured by the Borrower within thirty (30) days after the date on which the Borrower first became aware (or reasonably should have become aware) of such misrepresentation.

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

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

(vi) Invalidity of WIFIA Loan Documents. (A) Any WIFIA Loan Document to which the Borrower is a party ceases to be in full force and effect (other than as a result of the termination thereof in accordance with its terms) or becomes void, voidable, illegal or unenforceable, or the Borrower contests in any manner the validity or enforceability of any WIFIA Loan Document to which it is a party or denies it has any further liability under any WIFIA Loan Document to which it is a party, or purports to revoke, terminate or rescind any WIFIA Loan Document to which it is a party; (B) this Agreement ceases to grant a valid and binding security interest on any material portion of the Authority Revenues, other than as a result of actions or a failure to act by, and within the control of, the WIFIA Lender; or (C) any event occurs that results in the material impairment in the priority of (1) the Borrower's security interest in the Pledged Collateral or in the value of the Pledged Collateral, (2) the WIFIA Lender's security interest in the Authority Revenues or in the value of the Authority Revenues or (3) the Borrower's security interest in the WIFIA Debt Service Account or the assignment to the WIFIA Lender of the Borrower's rights thereto.

(vii) Additional Borrower Events of Default. Any additional Borrower Event of Default specified in a WIFIA Loan Agreement occurs.

(b) A “**District Event of Default**” shall exist under this Agreement and each WIFIA Loan Agreement if any of the following occurs; provided that any event described in Section 21(b)(ix) (*Events of Default and Remedies – Development Default*) or Section 21(b)(x) (*Events of Default and Remedies – Additional District Events of Default*) shall be a District Event of Default solely under the WIFIA Loan Agreement for the relevant Project to which such event relates and not under this Agreement or any other WIFIA Loan Agreement:

(i) District Payment Default. (A) The District shall fail to pay when due any part of any WIFIA Installment Payment required to have been paid pursuant to the

provisions of any WIFIA IPA or (B) the District, as agent of the Borrower pursuant to any WIFIA IPA, shall fail to make any mandatory prepayment required pursuant to the provisions of Section 9 (*Prepayment*) (each such failure, an “**District Payment Default**”).

(ii) District Covenant Default. The District shall fail to observe or perform any covenant, agreement or obligation of the District under this Agreement, any WIFIA Loan Agreement, any WIFIA IPA or any other WIFIA Loan Document to which the District is a party (other than in the case of any District Payment Default or any Development Default), and such failure shall not be cured within thirty (30) days after the earlier to occur of (A) receipt by the District from the WIFIA Lender of written notice thereof or (B) the District’s knowledge of such failure; provided that if such failure is capable of cure but cannot reasonably be cured within such thirty (30) day cure period, then no Event of Default shall be deemed to have occurred or be continuing under this Section 21(b)(ii), and such thirty (30) day cure period shall be extended by up to one hundred fifty (150) additional days, if and so long as (x) within such thirty (30) day cure period the District shall commence actions reasonably designed to cure such failure and shall diligently pursue such actions until such failure is cured and (y) such failure is cured within one hundred eighty (180) days of the date specified in either (A) or (B) above, as applicable.

(iii) District Misrepresentation Default. Any of the representations, warranties or certifications of the District made in or delivered pursuant to any WIFIA Loan Document to which the District is a party (or in any certificates delivered by the District in connection with any WIFIA Loan Document to which the District is a party) shall prove to have been false or misleading in any material respect when made or deemed made (or any representation and warranty or certification that is subject to a materiality qualifier shall prove to have been false or misleading in any respect); provided that no District Event of Default shall be deemed to have occurred under this Section 21(b)(iii) if and so long as (A) such misrepresentation is not intentional, (B) such misrepresentation is not a misrepresentation in respect of Section 13(h) (*Representations and Warranties of the District – No Debarment*), or Section 13(j) (*Representations and Warranties of the District – Compliance with Laws*), (C) in the reasonable determination of the WIFIA Lender, such misrepresentation has not had, and would not reasonably be expected to result in, a District Material Adverse Effect, (D) in the reasonable determination of the WIFIA Lender, the underlying issue giving rise to the misrepresentation is capable of being cured and (E) the underlying issue giving rise to the misrepresentation is cured by the District within thirty (30) days after the date on which the District first became aware (or reasonably should have become aware) of such misrepresentation.

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

(v) Cross Default with Obligation Documents. Any default shall occur in respect of the performance of any covenant, agreement or obligation of the District under any Obligation Document relating to any Parity Obligation (other than the WIFIA Loan Documents), and such default shall be continuing after the giving of any applicable notice

and the expiration of any applicable grace period specified in such Obligation Document relating to any Parity Obligation with respect to such default, and the District shall have failed to cure such default or to obtain an effective written waiver thereof in accordance with the terms thereof.

(vi) District Material Adverse Judgment. Any final, non-appealable judgment related to the Pledged Collateral, the System (including the Master Program) or any Project shall be entered against the District which has a Material Adverse Effect.

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

(viii) Invalidity of WIFIA Loan Documents. (A) Any WIFIA Loan Document to which the District is a party ceases to be in full force and effect (other than as a result of the termination thereof in accordance with its terms) or becomes void, voidable, illegal or unenforceable, or the District contests in any manner the validity or enforceability of any WIFIA Loan Document to which it is a party or denies it has any further liability under any WIFIA Loan Document to which it is a party, or purports to revoke, terminate or rescind any WIFIA Loan Document to which it is a party; or (B) any WIFIA IPA ceases (other than as expressly permitted thereunder) to be effective or to grant a valid and binding security interest on any material portion of the Pledged Collateral, and with the priority purported to be created thereby, or on the WIFIA Debt Service Account.

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

(x) Additional District Events of Default. Any additional District Event of Default specified in a WIFIA Loan Agreement occurs.

(c) Upon (i) the occurrence of any Bankruptcy Related Event (other than a Bankruptcy Related Event under clause (b)(iii) of the definition thereof) or (ii) the acceleration of any amounts under any WIFIA IPA, all obligations of the WIFIA Lender hereunder and under the WIFIA Loan Agreements with respect to the disbursement of any undisbursed amounts of any WIFIA Loan shall automatically be deemed terminated, and the Outstanding WIFIA Loan Balance of such WIFIA Loan, together with all interest accrued thereon and all fees, costs, expenses, indemnities and other amounts payable to the WIFIA Lender under this Agreement, the WIFIA Loan Agreements, the WIFIA Notes and the other WIFIA Loan Documents, shall automatically become immediately due and payable, without presentment, demand, notice, declaration, protest or other requirements of any kind, all of which are hereby expressly waived.

(d) Upon the occurrence of any Event of Default hereunder or under any WIFIA Loan Agreement, the WIFIA Lender, by written notice to the Borrower and the District, may exercise any or all of the following remedies:

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

(ii) the WIFIA Lender may cease permitting interest on the relevant WIFIA Loan to be capitalized;

(iii) the WIFIA Lender may apply the Default Rate provisions of Section 6 (*Interest Rate*) hereunder with respect to the relevant WIFIA Loan;

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

(v) the WIFIA Lender shall be entitled and empowered to institute any actions or proceedings at law or in equity against the Borrower for the collection of any sums due from the Borrower and unpaid under this Agreement, the relevant WIFIA Loan Agreement and corresponding WIFIA Note or the other applicable WIFIA Loan Documents, and may prosecute any such judgment or final decree against the Borrower and collect in the manner provided by law out of the property of the Borrower the moneys adjudged or decreed to be payable, and the WIFIA Lender shall have all of the rights and remedies of a creditor and may take such other actions at law or in equity as may appear necessary or desirable to collect all amounts payable by the Borrower under this Agreement, the relevant WIFIA Loan Agreement and corresponding WIFIA Note or the other applicable WIFIA Loan Documents then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Agreement, the relevant WIFIA Loan Agreement and corresponding WIFIA Note or the other applicable WIFIA Loan Documents, including directing the Borrower to exercise any rights or remedies under the relevant WIFIA IPA pursuant to Article VIII (*Events of Default and Remedies of the Authority*) thereto;

(vi) the WIFIA Lender 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 from the District and unpaid under this Agreement, the relevant WIFIA Loan Agreement or the relevant WIFIA IPA, and may prosecute any such judgment or final decree against the District and collect in the manner provided by law out of the property of the District the moneys adjudged or decreed to be payable, and the WIFIA Lender shall have all of the rights and remedies of a creditor and may take such other actions at law or in equity as may appear necessary or desirable to collect all amounts payable by the District under this Agreement, the relevant WIFIA Loan Agreement or the relevant WIFIA IPA 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, the relevant WIFIA Loan Agreement or the relevant WIFIA IPA; and

(vii) the WIFIA Lender may declare the unpaid principal amount of the relevant WIFIA Note to be, and the same shall thereupon forthwith become, immediately due and payable, together with the interest accrued thereon and all fees, costs, expenses, indemnities and other amounts payable to the WIFIA Lender under this Agreement, the relevant WIFIA Loan Agreement and corresponding WIFIA Note and the other WIFIA Loan Documents, all without presentment, demand, notice, protest or other requirements of any kind, all of which are hereby expressly waived.

(e) Notwithstanding anything to the contrary set forth in any WIFIA Loan Document, the Borrower shall not have the right to (i) accelerate any WIFIA Installment Payments or (ii) exercise any other rights or remedies under any WIFIA IPA following the occurrence of an “Event of Default” under and as defined in such WIFIA IPA without the prior written direction of the WIFIA Lender.

(f) No action taken pursuant to this Section 21 shall relieve either the Borrower or the District from its obligations pursuant to this Agreement, the WIFIA Loan Agreements and corresponding WIFIA Notes or the other WIFIA Loan Documents, all of which shall survive any such action.

ARTICLE VII MISCELLANEOUS

Section 22. Disclaimer of Warranty. The WIFIA Lender makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for a particular purpose or fitness for use of any Project or any portion thereof or any other warranty with respect thereto. In no event shall the WIFIA Lender be liable for any incidental, indirect, special or consequential damages incidental to or arising out of this Agreement, the System (including the Master Program) or any Project or the existence, furnishing, functioning or use of any Project or any item or products or services provided for in this Agreement or any WIFIA Loan Agreement.

Section 23. No Personal Recourse. No official, employee or agent of the WIFIA Lender or either the Borrower or the District or any Person executing this Agreement or any of the other WIFIA Loan Documents shall be personally liable under this Agreement or such other WIFIA Loan Documents by reason of the issuance, delivery or execution hereof or thereof.

Section 24. No Third Party Rights. The parties hereby agree that this Agreement creates no third party rights against the Borrower, the District, the Government, or the WIFIA Lender, solely by virtue of the WIFIA Loans, and the Borrower and the District each agree to indemnify on a joint and several basis and hold the WIFIA Lender, the Servicer (if any), the Administrator, and the Government harmless, to the extent permitted by law and in accordance with Section 37 (*Indemnification*), from any lawsuit or claim arising in law or equity solely by reason of any WIFIA Loan, and that no third party creditor of either the Borrower or the District shall have any right against the WIFIA Lender with respect to any WIFIA Loan made pursuant to this Agreement or any WIFIA Loan Agreement.

Section 25. Borrower’s Authorized Representative. The Borrower shall at all times have appointed a Borrower’s Authorized Representative by designating such Person or Persons from time to time to act on the Borrower’s behalf pursuant to a written certificate furnished to the WIFIA Lender and the Servicer, if any, containing the specimen signature or signatures of such Person or Persons and signed by the Borrower.

Section 26. District’s Authorized Representative. The District shall at all times have appointed a District’s Authorized Representative by designating such Person or Persons from time to time to act on the District’s behalf pursuant to a written certificate furnished to the WIFIA

Lender and the Servicer, if any, containing the specimen signature or signatures of such Person or Persons and signed by the District.

Section 27. WIFIA Lender's Authorized Representative. The WIFIA Lender hereby appoints the Director of the WIFIA Program, whose notice details are set forth below in Section 36 (*Notices*), to serve as the WIFIA Lender's Authorized Representative under this Agreement until such time as a successor or successors shall have been appointed. Thereafter, the successor in office shall serve as the WIFIA Lender's Authorized Representative. The WIFIA Lender shall provide notice to the Borrower and the District within a reasonable time period following the succession.

Section 28. Servicer. The WIFIA Lender may from time to time designate another entity or entities to perform, or assist the WIFIA Lender in performing, the duties of the Servicer or specified duties of the WIFIA Lender under this Agreement and the WIFIA Loan Agreements and corresponding WIFIA Notes. The WIFIA Lender shall give the Borrower and the District written notice of the appointment of any successor or additional Servicer and shall enumerate the duties or any change in duties to be performed by any Servicer. Any references in this Agreement to the WIFIA Lender shall be deemed to be a reference to the Servicer with respect to any duties which the WIFIA Lender shall have delegated to such Servicer. The WIFIA Lender may at any time assume the duties of any Servicer under this Agreement and the WIFIA Loan Agreements and corresponding WIFIA Notes. The Borrower and the District shall cooperate and respond to any reasonable request of the Servicer for information, documentation or other items reasonably necessary for the performance by the Servicer of its duties hereunder and under the WIFIA Loan Agreements; provided that (a) neither the Borrower nor the District shall be required to provide any public disclosure, representation, warranty, estoppel, certification or indemnity to the Servicer in connection with the proposed appointment thereof and (b) no fees or costs of the Borrower or the District payable to the WIFIA Lender hereunder shall significantly increase solely as a result of any appointment of a Servicer and such increase in fees or costs shall not in any event be more than the amount of the Construction Period Servicing Fee or the Operating Period Servicing Fee applicable at the time the Servicer is appointed as set forth in the applicable WIFIA Loan Agreement.

Section 29. Amendments and Waivers. No amendment, modification, termination, or waiver of any provision of this Agreement, the WIFIA Loan Agreements or the corresponding WIFIA Notes shall in any event be effective without the prior written consent of each of the parties hereto and thereto.

Section 30. Governing Law. This Agreement and the WIFIA Loan Agreements shall be governed by the federal laws of the United States of America if and to the extent such federal laws are applicable and the internal laws of the State, if and to the extent such federal laws are not applicable.

Section 31. Severability. In case any provision in or obligation under this Agreement shall be invalid, illegal, or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

Section 32. Successors and Assigns. This Agreement shall be binding upon the parties hereto and their respective permitted successors and assigns and shall inure to the benefit of the parties hereto and their permitted successors and assigns. Neither the rights nor obligations of the Borrower under this Agreement, the WIFIA Loan Agreements or the corresponding WIFIA Notes nor any interest herein or therein may be assigned or delegated by the Borrower without the prior written consent of the WIFIA Lender. Neither the rights nor obligations of the District under this Agreement or the WIFIA Loan Agreements nor any interest herein or therein may be assigned or delegated by the District without the prior written consent of the WIFIA Lender.

Section 33. Remedies Not Exclusive. No remedy conferred or reserved to the WIFIA Lender under this Agreement, the WIFIA Loan Agreements or the corresponding WIFIA Notes is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or thereunder or now or hereafter existing at law or in equity or by statute.

Section 34. Delay or Omission Not Waiver. No delay or omission of the WIFIA Lender to exercise any right or remedy provided under this Agreement, the WIFIA Loan Agreements or the corresponding WIFIA Notes upon a default of either the Borrower or the District (except a delay or omission pursuant to a written waiver) shall impair any such right or remedy or constitute a waiver of any such default or acquiescence herein or therein. Every right and remedy given by this Agreement, the WIFIA Loan Agreements or the corresponding WIFIA Notes or by law to the WIFIA Lender may be exercised from time to time, and as often as may be deemed expedient by the WIFIA Lender.

Section 35. Counterparts. This Agreement and any amendments, waivers, consents or supplements hereto or in connection herewith may be executed in any number of counterparts and by the different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document. Electronic delivery of an executed counterpart of a signature page of this Agreement or of any document or instrument delivered in connection herewith in accordance with Section 36 (*Notices*) shall be effective as delivery of an original executed counterpart of this Agreement or such other document or instrument, as applicable.

Section 36. Notices. Notices hereunder shall be (a) in writing, (b) effective as provided below and (c) given by (i) nationally recognized courier service, (ii) hand delivery, or (iii) email, in each case to:

<u>If to WIFIA Lender:</u>	United States Environmental Protection Agency WJC-E 7334A 1200 Pennsylvania Avenue NW Washington, D.C. 20460 Attention: WIFIA Director Email: WIFIA_Portfolio@epa.gov
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If to Borrower: 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
Email: [●]³

If to District: San Bernardino Valley Municipal Water District
380 E Vanderbilt Way
San Bernardino, California 92408
Attention: General Manager
Email: [●]⁴

Unless otherwise instructed by the WIFIA Lender’s Authorized Representative, all notices to the WIFIA Lender should be made by email to the email address noted above for the WIFIA Lender. Notices required to be provided herein shall be provided to such different addresses or to such further parties as may be designated from time to time by the Borrower’s Authorized Representative, with respect to notices to the Borrower, or by the District’s Authorized Representative, with respect to notices to the District, or by the WIFIA Lender’s Authorized Representative, with respect to notices to the WIFIA Lender or the Servicer. Each such notice, request or communication shall be effective (x) if delivered by hand or by nationally recognized courier service, when delivered at the address specified in this Section 36 (or in accordance with the latest unrevoked written direction from the receiving party) and (y) if given by email, when such email is delivered to the address specified in this Section 36 (or in accordance with the latest unrevoked written direction from the receiving party); provided that notices received on a day that is not a Business Day or after 5:00 p.m. Eastern Time on a Business Day will be deemed to be effective on the next Business Day.

Section 37. Indemnification. The Borrower and the District shall, to the extent permitted by law, indemnify on a joint and several basis the WIFIA Lender and any official, employee, agent, advisor or representative of the WIFIA Lender (each such Person being herein referred to as an “**Indemnitee**”) against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities, fines, penalties, costs and expenses (including the fees, charges and disbursements of any counsel for any Indemnitee and the costs of environmental remediation), whether known, unknown, contingent or otherwise, incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (a) the execution, delivery and performance of this Agreement or any of the other Related Documents, (b) the WIFIA Loans or the use of the proceeds thereof, or (c) the violation of any law, rule, regulation, order, decree, judgment or administrative decision relating to the environment, the preservation or reclamation of natural resources, the management, release or threatened release of any hazardous material or to health and safety matters; in each case arising out of or in direct relation to the Master Program; provided

³ **Note to Borrower:** Please advise.

⁴ **Note to Borrower:** Please advise.

that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities, fines, penalties, costs or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee. In case any action or proceeding is brought against an Indemnitee by reason of any claim with respect to which such Indemnitee is entitled to indemnification hereunder, the Borrower and the District shall each be entitled, at its expense, to participate in the defense thereof; provided that such Indemnitee has the right to retain its own counsel, at the expense of the Borrower or the District, as applicable, and such participation by the Borrower and/or the District in the defense thereof shall not release the Borrower or the District of any liability that it may have to such Indemnitee. Any Indemnitee against whom any indemnity claim contemplated in this Section 37 is made shall be entitled, after consultation with the Borrower and the District and upon consultation with legal counsel wherein such Indemnitee is advised that such indemnity claim is meritorious, to compromise or settle any such indemnity claim. Any such compromise or settlement shall be binding upon the Borrower and the District for purposes of this Section 37. Nothing herein shall be construed as a waiver of any legal immunity that may be available to any Indemnitee. To the extent permitted by applicable law, none of the Borrower, the District, or the WIFIA Lender shall assert, and the Borrower, the District, and the WIFIA Lender each hereby waives, any claim against any Indemnitee, the Borrower, or the District, respectively, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any of the other Related Documents, the other transactions contemplated hereby and thereby, the WIFIA Loans or the use of the proceeds thereof, provided that nothing in this sentence shall limit the Borrower's or the District's indemnity obligations to the extent such damages are included in any third party claim in connection with which an Indemnitee is entitled to indemnification hereunder. All amounts due to any Indemnitee under this Section 37 shall be payable promptly upon demand therefor. The obligations of the Borrower and the District under this Section 37 shall survive the payment or prepayment in full of any WIFIA Note pursuant to Section 8 (*Payment of Principal and Interest*) or Section 9 (*Prepayment*), the enforcement of any provision of this Agreement or the other Related Documents, any amendments, waivers (other than amendments or waivers in writing with respect to this Section 37) or consents in respect hereof or thereof, any Event of Default, and any workout, restructuring or similar arrangement of the obligations of the Borrower or the District hereunder or thereunder.

Section 38. Sale of WIFIA Loan. The WIFIA Lender shall not sell any WIFIA Loan at any time prior to the Substantial Completion Date of the Project relating to such WIFIA Loan. After such date, the WIFIA Lender may sell such WIFIA Loan to another entity or reoffer such WIFIA Loan into the capital markets only in accordance with the provisions of this Section 38. Such sale or reoffering shall be on such terms as the WIFIA Lender shall deem advisable. However, in making such sale or reoffering the WIFIA Lender shall not change the terms and conditions of such WIFIA Loan without the prior written consent of the Borrower and the District in accordance with Section 29 (*Amendments and Waivers*). The WIFIA Lender shall provide, at least sixty (60) days prior to any sale or reoffering of such WIFIA Loan, written notice to the Borrower and the District of the WIFIA Lender's intention to consummate such a sale or reoffering; provided that no such notice shall be required during the continuation of any Event of Default. The provision of any notice pursuant to this Section 38 shall neither (x) obligate the WIFIA Lender to sell nor (y) provide either of the Borrower or the District with any rights or remedies in the event the WIFIA Lender, for any reason, does not sell such WIFIA Loan. Neither

the Borrower nor the District shall have any obligation to provide any disclosure, representation, warranty, estoppel, certificate, consent, agreement, approval, or other assistance to the WIFIA Lender or any proposed purchaser or assignee of any WIFIA Loan in connection with any proposed sale or assignment of such WIFIA Loan.

Section 39. Effectiveness. This Agreement shall be effective on the Effective Date.

Section 40. Survival. The indemnification requirements of Section 37 (*Indemnification*), the reporting and record keeping requirements of Section 15(j) (*Affirmative Covenants of the Borrower – Access; Records*) and Section 17(p) (*Affirmative Covenants of the District – Access; Records*), and the payment requirements of Section 10 (*Fees and Expenses*) shall survive the termination of this Agreement as provided in such sections.

Section 41. Integration. This Agreement, together with the other WIFIA Loan Documents, constitutes the entire contract between the parties relating to the subject matter hereof and supersedes any and all previous agreements and understandings, oral or written, relating to the subject matter hereof.

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

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

**UPPER SANTA ANA RIVER WATERSHED
INFRASTRUCTURE FINANCING
AUTHORITY**, by its authorized representative

By: _____
Name:
Title:

**SAN BERNARDINO VALLEY MUNICIPAL
WATER DISTRICT,**
by its authorized representative

By: _____
Name:
Title:

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

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

SCHEDULE I

MASTER PROGRAM

The Master Program is the Watershed Connect – San Bernardino Master Program, located in the Counties of San Bernardino and Riverside, California. The Master Program consists of interconnected water capture, recharge, storage, treatment, and conveyance projects under a multiphase program. The projects under the Master Program are designed to achieve water supply reliability, climate resilience, and long-term ecological health of the Upper Santa Ana River Watershed.

SCHEDULE 7(d)

FLOW OF FUNDS

Reference is made to Section 5.02 (*Allocation of Revenues*) of each WIFIA IPA, and the requirements and conditions contained therein as of the Effective Date, which are set forth verbatim below. Capitalized terms used in this **Schedule 7(d)** shall have the respective meanings assigned to such terms in the WIFIA IPAs.

“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 at the following times in the following respective special funds in the following order of priority, as provided in this Section 5.02. All moneys in such funds shall be held in trust and shall be applied, used and withdrawn only for the purposes hereinafter authorized in this Section 5.02.

(a) Operation and Maintenance Costs. 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.

(b) Bonds and Contracts. The District shall, from the moneys in the Revenue Fund, transfer to the WIFIA Debt Service Account 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 WIFIA Loan Agreement, Contract, Bond, resolution or indenture relating thereto.

(c) 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.

(d) 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 the Law, in accordance with Article XIIID of the California Constitution, including but not limited to payment of Subordinate Debt, or deposited in the Rate Stabilization Fund, subject to the terms of the WIFIA Master Agreement.”

SCHEDULE 12(f)

LITIGATION

None.

SCHEDULE 12(u)

EXISTING SYSTEM INDEBTEDNESS

A. Existing Parity Obligations

	Agreement/Series	Outstanding Principal
1.	Installment Purchase Agreement, dated as of June 1, 2011, by and between the District and San Bernardino Valley Municipal Water District Financing Corporation	\$6,510,000

B. Existing Subordinate Obligations

	Agreement/Series	Outstanding Principal
1.	None.	

EXHIBIT A

FORM OF WIFIA NOTE

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

**WATERSHED CONNECT – SAN BERNARDINO MASTER PROGRAM – PROJECT
[●]**

**(WIFIA ID – [●])
WIFIA NOTE**

Maximum Principal Amount: \$[●] ([●] Dollars) (excluding capitalized interest)

Effective Date: [●]

Interest Rate Per Annum: [●]%

Due: [●]

UPPER SANTA ANA RIVER WATERSHED INFRASTRUCTURE FINANCING AUTHORITY, a joint exercise of powers agency duly organized and existing under the laws of the State of California (the “**Borrower**”), for value received, hereby promises to pay to the order of the **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**, acting by and through the Administrator of the United States Environmental Protection Agency, or its assigns (the “**WIFIA Lender**”), the lesser of (x) the Maximum Principal Amount set forth above and (y) the aggregate unpaid principal amount of all disbursements (the “**Disbursements**”) made by the WIFIA Lender (such lesser amount, together with any interest that is capitalized and added to principal in accordance with the provisions of the WIFIA Loan Agreement (as defined below), being hereinafter referred to as the “**Outstanding Principal Sum**”), together with accrued and unpaid interest (including, if applicable, interest at the Default Rate, as defined in the WIFIA Loan Agreement) on the Outstanding Principal Sum and all fees, costs and other amounts payable in connection therewith, all as more fully described in the WIFIA Loan Agreement. The principal hereof shall be payable in the manner and at the place provided in the WIFIA Loan Agreement in accordance with Exhibit A (*WIFIA Loan Amortization Schedule*) to the WIFIA Loan Agreement, as revised from time to time in accordance with the WIFIA Loan Agreement and that certain WIFIA Master Agreement, dated as of [●] 2023, by and among the Borrower, the District and the WIFIA Lender (the “**WIFIA Master Agreement**”), until paid in full (which Exhibit A, as modified from time to time in accordance with the terms of the WIFIA Loan Agreement and the WIFIA Master Agreement, is incorporated in and is a part of this WIFIA Note). The WIFIA Lender is hereby authorized to modify the WIFIA Loan Amortization Schedule included in Exhibit A to the WIFIA Loan Agreement from time to time in accordance with the terms of the WIFIA Master Agreement and the WIFIA Loan Agreement to reflect the amount of each disbursement made thereunder and the date and amount of principal or interest paid by the Borrower thereunder. Absent manifest error, the WIFIA Lender’s determination of such matters as set forth on Exhibit A to the WIFIA Loan Agreement shall be conclusive evidence thereof; provided that neither the

failure to make any such recordation nor any error in such recordation shall affect in any manner the Borrower's obligations hereunder or under any other WIFIA Loan Document (as defined in the WIFIA Master Agreement).

Payments hereon are to be made in accordance with Section 8(e) (*Payment of Principal and Interest – Manner of Payment*) and Section 36 (*Notices*) of the WIFIA Master Agreement as the same become due. Principal of and interest on this WIFIA Note shall be paid in funds available on or before the due date and in any lawful coin or currency of the United States of America that at the date of payment is legal tender for the payment of public and private debts. If the Substantial Completion Date occurs on any date prior to [●], the due date of this WIFIA Note shall be deemed to be amended to the Principal Payment Date immediately preceding the date that is thirty-five (35) years following such Substantial Completion Date without any further action required on the part of the Borrower or the WIFIA Lender and such amendment shall in no way amend, modify or affect the other provisions of this WIFIA Note without the prior written agreement of the WIFIA Lender. Any such amendment shall be reflected in a revised WIFIA Loan Amortization Schedule.

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

This WIFIA Note may be prepaid at the option of the Borrower in whole or in part (and, if in part, the principal installments and amounts thereof to be prepaid are to be determined in accordance with the WIFIA Loan Agreement; provided such prepayments shall be in principal amounts of at least \$500,000 or any integral multiple of \$1 in excess thereof), from time to time, but not more than annually, without penalty or premium, by paying to the WIFIA Lender all or part of the principal amount of the WIFIA Note in accordance with the WIFIA Loan Agreement.

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

Payment of the obligations of the Borrower under this WIFIA Note is secured pursuant to the WIFIA Master Agreement and the WIFIA Loan Agreement.

This WIFIA Note is a limited obligation of the Borrower, payable solely from the Authority Revenues, and does not constitute a debt of the State or any of its political subdivisions (including the District), except the Borrower. Notwithstanding anything to the contrary set forth in this WIFIA Note, the District is not a borrower with respect to this WIFIA Note and the District has no obligation to make any payment or provision for payment of this WIFIA Note. This WIFIA Note does not constitute a contract between the District and the WIFIA Lender by which the District has incurred an indebtedness.

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

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

IN WITNESS WHEREOF, UPPER SANTA ANA RIVER WATERSHED INFRASTRUCTURE FINANCING AUTHORITY has caused this WIFIA Note to be executed in its name and its seal to be affixed hereto and attested by its duly authorized officer, all as of the Effective Date set forth above.

**UPPER SANTA ANA RIVER
WATERSHED INFRASTRUCTURE
FINANCING AUTHORITY,**
by its authorized representative

(SEAL)

By _____

Name: _____

Title: _____

ATTEST:

Secretary

EXHIBIT B

REQUISITION PROCEDURES

This **Exhibit B** sets out the procedures which the Borrower and the District agree to follow in submitting Requisitions for the disbursement of WIFIA Loan proceeds in respect of the Eligible Project Costs incurred in connection with each Project. The Borrower and the District expressly agree to the terms hereof, and further agree that (i) the rights of the WIFIA Lender contained herein are in addition to (and not in lieu of) any other rights or remedies available to the WIFIA Lender under (x) that certain WIFIA Master Agreement, dated as of [●], 2023, by and among the Borrower, the District and the WIFIA Lender (the “**WIFIA Master Agreement**”) and (y) the WIFIA Loan Agreement by and among the Borrower, the District and the WIFIA Lender with respect to the applicable Project (the “**WIFIA Loan Agreement**”), and (ii) nothing contained herein shall be construed to limit the rights of the WIFIA Lender to take actions including administrative enforcement action and actions for breach of contract against the Borrower or the District if it fails to carry out its obligations under the WIFIA Loan Agreement during the term thereof. All capitalized terms used and not defined herein shall have the meanings set forth in the WIFIA Loan Agreement or, if not defined therein, the WIFIA Master Agreement.

PART A. General Requirements.

(a) Manner of Request: All requests by the District, as agent of the Borrower pursuant to the WIFIA Installment Purchase Agreement by and between the Borrower and the District with respect to the applicable Project (the “**WIFIA IPA**”), for a disbursement of a WIFIA Loan shall be made in writing by electronic submission to the WIFIA Lender, in accordance with Section 36 (*Notices*) of the WIFIA Master Agreement.

(b) Required Documentation: Any request by the District, as agent of the Borrower pursuant to the WIFIA IPA, should include the submission of:

(i) a Requisition, in the form attached as Appendix One (*Form of Requisition*), completed and executed by the District’s Authorized Representative, and otherwise in form and substance satisfactory to the WIFIA Lender; and

(ii) all Eligible Project Costs Documentation that has not otherwise been provided to the WIFIA Lender in accordance with Section 20(c)(iii) (*Reporting Requirements of the District – Construction Reporting – Quarterly Certification of Eligible Project Costs*) of the WIFIA Master Agreement.

(c) Timing: Any request for a disbursement of a WIFIA Loan must be received by the WIFIA Lender and the Servicer (if any) at or before 5:00 P.M. (Eastern Time) by either:

(i) the first (1st) Business Day of a calendar month in order to obtain the requested disbursement of such WIFIA Loan by the fifteenth (15th) day of such calendar month;

(ii) the fifteenth (15th) day of a calendar month, in order to obtain the requested disbursement of such WIFIA Loan by the first (1st) day of the immediately following calendar month;

provided that (x) if any such day is not a Business Day, the Requisition or payment (as the case may be) shall be made by the next succeeding Business Day; (y) the District, as agent of the Borrower pursuant to the WIFIA IPA, shall not request to receive more than one (1) disbursement of such WIFIA Loan per month or every thirty (30) days (whichever is longer); and (z) no disbursements of such WIFIA Loan shall be made after the Final Disbursement Date of such WIFIA Loan.

PART B. WIFIA Lender Review Process.

(a) The WIFIA Lender shall review the Requisition and the Eligible Project Costs Documentation for compliance with WIFIA Loan disbursement requirements.

(b) If a Requisition is approved by the WIFIA Lender, the WIFIA Lender will notify the District, as agent of the Borrower pursuant to the WIFIA IPA, of such approval and of the amount so approved. A Requisition containing an apparent mathematical error will be corrected by the WIFIA Lender, after telephonic or email notification to the District, and will thereafter be treated as if submitted in the corrected amount. If the amount requested for disbursement in the Requisition exceeds the available balance of the WIFIA Loan proceeds remaining to be disbursed, the Requisition will be treated as if submitted in the amount of the balance so remaining, and the WIFIA Lender will so notify the District.

(c) The WIFIA Lender shall be entitled to withhold approval (in whole or in part) of any pending or subsequent requests for the disbursement of WIFIA Loan proceeds if: (i) a Default or an Event of Default shall have occurred and be continuing or (ii) the Borrower or the District (1) knowingly takes any action, or omits to take any action, amounting to fraud or violation of any applicable law, in connection with the transactions contemplated hereby; (2) prevents or materially impairs the ability of the WIFIA Lender to monitor compliance by the Borrower and the District with applicable law pertaining to the relevant Project or with the terms and conditions of the relevant WIFIA Loan Agreement; (3) fails to observe or comply with any applicable law, or any term or condition of the relevant WIFIA Loan Agreement; (4) fails to satisfy the conditions set forth in Section 4 (*Disbursement Conditions*) and Section 11(b) (*Conditions Precedent to Disbursements*) of the relevant WIFIA Loan Agreement; or (5) fails to deliver Eligible Project Costs Documentation satisfactory to the WIFIA Lender at the times and in the manner specified by the relevant WIFIA Loan Agreement; provided that in such case of sub-clause (5) above, the WIFIA Lender may, in its sole discretion, partially approve a Requisition in respect of any amounts for which adequate Eligible Project Costs Documentation has been provided and may, in its sole discretion, disburse in respect of such properly documented amounts. The WIFIA Lender will notify the District, as agent of the Borrower pursuant to the WIFIA IPA, of any withholding, and the reasons therefor.

(d) A Requisition may be rejected in whole or in part by the WIFIA Lender if it is: (i) submitted without signature; (ii) submitted under signature of a Person other than a District's Authorized Representative; (iii) submitted after prior disbursement of all proceeds of the relevant WIFIA Loan; or (iv) submitted without adequate Eligible Project Costs Documentation. The WIFIA Lender will notify the District, as agent of the Borrower pursuant to the WIFIA IPA, of any Requisition so rejected, and the reasons therefor. Any Requisition rejected for the reasons

specified under this paragraph (d) must be resubmitted in proper form in order to be considered for approval.

APPENDIX ONE TO EXHIBIT B

FORM OF REQUISITION

VIA EMAIL

United States Environmental Protection Agency
1200 Pennsylvania Avenue NW
WJC-E 7334A
Washington, D.C. 20460
Attention: WIFIA Director
Email: WIFIA_Portfolio@epa.gov

Re: Watershed Connect – San Bernardino Master Program – Project [●] (WIFIA ID – [●])

Ladies and Gentlemen:

Pursuant to Section 4 (*Disbursement Conditions*) of (i) that certain WIFIA Master Agreement, dated as of [●], 2023 (the “**WIFIA Master Agreement**”), by and among UPPER SANTA ANA RIVER WATERSHED INFRASTRUCTURE FINANCING AUTHORITY (the “**Borrower**”), SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT (the “**District**”) and the UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, acting by and through the Administrator (the “**WIFIA Lender**”) and (ii) that certain WIFIA Loan Agreement (WIFIA ID – [●]), dated as of [●] (the “**WIFIA Loan Agreement**”), by and among the Borrower, the District and the WIFIA Lender, the District, as agent of the Borrower pursuant to the WIFIA IPA, hereby requests disbursement in the amount set forth below in respect of Eligible Project Costs paid or incurred by the District, as agent of the Borrower pursuant to the WIFIA IPA. Capitalized terms used but not defined herein have the meaning set forth in the WIFIA Loan Agreement or, if not defined therein, the WIFIA Master Agreement.

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

1.	Project name	Watershed Connect – San Bernardino Master Program – Project [●]
2.	Borrower name	Upper Santa Ana River Watershed Infrastructure Financing Authority
3.	District name	San Bernardino Valley Municipal Water District
4.	WIFIA Loan ID	[]
5.	District Unique Entity Identifier	[]
6.	District FEIN number	[]
7.	Requisition number	[]
8.	Requested Disbursement amount	[\$[]]
9.	Requested date of Disbursement	[]

	(the “Disbursement Date”)⁶	
10.	Total amounts previously disbursed under the WIFIA Loan Agreement	\$_[]
11.	Wire or ACH transfer instructions (please specify method)	[]

12. As of the date hereof, and immediately after giving effect to the disbursement of WIFIA Loan proceeds requested under this Requisition, (a) no Default or Event of Default and no event of default under any other Related Document shall have occurred and be continuing and (b) no event that, with the giving of notice or the passage of time or both, would constitute an event of default under any other Related Document, shall have occurred and be continuing.
13. No District Material Adverse Effect, or any event or condition that could reasonably be expected to have a District Material Adverse Effect, has occurred since the Effective Date.
14. The aggregate amount of all disbursements of the WIFIA Loan (including the requested disbursement amount under this Requisition but excluding any interest that is capitalized in accordance with the WIFIA Loan Agreement) does not exceed (a) the maximum principal amount of the WIFIA Loan or (b) the aggregate amount of Eligible Project Costs with respect to the Project paid or incurred by the District, as agent of the Borrower pursuant to the WIFIA IPA.
15. The Eligible Project Costs with respect to the Project for which reimbursement or payment is being requested has not been reimbursed or paid by any previous disbursement of (a) any WIFIA Loan proceeds or (b) any other source of funding for the Project as identified in the Project Budget for the Project.
16. The District, and each of its contractors and subcontractors at all tiers with respect to the relevant Project, have complied with all applicable laws, rules, regulations and requirements, including 40 U.S.C. §§3141-3144, 3146, and 3147 (relating to Davis-Bacon Act requirements) (and regulations relating thereto) and 33 U.S.C. §3914 (relating to American iron and steel products). Supporting documentation, such as certified payroll records and certifications for all iron and steel products used for the Project, are being maintained and are available for review upon request by the WIFIA Lender.
17. The representations and warranties of the District set forth in the WIFIA Loan Agreement and in each other WIFIA Loan Document are true and correct as of the date hereof and as of the date of the requested disbursement of the WIFIA Loan proceeds, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties are true and correct as of such earlier date).

⁶ Note this should be the actual disbursement date on which the Borrower requests to receive the funds, not the date that this Requisition form is submitted to the WIFIA Lender.

18. The District has delivered all required deliverables under and in compliance with the requirements of Section 20 (*Reporting Requirements of the District*) of the WIFIA Master Agreement, except as has been otherwise agreed by the WIFIA Lender.
19. Eligible Project Costs Documentation evidencing Eligible Project Costs in an amount equal to the amount requested for such disbursement either (a) has been previously submitted to and approved by the WIFIA Lender in accordance with Exhibit B (*Requisition Procedures*) and Section 20 (*Reporting Requirements of the District*) of the WIFIA Master Agreement or (b) has been submitted to the WIFIA Lender, together with (i) a brief description of the type⁷ and nature of the activity covered by such Eligible Project Costs and (ii) a summary of such Eligible Project Costs in the format set out below, in each case for approval by the WIFIA Lender:

								WIFIA USE ONLY	
Vendor or Contractor Name ⁸	Invoice Number ⁹	Invoice Date	Payment Date	Invoice Amount	WIFIA Requested Amount ¹⁰	Account Number	Account Description	Approved Amount	Notes

The undersigned acknowledges that if the District makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Government in connection with the Project, the Government reserves the right to impose on the District the penalties of 18 U.S.C. § 1001, to the extent the Government deems appropriate.

Date: _____ SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT,
 By its authorized representative
 By: _____
 Name: _____
 Title: _____

⁷ Specify whether activity is: (a) **Development phase activity**, which includes planning, preliminary engineering, design, environmental review, revenue forecasting and other pre-construction activities; (b) **Construction**, which includes construction, reconstruction, rehabilitation and replacement activities; (c) **Acquisition of real property**, which includes acquiring an interest in real property, environmental mitigation, construction contingencies and acquisition of equipment; (d) **Carrying costs**, including capitalized interest, as necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses and other carrying costs during construction; (e) **WIFIA fees**, including for application and credit processing; or (f) **Other**, with an explanation of such activity.

⁸ If seeking reimbursement for internal costs, enter "Internally financed activities."

⁹ Vendor's number indicated on the invoice sent to the Borrower.

¹⁰ If the amount requested for reimbursement by the WIFIA Lender is less than the total amount of the invoice, include an explanation for the difference.

APPENDIX TWO TO EXHIBIT B

FORM OF BORROWER'S DISBURSEMENT CERTIFICATE

United States Environmental Protection Agency
WJC-E 7334A
1200 Pennsylvania Avenue NW
Washington, D.C. 20460
Attention: WIFIA Director

Re: Watershed Connect – San Bernardino Master Program – Project [●] (WIFIA ID – [●])

Ladies and Gentlemen:

Reference is made to (i) that certain WIFIA Master Agreement, dated as of [●], 2023 (the “**WIFIA Master Agreement**”), by and among Upper Santa Ana River Watershed Infrastructure Financing Authority (the “**Borrower**”), San Bernardino Valley Municipal Water District (the “**District**”) and the United States Environmental Protection Agency, acting by and through the Administrator (the “**WIFIA Lender**”) and (ii) that certain WIFIA Loan Agreement (WIFIA ID – [●]), dated as of [●] (the “**WIFIA Loan Agreement**”), by and among the Borrower, the District and the WIFIA Lender. Capitalized terms used but not defined herein have the meaning set forth in the WIFIA Loan Agreement or, if not defined therein, the WIFIA Master Agreement.

Pursuant to Section 11(b)(iii) (*Conditions Precedent – Conditions Precedent to Disbursements*) of the WIFIA Master Agreement, the undersigned, as the Borrower's Authorized Representative, hereby represents and certifies the following:

1. As of the date hereof and on the requested disbursement date (immediately after giving effect to the requested disbursement of WIFIA Loan proceeds), (a) no Default or Event of Default, and no event of default under any other Related Document to which the Borrower is a party and (b) no event that, with the giving of notice or the passage of time or both, would constitute an event of default under any Related Document to which the Borrower is a party, in each case, has occurred and is continuing.
2. No Borrower Material Adverse Effect, or any event or condition that could reasonably be expected to have a Borrower Material Adverse Effect, has occurred or arisen since the Effective Date.
3. The representations and warranties of the Borrower set forth in the WIFIA Master Agreement (including Section 12 (*Representations and Warranties of the Borrower*)) and in each other WIFIA Loan Document to which the Borrower is a party are true and correct as of the date hereof and as of the requested disbursement date, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).

4. The Borrower has delivered all required deliverables under and in compliance with the requirements of Section 19 (*Reporting Requirements of the Borrower*) of the WIFIA Master Agreement, except as has been otherwise agreed by the WIFIA Lender.

The undersigned acknowledges that if the Borrower makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Government in connection with the Project, the Government reserves the right to impose on the Borrower the penalties of 18 U.S.C. § 1001, to the extent the Government deems appropriate.

Date: _____ UPPER SANTA ANA RIVER WATERSHED
INFRASTRUCTURE FINANCING AUTHORITY,
By its authorized representative

By: _____
Name: _____
Title: _____

EXHIBIT C

FORM OF CERTIFICATION OF ELIGIBLE PROJECT COSTS DOCUMENTATION

VIA EMAIL

United States Environmental Protection Agency¹¹
 1200 Pennsylvania Avenue NW
 WJC-E 7334A
 Washington, D.C. 20460
 Attention: WIFIA Director
 Email: WIFIA_Portfolio@epa.gov

Re: Watershed Connect – San Bernardino Master Program – Project [●] (WIFIA ID – [●])

Ladies and Gentlemen:

Pursuant to Section 20 (*Reporting Requirements of the District*) of the WIFIA Master Agreement, dated as of [●] (the “**WIFIA Master Agreement**”), by and among Upper Santa Ana River Watershed Infrastructure Financing Authority (the “**Borrower**”), San Bernardino Valley Municipal Water District (the “**District**”) and the United States Environmental Protection Agency, acting by and through the Administrator (the “**WIFIA Lender**”), the District, as agent of the Borrower pursuant to the WIFIA IPA, hereby presents this certificate in connection with the District’s delivery of Eligible Project Costs Documentation to the WIFIA Lender. Capitalized terms used but not defined herein have the meaning set forth in the WIFIA Loan Agreement (WIFIA ID – [●]), dated as of [●] (the “**WIFIA Loan Agreement**”), by and among the Borrower, the District and the WIFIA Lender or, if not defined therein, the WIFIA Master Agreement.

The undersigned does hereby represent and certify the following:

1. This certificate is being delivered to the WIFIA Lender in connection with the Eligible Project Costs during the period between [___] and [___] (the “**Quarterly Period**”).
2. A summary of the Eligible Project Costs incurred, invoiced and/or paid (as the case may be) is set out in the [attached excel sheet][table on the following page:]

							WIFIA USE ONLY	
Vendor or Contractor Name ¹²	Invoice Number ¹³	Invoice Date	Payment Date	Invoice Amount	Account Number	Account Description	Approved Amount	Notes

¹² If the expectation is to seek reimbursement for internal costs, enter “Internally financed activities.”

¹³ Vendor’s number indicated on the invoice sent to the Borrower.

3. The following is a brief description of the type¹⁴ and nature of the activity covered by such Eligible Project Costs: [*insert description*].
4. The anticipated sources of funding for such Eligible Project Costs are [listed below][set forth in the attached excel sheet].
5. Supporting Eligible Project Costs Documentation for the above Eligible Project Costs for the Quarterly Period are also attached hereto.
6. The most recently delivered Construction Monitoring Report delivered in accordance with Section 20 (*Reporting Requirements of the District*) of the WIFIA Master Agreement sets out a summary of the progress of construction of the Project, no change has occurred since the date of such Construction Monitoring Report that could reasonably be expected to cause a Material Adverse Effect, and the District is otherwise in compliance with Section 20(c) (*Reporting Requirements of the District – Construction Reporting*) of the WIFIA Master Agreement.

Dated: [●]

**SAN BERNARDINO VALLEY MUNICIPAL
WATER DISTRICT**, by its authorized
representative

By: _____
Name:
Title:

¹³ Vendor’s number indicated on the invoice sent to the Borrower.

¹⁴ Specify whether activity is: (a) **Development phase activity**, which includes planning, preliminary engineering, design, environmental review, revenue forecasting and other pre-construction activities; (b) **Construction**, which includes construction, reconstruction, rehabilitation and replacement activities; (c) **Acquisition of real property**, which includes acquiring an interest in real property, environmental mitigation, construction contingencies and acquisition of equipment; (d) **Carrying costs**, including capitalized interest, as necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses and other carrying costs during construction; (e) **WIFIA fees**, including for application and credit processing; or (f) **Other**, with an explanation of such activity.

EXHIBIT D

FORM OF WIFIA LOAN REQUEST

[Letterhead of Borrower]

[Date]¹⁵

United States Environmental Protection Agency
WJC-E 7334A
1200 Pennsylvania Avenue NW
Washington, DC 20460
Attention: WIFIA Director
Email: WIFIA_Portfolio@epa.gov

Project: Watershed Connect – San Bernardino Master Program – Project [●] (WIFIA ID – [●])

Dear WIFIA Director:

This loan request is provided pursuant to Section 4(a) (*Disbursement Conditions*) of that certain WIFIA Master Agreement, dated as of [●], 2023 (the “**WIFIA Master Agreement**”), by and among Upper Santa Ana River Watershed Infrastructure Financing Authority (the “**Borrower**”), San Bernardino Valley Municipal Water District (the “**District**”) and the United States Environmental Protection Agency, acting by and through the Administrator of the Environmental Protection Agency (the “**WIFIA Lender**”). Unless otherwise defined herein, all capitalized terms in this loan request have the meanings assigned to those terms in the WIFIA Master Agreement.

I, the undersigned, in my capacity as the District’s Authorized Representative and not in my individual capacity, do hereby request that the WIFIA Lender, in accordance with, and subject to the terms and conditions of, the WIFIA Master Agreement, enter into a WIFIA Loan Agreement and related WIFIA Loan Documents with respect to Watershed Connect – San Bernardino Master Program – Project [●] (the “**Project**”).

- (a) The Project consists of [*describe the Project*].
- (b) Attached hereto as Annex A is the most recent Updated Financial Model/Plan delivered to the WIFIA Lender.
- (c) [*Such additional information relating to the Project as may be requested by the WIFIA Lender.*]

¹⁵ To be dated no later than 180 days prior to the end of the Master Availability Period.

**SAN BERNARDINO VALLEY MUNICIPAL
WATER DISTRICT,**
by its authorized representative

By: _____
Name:
Title:

ANNEX A TO EXHIBIT D
UPDATED FINANCIAL MODEL/PLAN

EXHIBIT E-1¹⁶

FORM OF OPINION OF BORROWER'S GENERAL COUNSEL

[●], [2023]

United States Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: *Watershed Connect – San Bernardino Master Program – Upper Santa Ana River Watershed Infrastructure Financing Authority (WIFIA ID – [●])*

Ladies and Gentlemen:

I have acted as legal counsel to the Upper Santa Ana River Watershed Infrastructure Financing Authority (the “**Borrower**”) in connection with the execution and delivery by the Borrower of (a) the WIFIA Master Agreement, dated as of [●], 2023 (the “**WIFIA Master Agreement**”), by and among the Borrower, San Bernardino Valley Municipal Water District (“**SBVMWD**”) and the United States Environmental Protection Agency, acting by and through the Administrator of the Environmental Protection Agency (the “**WIFIA Lender**”), (b) the Installment Purchase Agreement, dated as of [●], [●] (the “**WIFIA IPA**”), by and between the Borrower and SBVMWD, (c) the WIFIA Loan Agreement (WIFIA ID – [●]), dated as of [●], [●] (the “**WIFIA Loan Agreement**”), by and among the Borrower, SBVMWD and the WIFIA Lender, (d) the WIFIA Note, dated as of [●], [●] (the “**WIFIA Note**” and, collectively with the WIFIA Master Agreement, the WIFIA IPA and the WIFIA Loan Agreement, the “**WIFIA Borrower Documents**”), delivered to the WIFIA Lender by the Borrower, and (e) Resolution No. [●], adopted by the Board of Directors of the Borrower on [●], 2023 (the “**WIFIA Borrower Resolution**”). In arriving at the opinions expressed below, I have reviewed and am familiar with (i) the Joint Exercise of Powers Agreement, dated July 20, 2021, by and among SBVMWD, the San Bernardino Valley Water Conservation District, the Yucaipa Valley Water District and the other parties from time to time party thereto, (ii) the WIFIA Borrower Documents and the WIFIA Borrower Resolution and (iii) such other information and documents as I have deemed necessary to render the opinions set forth herein on behalf of the Borrower. The opinions, statements and representations herein made are on behalf of the Borrower. All capitalized terms used herein and not otherwise defined herein shall have the respective meanings given to such terms in the WIFIA Loan Agreement or, if not defined therein, the WIFIA Master Agreement.

In rendering the opinions herein I have relied only on my examination of the foregoing documents and I have made no independent verification of the factual matters set forth in such documents or the representations and certifications relied upon by the undersigned. In rendering

¹⁶ **NTD**: The forms of opinions in Exhibits E-1 through E-4 remain subject to EPA team’s review and comment in all respects.

the opinions expressed below, I have assumed, but not independently verified, that the signatures on all documents which I have examined are genuine.

Based upon the foregoing and my review of such other matters of law as I considered necessary, I am of the opinion that:

1. The Borrower has been duly created and validly exists as a joint exercise of powers agency under the laws of the State of California.

2. The Borrower has all requisite power and authority to conduct its business and to adopt, execute and deliver, and to perform its obligations under, the Related Documents to which it is a party.

3. The adoption of the WIFIA Borrower Resolution and the execution and delivery by the Borrower of the other Related Documents, and the performance of its respective obligations under, the Related Documents to which it is a party, have been duly authorized by all necessary organizational or regulatory action.

4. The Borrower has duly adopted the WIFIA Borrower Resolution and has duly executed and delivered each other Related Document to which it is a party and each such Related Document constitutes the legal, valid and binding obligation of the Borrower, enforceable against the Borrower in accordance with its respective terms.

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

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

7. To my knowledge after due inquiry, there are no actions, suits, proceedings or investigations against the Borrower by or before any court, arbitrator or any other Governmental Authority in connection with the Related Documents or the System that are pending.

8. The Borrower is not entitled to claim governmental immunity in any breach of contract action under the WIFIA Borrower Documents or the WIFIA Borrower Resolution.

I am licensed to practice law only in the State of California. Accordingly, the foregoing opinions apply only with respect to the laws of the State of California and the United States and I express no opinion with respect to the laws of any other jurisdiction.

By delivering this letter, I am not expressing any opinion with respect to any indemnification, contribution, liquidated damages, penalty (including any remedy deemed to constitute a penalty), right of set-off, arbitration, judicial reference, choice of law, choice of forum, choice of venue, non-exclusivity of remedies, waiver or severability provisions contained in the WIFIA Borrower Resolution, the WIFIA Borrower Documents or any other Related Document. The opinions expressed herein are based upon my analysis and interpretation of existing laws, regulations, rulings and judicial decisions and cover certain matters not directly addressed by such authorities. I call attention to the fact that the rights and obligations under the WIFIA Borrower Resolution, the WIFIA Borrower Documents and the other Related Documents are subject to bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and other similar laws affecting creditors' rights, to the application of equitable principles if equitable remedies are sought, to the exercise of judicial discretion in appropriate cases and to limitations on legal remedies against public agencies in the State of California.

The opinions expressed herein are solely for your benefit in connection with the above-referenced matter and may not be relied on in any manner or for any purpose by any other person or entity, nor may copies be delivered or furnished to any other party nor may all or portions of this opinion be quoted, circulated, or referred to in any other document without my prior written consent, except (a) to the extent disclosure of this opinion is required pursuant to applicable law, (b) to your accountants, attorneys and other professional advisors, and (c) that this opinion may be included in applicable closing transcript. No attorney-client relationship has existed or exists between me and you in connection with the WIFIA Borrower Resolution, the WIFIA Borrower Documents, the other Related Documents or by virtue of this letter. I note you were represented by separate counsel retained by you in connection with the transaction described herein.

Respectfully,

EXHIBIT E-2

FORM OF OPINION OF BORROWER’S BOND COUNSEL

[●], [2023]

United States Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: *Watershed Connect – San Bernardino Master Program – Upper Santa Ana River Watershed Infrastructure Financing Authority (WIFIA ID – [●])*

Ladies and Gentlemen:

We have acted as Special Counsel to Upper Santa Ana River Watershed Infrastructure Financing Authority (the “**Borrower**”) in connection with the execution and delivery, or adoption, by the Borrower of (a) the WIFIA Master Agreement, dated as of [●], 2023 (the “**WIFIA Master Agreement**”), by and among the Borrower, San Bernardino Valley Municipal Water District (“**SBVMWD**”) and the United States Environmental Protection Agency, acting by and through the Administrator of the Environmental Protection Agency (the “**WIFIA Lender**”), (b) that certain Installment Purchase Agreement, dated as of [●], [●] (the “**WIFIA IPA**”), by and between the Borrower and SBVMWD, (c) the WIFIA Loan Agreement (WIFIA ID – [●]), dated as of [●], [2023] (the “**WIFIA Loan Agreement**”), by and among the Borrower, SBVMWD and the WIFIA Lender, (d) that certain WIFIA Note, dated as of [●], [●] (the “**WIFIA Note**” and, collectively with the WIFIA Master Agreement, the WIFIA IPA and the WIFIA Loan Agreement, the “**WIFIA Borrower Documents**”), delivered to the WIFIA Lender by the Borrower, and (e) Resolution No. [●], adopted by the Board of Directors of the Borrower on [●], 2023 (the “**WIFIA Borrower Resolution**”). All capitalized terms used herein and not otherwise defined herein shall have the respective meanings given to such terms in the WIFIA Loan Agreement or, if not defined therein, the WIFIA Master Agreement.

Based upon the foregoing and our review of such other information, documents and matters of law as we considered necessary and in reliance on the foregoing, as appropriate, we are of the opinion that:

1. The Borrower has all requisite power and authority under the laws of the State to adopt the WIFIA Borrower Resolution, to execute and deliver the WIFIA Borrower Documents and to issue the WIFIA Note, and each WIFIA Borrower Document and the WIFIA Resolution has been duly authorized, executed and delivered by the Borrower, and each WIFIA Borrower Document and the WIFIA Borrower Resolution is in full force and effect, and constitutes a legal, valid and binding obligation of the Borrower enforceable against the Borrower in accordance with its respective terms and conditions.

2. (a) The WIFIA Loan (as evidenced by the WIFIA Note) is secured by the Liens on the Authority Revenues, all of the Borrower’s right, title and interest in the WIFIA Debt Service Account and all of the Borrower’s rights and remedies to enforce the WIFIA IPA upon an

event of default thereunder, and (b) the WIFIA Loan (as evidenced by the WIFIA Note) is enforceable under the laws of the State without any further action by the Borrower or any other Person.

3. The WIFIA Master Agreement creates a valid and binding pledge of and lien on the Authority Revenues, all of the Borrower's right, title and interest in the WIFIA Debt Service Account and all of the Borrower's rights and remedies to enforce the WIFIA IPA upon an event of default thereunder to secure the payment of the principal of, interest on, and other amounts payable in respect of, the WIFIA Loan in accordance with the WIFIA Master Agreement and the WIFIA Loan Agreement, irrespective of whether any party has notice of the pledge and without the need for any physical delivery, recordation, filing or further act.

4. All actions by the Borrower that are required for the application of the Authority Revenues as required under the WIFIA Master Agreement and the WIFIA Loan Agreement have been duly and lawfully authorized.

5. The Borrower has complied with the requirements of State law to lawfully pledge the Authority Revenues, all of the Borrower's right, title and interest in the WIFIA Debt Service Account and all of the Borrower's rights and remedies to enforce the WIFIA IPA upon an event of default thereunder and to authorize the use of the Authority Revenues as required by the terms of the WIFIA Master Agreement and the WIFIA Loan Agreement.

6. The Borrower is not an investment company required to register under the Investment Company Act of 1940, as amended.

The opinions expressed herein are based upon our analysis and interpretation of existing laws, regulations, rulings and judicial decisions and cover certain matters not directly addressed by such authorities. Such conclusions may be affected by actions taken or omitted or events occurring after the date hereof. We have not undertaken to determine, or to inform you or any other person, whether any such actions are taken or omitted after the date hereof or whether such events do occur or any other matters come to our attention after the date hereof. We have assumed, but not independently verified, that the signatures on all documents, letters, opinions and certificates which we have examined are genuine, that all documents submitted to us are authentic and were duly and properly executed by the parties thereto. As to any facts relevant to the opinions stated herein that we did not independently establish or verify, we have relied upon, without independent verification, the accuracy of the factual matters represented, warranted or certified in such documents.

This opinion is limited to matters governed by the laws of California and the United States of America, and we assume no responsibility with respect to the applicability or the effect of the laws of any other jurisdiction. We call attention to the fact that the rights and obligations under the WIFIA Master Agreement, the WIFIA Loan Agreement, the other WIFIA Borrower Documents and the WIFIA Borrower Resolution are subject to bankruptcy, insolvency, reorganization, moratorium, arrangement, fraudulent conveyance or transfer and other similar laws affecting creditors' rights, to the application of equitable principles if equitable remedies are sought, to the exercise of judicial discretion in appropriate cases and to limitations on legal remedies against public agencies in the State.

By delivering this letter, we are not expressing any opinion with respect to any indemnification, contribution, liquidated damages, penalty (including any remedy deemed to constitute a penalty), right of set-off, arbitration, judicial reference, choice of law, choice of forum, choice of venue, non-exclusivity of remedies, waiver or severability provisions contained in the WIFIA Borrower Documents, nor are we expressing any opinion with respect to the state or quality of title to or interest in any assets, other than the Authority Revenues, the WIFIA Debt Service Account and the WIFIA Borrower Documents or the accuracy or sufficiency of the description of such assets, other than the Authority Revenues, the WIFIA Debt Service Account and the WIFIA Borrower Documents, or the remedies available to enforce liens on any such assets, other than the Authority Revenues and the WIFIA Debt Service Account under the WIFIA Master Agreement, the WIFIA Loan Agreement and the WIFIA Note. Our services as Special Counsel to the Borrower did not involve the rendering of financial or other non-legal advice to you, the Borrower, SBVMWD or any other party to the transaction.

This letter is furnished by us to you solely for your benefit and we are not assuming any professional responsibility to any other person whomsoever. This letter is not to be used, circulated, quoted or otherwise referred to for any other purpose, except (a) to the extent disclosure of this opinion is required pursuant to applicable law, (b) to your accountants, attorneys and other professional advisors, and (c) that this opinion may be included in applicable closing transcript. We note that you were represented by counsel on this transaction. No attorney-client relationship has existed or exists between our firm and you in connection with the WIFIA Borrower Documents or the WIFIA Borrower Resolution or by virtue of this letter.

Respectfully submitted,

EXHIBIT E-3

FORM OF OPINION OF DISTRICT'S GENERAL COUNSEL

[●], [2023]

United States Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

*Re: Watershed Connect – San Bernardino Master Program – Upper Santa Ana River
Watershed Infrastructure Financing Authority (WIFIA ID – [●])*

Ladies and Gentlemen:

Acting in my capacity as [District Counsel] to the San Bernardino Valley Municipal Water District (“**SBVMWD**”) in connection with the execution and delivery by SBVMWD of (a) the WIFIA Master Agreement, dated as of [●], 2023 (the “**WIFIA Master Agreement**”), by and among Upper Santa Ana River Watershed Infrastructure Financing Authority (the “**Borrower**”), SBVMWD and the United States Environmental Protection Agency, acting by and through the Administrator of the Environmental Protection Agency (the “**WIFIA Lender**”), (b) the Installment Purchase Agreement, dated as of [●], [●] (the “**WIFIA IPA**”), by and between the Borrower and SBVMWD, (c) the WIFIA Loan Agreement (WIFIA ID – [●]), dated as of [●], [●] (the “**WIFIA Loan Agreement**” and, collectively with the WIFIA Master Agreement and the WIFIA IPA and the WIFIA Loan Agreement, the “**WIFIA District Documents**”), by and among the Borrower, SBVMWD, and the WIFIA Lender, and (d) Resolution No. [●] of the Board of Directors of SBVMWD, adopted on [●], 2023 (the “**WIFIA District Resolution**”). In arriving at the opinions expressed below, I have examined and am familiar with the following documents: (i) the Joint Exercise of Powers Agreement, dated July 20, 2021, by and among SBVMWD, the San Bernardino Valley Water Conservation District, the Yucaipa Valley Water District and the other parties from time to time party thereto, (ii) documents relating to the existence, organization and operation of SBVMWD provided to me by SBVMWD, (iii) the District Closing Certificate, dated the date hereof and executed by SBVMWD’s duly authorized officer, (iv) the WIFIA District Documents, (v) the WIFIA District Resolution, (vi) all necessary documentation of SBVMWD relating to the adoption of the WIFIA District Resolution and the authorization, execution and delivery of the WIFIA District Documents, (vii) certain consents to the adoption of the WIFIA District Resolution and execution and delivery of the WIFIA District Documents, and (viii) other documents as I have deemed necessary to render the opinions set forth herein. All capitalized terms used herein and not otherwise defined herein shall have the respective meanings given to such terms in the WIFIA Loan Agreement or, if not defined therein, the WIFIA Master Agreement.

In rendering the opinions herein I have relied only on my examination of the foregoing documents and I have made no independent verification of the factual matters set forth in such documents or the representations and certifications relied upon by the undersigned. In addition, I have relied on discussions with the officers of SBVMWD and information made available in the ordinary course of business in my role as [District Counsel]. In rendering the opinions expressed

below, I have assumed, but not independently verified, that the signatures on all documents which we have examined are genuine.

Based upon the foregoing and such other matters of law as I have deemed necessary for purposes of rendering this opinion, and subject to the qualifications set forth below, I am of the opinion that:

1. SBVMWD is a municipal water district duly organized and validly existing under the Constitution and the laws of the State of California.

2. SBVMWD has all requisite power and authority to conduct its business and to execute and deliver, and to perform its obligations under, the WIFIA District Resolution and the WIFIA District Documents.

3. The adoption of the WIFIA District Resolution and the execution and delivery by SBVMWD of, and the performance of its obligations under, the WIFIA District Documents and the WIFIA District Resolution have been duly authorized by all necessary organizational or regulatory action.

4. SBVMWD has duly adopted the WIFIA District Resolution and has executed and delivered each WIFIA District Document, and each of the WIFIA District Resolution and such WIFIA District Document constitutes the legal, valid and binding obligation of SBVMWD, enforceable against SBVMWD in accordance with its respective terms.

5. No authorization, consent, or other approval of, or registration, declaration or other filing with any governmental authority of the United States of America or of the State is required on the part of SBVMWD for the adoption of the WIFIA District Resolution and the execution and delivery by SBVMWD of, and the performance of SBVMWD under, the WIFIA District Documents and the WIFIA District Resolution other than authorizations, consents, approvals, registrations, declarations and filings that have already been timely obtained or made by SBVMWD.

6. The adoption of the WIFIA District Resolution and the execution and delivery by SBVMWD of, and compliance by SBVMWD with the provisions of, the WIFIA District Documents and the WIFIA District Resolution do not (i) violate the law of the United States of America or of the State, (ii) violate any ordinance, regulation or other legislative action of SBVMWD or (iii) conflict with or constitute a breach of or default under any material agreement or other instrument known to me to which SBVMWD is a party, or to the best of my knowledge, after reasonable review, any court order, consent decree, statute, rule, regulation or any other law to which SBVMWD is subject.

7. To my knowledge after due inquiry, there are no actions, suits, proceedings or investigations against SBVMWD by or before any court, arbitrator or any other Governmental Authority in connection with the WIFIA District Resolution, the WIFIA District Documents or the System that are pending.

8. SBVMWD is not entitled to claim governmental immunity under the California Government Claims Act or any other law of the State, or under any ordinance, regulation or other

legislative action of SBVMWD in any breach of contract action under the WIFIA District Resolution or the WIFIA District Documents.

I am licensed to practice law only in the State of California. Accordingly, the foregoing opinions apply only with respect to the laws of the State of California and the United States and I express no opinion with respect to the laws of any other jurisdiction.

By delivering this letter, I am not expressing any opinion with respect to any indemnification, contribution, liquidated damages, penalty (including any remedy deemed to constitute a penalty), right of set-off, arbitration, judicial reference, choice of law, choice of forum, choice of venue, non-exclusivity of remedies, waiver or severability provisions contained in the WIFIA District Resolution and the WIFIA District Documents. The opinions expressed herein are based upon my analysis and interpretation of existing laws, regulations, rulings and judicial decisions and cover certain matters not directly addressed by such authorities. I call attention to the fact that the rights and obligations under the WIFIA District Resolution and the WIFIA District Documents are subject to bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and other similar laws affecting creditors' rights, to the application of equitable principles if equitable remedies are sought, to the exercise of judicial discretion in appropriate cases and to limitations on legal remedies against public agencies in the State of California.

The opinions expressed herein are solely for your benefit in connection with the above-referenced matter and may not be relied on in any manner or for any purpose by any other person or entity, nor may copies be delivered or furnished to any other party nor may all or portions of this opinion be quoted, circulated, or referred to in any other document without my prior written consent, except (a) to the extent disclosure of this opinion is required pursuant to applicable law, (b) to your accountants, attorneys and other professional advisors, and (c) that this opinion may be included in applicable closing transcript. No attorney-client relationship has existed or exists between me and you in connection with the WIFIA District Resolution, the WIFIA District Documents or by virtue of this letter. We note you were represented by separate counsel retained by you in connection with the transaction described herein.

Respectfully,

EXHIBIT E-4

FORM OF OPINION OF DISTRICT'S BOND COUNSEL

[●], [2023]

United States Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Ladies and Gentlemen:

We have acted as Special Counsel to San Bernardino Valley Municipal Water District (“**SBVMWD**”) in connection with the execution and delivery, or adoption, by the District of (a) the WIFIA Master Agreement, dated as of [●], 2023 (the “**WIFIA Master Agreement**”), by and among Upper Santa Ana River Watershed Infrastructure Financing Authority (the “**Borrower**”), SBVMWD and the United States Environmental Protection Agency, acting by and through the Administrator of the Environmental Protection Agency (the “**WIFIA Lender**”), (b) that certain Installment Purchase Agreement, dated as of [●], [●] (the “**WIFIA IPA**”), by and between the Borrower and SBVMWD, (c) that certain WIFIA Loan Agreement (WIFIA ID – [●]), dated as of [●], [●] (the “**WIFIA Loan Agreement**” and collectively with the WIFIA Master Agreement and the WIFIA IPA, the “**WIFIA District Documents**”), by and among the Borrower, SBVMWD and the WIFIA Lender, and (d) Resolution No. [●] of the Board of Directors of SBVMWD, adopted on [●], 2023 (the “**WIFIA District Resolution**”), in each case relating to the Master Program. All capitalized terms used herein and not otherwise defined herein shall have the respective meanings given to such terms in the WIFIA Loan Agreement or, if not defined therein, the WIFIA Master Agreement.

Based upon the foregoing and our review of such other information, documents and matters of law as we considered necessary and in reliance on the foregoing, as appropriate, we are of the opinion that:

1. SBVMWD has all requisite power and authority under the laws of the State to adopt the WIFIA District Resolution and to execute and deliver the WIFIA District Documents. Each WIFIA District Document has been duly authorized, executed and delivered by SBVMWD, and each WIFIA District Document and the WIFIA District Resolution is in full force and effect and constitutes a legal, valid and binding obligation of SBVMWD enforceable against SBVMWD in accordance with its respective terms and conditions.

2. The WIFIA Installment Payments (a) are secured by liens on the Pledged Collateral, (b) are payable from Revenues, (c) are Parity Obligations under the WIFIA Master Agreement and “Contracts” under the WIFIA IPA, (d) are enforceable under the laws of the State without any further action by SBVMWD or any other Person, (e) are *pari passu* in right of payment and right of security with all other Parity Obligations and (f) rank senior in right of payment and right of security to all Subordinate Obligations.

3. The WIFIA IPA creates a valid and binding assignment of the Pledged Collateral and pledge of and lien on the Pledged Collateral to secure the payment of the principal of, interest on, and other amounts payable in respect of, the WIFIA Installment Payments, irrespective of whether any party has notice of the pledge and without the need for any physical delivery, recordation, filing or further act.

4. All actions by SBVMWD that are required for the application of the Pledged Collateral as required under the WIFIA IPA have been duly and lawfully authorized.

5. SBVMWD has complied with the requirements of State law to lawfully pledge the Pledged Collateral and to authorize the use of the Revenues as required by the terms of the WIFIA IPA.

6. SBVMWD is not an investment company required to register under the Investment Company Act of 1940, as amended.

The opinions expressed herein are based upon our analysis and interpretation of existing laws, regulations, rulings and judicial decisions and cover certain matters not directly addressed by such authorities. Such conclusions may be affected by actions taken or omitted or events occurring after the date hereof. We have not undertaken to determine, or to inform you or any other person, whether any such actions are taken or omitted after the date hereof or whether such events do occur or any other matters come to our attention after the date hereof. We have assumed, but not independently verified, that the signatures on all documents, letters, opinions and certificates which we have examined are genuine, that all documents submitted to us are authentic and were duly and properly executed by the parties thereto. As to any facts relevant to the opinions stated herein that we did not independently establish or verify, we have relied upon, without independent verification, the accuracy of the factual matters represented, warranted or certified in such documents.

This opinion is limited to matters governed by the laws of the State and the laws of the United States of America, and we assume no responsibility with respect to the applicability or the effect of the laws of any other jurisdiction. We call attention to the fact that the rights and obligations under the WIFIA District Documents and the WIFIA District Resolution are subject to bankruptcy, insolvency, reorganization, moratorium, arrangement, fraudulent conveyance or transfer and other similar laws affecting creditors' rights, to the application of equitable principles if equitable remedies are sought, to the exercise of judicial discretion in appropriate cases and to limitations on legal remedies against public agencies in the State.

By delivering this letter, we are not expressing any opinion with respect to any indemnification, contribution, liquidated damages, penalty (including any remedy deemed to constitute a penalty), right of set-off, arbitration, judicial reference, choice of law, choice of forum, choice of venue, non-exclusivity of remedies, waiver or severability provisions contained in the WIFIA District Documents, nor are we expressing any opinion with respect to the state or quality of title to or interest in any assets, other than the Pledged Collateral, and the WIFIA IPA, described in or as subject to the lien of the WIFIA District Documents, or the accuracy or sufficiency of the description of such assets, other than the Pledged Collateral and the WIFIA District Documents, or the remedies available to enforce liens on any such assets, other than the Pledged Collateral,

under the WIFIA IPA. Our services as Special Counsel to SBVMWD did not involve the rendering of financial or other non-legal advice to you, SBVMWD, the Borrower or any other party to the transaction.

This letter is furnished by us to you solely for your benefit and we are not assuming any professional responsibility to any other person whomsoever. This letter is not to be used, circulated, quoted or otherwise referred to for any other purpose, except (a) to the extent disclosure of this opinion is required pursuant to applicable law, (b) to your accountants, attorneys and other professional advisors, and (c) that this opinion may be included in applicable closing transcript. We note that you were represented by counsel on this transaction. No attorney-client relationship has existed or exists between our firm and you in connection with the WIFIA District Documents or the WIFIA District Resolution or by virtue of this letter.

Respectfully submitted,

EXHIBIT F-1

FORM OF CLOSING CERTIFICATE OF BORROWER

[●], 2023

Reference is made to that certain WIFIA Master Agreement, dated as of [●], 2023 (the “**WIFIA Master Agreement**”), by and among Upper Santa Ana River Watershed Infrastructure Financing Authority, as Borrower (the “**Borrower**”), San Bernardino Valley Municipal Water District, and the United States Environmental Protection Agency, acting by and through the Administrator of the Environmental Protection Agency (the “**WIFIA Lender**”). Capitalized terms used in this certificate and not defined shall have the respective meanings ascribed to such terms in the WIFIA Master Agreement.

In connection with Section 11(a) (*Conditions Precedent – Conditions Precedent to Effectiveness of this Agreement*) of the WIFIA Master Agreement, the undersigned, [●], as Borrower’s Authorized Representative, does hereby certify on behalf of the Borrower and not in his/her personal capacity, as of the date hereof:

(a) pursuant to Section 11(a)(vi) of the WIFIA Master Agreement, attached hereto as Annex A is an incumbency certificate that lists all persons, together with their positions and specimen signatures, who are duly authorized by the Borrower to execute the WIFIA Loan Documents to which the Borrower is a party and make the certifications of the Borrower delivered in connection therewith, and who have been appointed as a Borrower’s Authorized Representative in accordance with Section 25 (*Borrower’s Authorized Representative*) of the WIFIA Master Agreement;

(b) pursuant to Section 11(a)(ii) of the WIFIA Master Agreement, the Borrower has delivered to the WIFIA Lender a copy of the Borrower’s Organizational Documents, as in effect on the Effective Date, each of which Organizational Documents is in full force and effect;

(c) pursuant to Section 11(a)(iv) of the WIFIA Master Agreement, the Borrower has delivered to the WIFIA Lender a copy of the WIFIA Borrower Resolution, the WIFIA Borrower Resolution is in full force and effect, all conditions contained in the WIFIA Borrower Resolution that are necessary to the closing of the WIFIA transactions contemplated by the WIFIA Master Agreement have been fulfilled, and no further instruments or documents (including any resolutions, ordinances, and supplements) are necessary for the Borrower to execute and deliver, and to perform its obligations under, the WIFIA Master Agreement and each other WIFIA Loan Document to which the Borrower is a party and to consummate and implement the transactions contemplated by the WIFIA Master Agreement and each other WIFIA Loan Document to which the Borrower is a party;

(d) pursuant to Section 11(a)(vi)(A) of the WIFIA Master Agreement, the representations and warranties of the Borrower set forth in the WIFIA Master Agreement and in each other WIFIA Loan Document to which the Borrower is a party are true and correct on and as of the date hereof, except to the extent that such representations and warranties expressly relate to

an earlier date, in which case such representations and warranties were true and correct as of such earlier date; and

(e) pursuant to Section 11(a)(vi)(B) of the WIFIA Master Agreement, no Borrower Material Adverse Effect, or any event or condition that could reasonably be expected to have a Borrower Material Adverse Effect, has occurred or arisen since the date of the Application.

[Signature Page Follows]

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

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

By: _____
Name:
Title:

ANNEX A TO EXHIBIT F-1

INCUMBENCY CERTIFICATE

The undersigned certifies that he/she is the [●] of Upper Santa Ana River Watershed Infrastructure Financing Authority, a joint exercise of powers agency duly organized and existing under the laws of the State of California (the “**Borrower**”), and as such he/she is authorized to execute this certificate and further certifies that the following persons have been elected or appointed, are qualified, and are now acting as officers or authorized persons of the Borrower in the capacity or capacities indicated below, and that the signatures set forth opposite their respective names are their true and genuine signatures. He/She further certifies that any of the officers listed below is authorized to sign agreements and give written instructions with regard to any matters pertaining to the WIFIA Loan Documents to which the Borrower is a party on behalf of the Borrower as the Borrower’s Authorized Representative:

<u>Name</u>	<u>Title</u>	<u>Signature</u>
[_____]	[_____]	_____
[_____]	[_____]	_____
[_____]	[_____]	_____

Capitalized terms used in this certificate and not defined shall have the respective meanings ascribed to such terms in the WIFIA Master Agreement, dated as of the date hereof, by and among the Borrower, San Bernardino Valley Municipal Water District, and the United States Environmental Protection Agency, acting by and through the Administrator of the Environmental Protection Agency.

IN WITNESS WHEREOF, the undersigned has executed this certificate as of this [●] day of [●].

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

By: _____
Name:
Title:

EXHIBIT F-2

FORM OF CLOSING CERTIFICATE OF DISTRICT

[●], 2023

Reference is made to that certain WIFIA Master Agreement, dated as of [●], 2023 (the “**WIFIA Master Agreement**”), by and among Upper Santa Ana River Watershed Infrastructure Financing Authority, as Borrower (the “**Borrower**”), San Bernardino Valley Municipal Water District (the “**District**”), and the United States Environmental Protection Agency, acting by and through the Administrator of the Environmental Protection Agency (the “**WIFIA Lender**”). Capitalized terms used in this certificate and not defined shall have the respective meanings ascribed to such terms in the WIFIA Master Agreement. Notwithstanding anything to the contrary set forth in the WIFIA Master Agreement, the District is not a borrower with respect to any WIFIA Loan, any WIFIA Note, or any WIFIA Loan Agreement and the District has no obligation to make any payment or provision for payment of any WIFIA Loan or any WIFIA Note. No WIFIA Loan Agreement shall constitute a contract between the District and the WIFIA Lender by which the District has incurred an indebtedness.

In connection with Section 11(a) (*Conditions Precedent – Conditions Precedent to Effectiveness of this Agreement*) of the WIFIA Master Agreement, the undersigned, [●], as District’s Authorized Representative, does hereby certify on behalf of the District and not in his/her personal capacity, as of the date hereof:

(a) pursuant to Section 11(a)(vii) of the WIFIA Master Agreement, attached hereto as Annex A is an incumbency certificate that lists all persons, together with their positions and specimen signatures, who are duly authorized by the District to execute the WIFIA Loan Documents to which the District is a party and make the certifications of the District delivered in connection therewith, and who have been appointed as a District’s Authorized Representative in accordance with Section 26 (*District’s Authorized Representative*) of the WIFIA Master Agreement;

(b) pursuant to Section 11(a)(ii) of the WIFIA Master Agreement, the District has delivered to the WIFIA Lender a copy of the District’s Organizational Documents, as in effect on the Effective Date, each of which Organizational Documents is in full force and effect;

(c) pursuant to Section 11(a)(iii) of the WIFIA Master Agreement, the District has delivered to the WIFIA Lender a copy of the WIFIA District Resolution, the WIFIA District Resolution is in full force and effect, all conditions contained in the WIFIA District Resolution that are necessary to the closing of the WIFIA transactions contemplated by the WIFIA Master Agreement have been fulfilled, and no further instruments or documents (including any resolutions, ordinances, and supplements) are necessary for the District to execute and deliver, and to perform its obligations under, the WIFIA Master Agreement and each other WIFIA Loan Document to which the District is a party and to consummate and implement the transactions contemplated by the WIFIA Master Agreement and each other WIFIA Loan Document to which the District is a party.

(d) pursuant to Section 11(a)(vii)(A) of the WIFIA Master Agreement, (i) the District's Federal Employer Identification Number is [●], as evidenced by the District's Form W-9 which is attached hereto as Annex B-1, (ii) the District's Unique Entity Identifier is [●], and (iii) the District has registered with, and obtained confirmation of active registration status from, the federal System for Award Management (www.SAM.gov), which confirmation is attached hereto as Annex B-2;

(e) pursuant to Section 11(a)(vii)(B) of the WIFIA Master Agreement, the representations and warranties of the District set forth in the WIFIA Master Agreement and in each other WIFIA Loan Document to which the District is a party are true and correct on and as of the date hereof, except to the extent that such representations and warranties expressly relate to an earlier date, in which case such representations and warranties were true and correct as of such earlier date; and

(f) pursuant to Section 11(a)(vii)(C) of the WIFIA Master Agreement, no District Material Adverse Effect, or any event or condition that could reasonably be expected to have a District Material Adverse Effect, has occurred or arisen since the date of the Application.

[Signature Page Follows]

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

**SAN BERNARDINO VALLEY MUNICIPAL
WATER DISTRICT**

By: _____
Name:
Title:

ANNEX A TO EXHIBIT F-2

INCUMBENCY CERTIFICATE

The undersigned certifies that he/she is the [●] of San Bernardino Valley Municipal Water District, a municipal water district duly organized and existing under the Constitution and laws of the State of California (the “**District**”), and as such he/she is authorized to execute this certificate and further certifies that the following persons have been elected or appointed, are qualified, and are now acting as officers or authorized persons of the District in the capacity or capacities indicated below, and that the signatures set forth opposite their respective names are their true and genuine signatures. He/She further certifies that any of the officers listed below is authorized to sign agreements and give written instructions with regard to any matters pertaining to the WIFIA Loan Documents to which the District is a party on behalf of the District as the District’s Authorized Representative:

<u>Name</u>	<u>Title</u>	<u>Signature</u>
[_____]	[_____]	_____
[_____]	[_____]	_____
[_____]	[_____]	_____

Capitalized terms used in this certificate and not defined shall have the respective meanings ascribed to such terms in the WIFIA Master Agreement, dated as of the date hereof, by and among the District, Upper Santa Ana River Watershed Infrastructure Financing Authority, and the United States Environmental Protection Agency, acting by and through the Administrator of the Environmental Protection Agency.

IN WITNESS WHEREOF, the undersigned has executed this certificate as of this [●] day of [●].

**SAN BERNARDINO VALLEY MUNICIPAL
WATER DISTRICT**

By: _____
Name:
Title:

EXHIBIT F-3

FORM OF PROJECT CLOSING CERTIFICATE OF BORROWER

[●], 202[●]

Reference is made to that certain WIFIA Master Agreement, dated as of [●], 2023 (the “**WIFIA Master Agreement**”), by and among Upper Santa Ana River Watershed Infrastructure Financing Authority (the “**Borrower**”), San Bernardino Valley Municipal Water District (the “**District**”) and the United States Environmental Protection Agency, acting by and through the Administrator (the “**WIFIA Lender**”) and that certain WIFIA Loan Agreement (WIFIA ID – [●]), dated as of [●] (the “**WIFIA Loan Agreement**”), by and among the Borrower, the District and the WIFIA Lender. Capitalized terms used in this certificate and not defined shall have the respective meanings ascribed to such terms in the WIFIA Loan Agreement or, if not defined therein, the WIFIA Master Agreement.

In connection with Section 11(b) (*Conditions Precedent – Conditions Precedent to Effectiveness of Each WIFIA Loan Agreement*) of the WIFIA Master Agreement and Section 11(a) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, the undersigned, [●], as Borrower’s Authorized Representative, does hereby certify on behalf of the Borrower and not in his/her personal capacity, as of the date hereof:

(a) pursuant to Section 11(b)(vii) of the WIFIA Master Agreement, [the Borrower’s Authorized Representative previously designated and such person’s position and incumbency previously provided to the WIFIA Lender remain unchanged and in full force and effect] [attached hereto as Annex [●] is an incumbency certificate that lists all persons, together with their positions and specimen signatures, who are duly authorized by the Borrower to execute the WIFIA Loan Documents to which the Borrower is or will be a party, and who have been appointed as a Borrower’s Authorized Representative in accordance with Section 25 (*Borrower’s Authorized Representative*) of the WIFIA Master Agreement];

(b) pursuant to Section 11(b)(iv) of the WIFIA Master Agreement, attached hereto as Annex [●] are copies of each Related Document (to the extent not previously delivered to the WIFIA Lender) and Existing Construction Contract to which it is a party with respect to the Project, together with any amendments, waivers or modifications thereto, and each such document is complete, fully executed, and in full force and effect;

(c) pursuant to Section 11(b)(vii)(A) of the WIFIA Master Agreement, (i) the maximum principal amount of the WIFIA Loan (excluding any interest that is capitalized in accordance with the terms of the WIFIA Master Agreement and the WIFIA Loan Agreement), together with the amount of any other credit assistance provided under the Act to the Borrower, does not exceed forty-nine percent (49%) of the reasonably anticipated Eligible Project Costs for the Project and (ii) the total federal assistance provided to the Project, including the maximum principal amount of the WIFIA Loan (excluding any interest that is capitalized in accordance with the terms of the WIFIA Master Agreement and the WIFIA Loan Agreement), does not exceed eighty percent (80%) of Total Project Costs for the Project;

(d) pursuant to Section 11(b)(vii)(B) of the WIFIA Master Agreement, [the WIFIA CUSIP Number is [●]] [the Borrower (i) has maintained the WIFIA CUSIP Number and (ii) [confirms that the expiration date of the WIFIA CUSIP Number is no earlier than the Final Maturity Date] [has extended the expiration date of the WIFIA CUSIP Number to be no earlier than the Final Maturity Date]]];

(e) pursuant to Section 11(b)(vii)(C) of the WIFIA Master Agreement, the representations and warranties of the Borrower set forth in the WIFIA Loan Agreement and in each other WIFIA Loan Document to which the Borrower is a party are true and correct on and as of the WIFIA Loan Agreement Effective Date, except to the extent that such representations and warranties expressly relate to an earlier date, in which case such representations and warranties were true and correct as of such earlier date;

(f) pursuant to Section 11(b)(vii)(D) of the WIFIA Master Agreement, no Borrower Material Adverse Effect, or any event or condition that could reasonably be expected to have a Borrower Material Adverse Effect, has occurred or arisen since the Effective Date; [and]

(g) pursuant to Section 11(b)(ix) of the WIFIA Master Agreement, none of ratings in the rating letters delivered to the WIFIA Lender pursuant to such Section 11(b)(ix) has been reduced, withdrawn or suspended as of the WIFIA Loan Agreement Effective Date[; and][.]

(h) [*any other attachments and provision as may apply to the WIFIA Loan Agreement*].

[Signature Page Follows]

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

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

By: _____
Name:
Title:

EXHIBIT F-4

FORM OF PROJECT CLOSING CERTIFICATE OF DISTRICT

[●], 202[●]

Reference is made to that certain WIFIA Master Agreement, dated as of [●], 2023 (the “**WIFIA Master Agreement**”), by and among Upper Santa Ana River Watershed Infrastructure Financing Authority (the “**Borrower**”), San Bernardino Valley Municipal Water District (the “**District**”) and the United States Environmental Protection Agency, acting by and through the Administrator (the “**WIFIA Lender**”) and that certain WIFIA Loan Agreement (WIFIA ID – [●]), dated as of [●] (the “**WIFIA Loan Agreement**”), by and among the Borrower, the District and the WIFIA Lender. Capitalized terms used in this certificate and not defined shall have the respective meanings ascribed to such terms in the WIFIA Loan Agreement or, if not defined therein, the WIFIA Master Agreement.

In connection with Section 11(b) (*Conditions Precedent – Conditions Precedent to Effectiveness of Each WIFIA Loan Agreement*) of the WIFIA Master Agreement and Section 11(a) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, the undersigned, [●], as District’s Authorized Representative, does hereby certify on behalf of the District and not in his/her personal capacity, as of the date hereof:

(a) pursuant to Section 11(b)(viii) of the WIFIA Master Agreement, [the District’s Authorized Representative previously designated and such person’s position and incumbency previously provided to the WIFIA Lender remain unchanged and in full force and effect] [attached hereto as Annex [●] is an incumbency certificate that lists all persons, together with their positions and specimen signatures, who are duly authorized by the District to execute the WIFIA Loan Documents to which the District is or will be a party, and who have been appointed as a District’s Authorized Representative in accordance with Section 26 (*District’s Authorized Representative*) of the WIFIA Master Agreement];

(b) pursuant to Section 11(b)(iv) of the WIFIA Master Agreement, attached hereto as Annex [●] are copies of each Related Document (to the extent not previously delivered to the WIFIA Lender) and Existing Construction Contract to which it is a party with respect to the Project, together with any amendments, waivers or modifications thereto, and each such document is complete, fully executed, and in full force and effect;

(c) pursuant to Section 11(b)(viii)(A) of the WIFIA Master Agreement, (i) the maximum principal amount of the WIFIA Loan (excluding any interest that is capitalized in accordance with the terms of the WIFIA Master Agreement and the WIFIA Loan Agreement), together with the amount of any other credit assistance provided under the Act to the Borrower, does not exceed forty-nine percent (49%) of the reasonably anticipated Eligible Project Costs for the Project and (ii) the total federal assistance provided to the Project, including the maximum principal amount of the WIFIA Loan (excluding any interest that is capitalized in accordance with the terms of the WIFIA Master Agreement and the WIFIA Loan Agreement), does not exceed eighty percent (80%) of Total Project Costs for the Project;

(d) pursuant to Section 11(b)(viii)(B) of the WIFIA Master Agreement, the District is in compliance with NEPA and any applicable federal, state or local environmental review and approval requirements with respect to the Project;

(e) pursuant to Section 11(b)(viii)(C) of the WIFIA Master Agreement, the District has maintained (i) the Federal Employer Identification Number provided to the WIFIA Lender as a condition precedent to the Effective Date, (ii) the Unique Entity Identifier provided to the WIFIA Lender as a condition precedent to the Effective Date, and (iii) active registration status with the federal System for Award Management (www.SAM.gov);

(f) pursuant to Section 11(b)(viii)(D) of the WIFIA Master Agreement, the representations and warranties of the District set forth in the WIFIA Loan Agreement and in each other WIFIA Loan Document to which the District is a party are true and correct on and as of the WIFIA Loan Agreement Effective Date, except to the extent that such representations and warranties expressly relate to an earlier date, in which case such representations and warranties were true and correct as of such earlier date; [and]

(g) pursuant to Section 11(b)(viii)(E) of the WIFIA Master Agreement, no District Material Adverse Effect, or any event or condition that could reasonably be expected to have a District Material Adverse Effect, has occurred or arisen since the Effective Date[; and][.]

(h) [*any other attachments and provision as may apply to the WIFIA Loan Agreement*].

[Signature Page Follows]

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

**SAN BERNARDINO VALLEY MUNICIPAL
WATER DISTRICT**

By: _____
Name:
Title:

EXHIBIT G

FORM OF CERTIFICATE OF SUBSTANTIAL COMPLETION

[Letterhead of Borrower]

[Date]

United States Environmental Protection Agency
WJC-E 7334A
1200 Pennsylvania Avenue NW
Washington, DC 20460
Attention: WIFIA Director

Project: Watershed Connect – San Bernardino Master Program – Project [●] (WIFIA ID – [●])

Dear Director:

This certificate is provided pursuant to Section 20(f)(i)(A) (*Reporting Requirements of the District – Notices – Substantial Completion*) of that certain WIFIA Master Agreement, dated as of [●], 2023 (the “**WIFIA Master Agreement**”), by and among Upper Santa Ana River Watershed Infrastructure Financing Authority (the “**Borrower**”), San Bernardino Valley Municipal Water District (the “**District**”) and the United States Environmental Protection Agency, acting by and through its Administrator (the “**WIFIA Lender**”).

Unless otherwise defined herein, all capitalized terms in this certificate have the meanings assigned to those terms in that certain WIFIA Loan Agreement (WIFIA ID – [●]), dated as of [●] (the “**WIFIA Loan Agreement**”), by and among the Borrower, the District and the WIFIA Lender or, if not defined therein, the WIFIA Master Agreement.

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

- (a) on *[insert date Substantial Completion requirements were satisfied]*, the Project satisfied each of the requirements for Substantial Completion set forth in the Construction Contracts for the Project;
- (b) Substantial Completion has been declared under each of the Construction Contracts for the Project and copies of the notices of Substantial Completion under such agreements are attached to this certification; and
- (c) Substantial Completion for the Project has been achieved and the Substantial Completion Date of the Project is [____]; and
- (d) The total federal assistance provided to the Project, including the maximum principal amount of the WIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), does not exceed eighty percent (80%) of Total Project Costs.

**SAN BERNARDINO VALLEY MUNICIPAL
WATER DISTRICT,**
by its authorized representative

By: _____

Name:

Title:

EXHIBIT H

FORM OF CONSTRUCTION MONITORING REPORT

VIA EMAIL

United States Environmental Protection Agency
WJC-E 7334A
1200 Pennsylvania Avenue NW
Washington, DC 20460
Attention: WIFIA Director
Email: WIFIA_Portfolio@epa.gov

Re: Watershed Connect – San Bernardino Master Program – Project [●] (WIFIA ID – [●])

This Construction Monitoring Report for the period of [insert relevant period] (the “**Quarterly Period**”) is provided pursuant to Section 20(c)(ii) (*Reporting Requirements of the District – Construction Reporting – Construction Monitoring Report*) of that certain WIFIA Master Agreement, dated as of [●], 2023 (the “**WIFIA Master Agreement**”), by and among Upper Santa Ana River Watershed Infrastructure Financing Authority (the “**Borrower**”), San Bernardino Valley Municipal Water District (the “**District**”) and the United States Environmental Protection Agency, acting by and through the Administrator of the Environmental Protection Agency (the “**WIFIA Lender**”). Unless otherwise defined herein, all capitalized terms in this Construction Monitoring Report have the meanings assigned to those terms in that certain WIFIA Loan Agreement (WIFIA ID – [●]), dated as of [●] (the “**WIFIA Loan Agreement**”), by and among the Borrower, the District and the WIFIA Lender or, if not defined therein, the WIFIA Master Agreement.

1. **Project Status.** Provide a narrative summary of the Project’s construction progress during the Quarterly Period, including with respect to the Project components or sub-projects where appropriate. Complete the table in Appendix A to update the Project scope, schedule, and costs with the latest information.

--

2. **Current Projected Substantial Completion Date:**

--

If the current Projected Substantial Completion Date differs than the date set forth in the Construction Monitoring Report most recently delivered to the WIFIA Lender (or, if no such report has yet been provided, the date of the Projected Substantial Completion Date set forth in the WIFIA Loan Agreement as of the WIFIA Loan Agreement Effective Date), provide a description in reasonable detail for such projected delay or difference:

--

3. **Material Problems (if any)**

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

4. **Other Matters Related to the Project (if applicable)**

Date: _____

**SAN BERNARDINO VALLEY MUNICIPAL
WATER DISTRICT**

By: _____
Name: _____
Title: _____

APPENDIX A TO EXHIBIT H¹⁷

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

¹⁷ Appendix A summarizes all project components that will be bid in the next quarter, are currently under construction, or have completed construction. It should be a cumulative list of projects that is updated each quarter. A Microsoft Excel spreadsheet with similar table format is acceptable.

EXHIBIT I

FORM OF PUBLIC BENEFITS REPORT

Pursuant to Section 11(b)(xi) and Section 20(d) of that certain WIFIA Master Agreement, dated as of [●], 2023 (the “**WIFIA Master Agreement**”), by and among Upper Santa Ana River Watershed Infrastructure Financing Authority (the “**Borrower**”), San Bernardino Valley Municipal Water District (the “**District**”), and the United States Environmental Protection Agency, acting by and through the Administrator of the Environmental Protection Agency (the “**WIFIA Lender**”), the District is providing this Public Benefits Report in connection with Watershed Connect – San Bernardino Master Program – Project [●] (WIFIA ID – [●]). Capitalized terms used in this Public Benefits Report and not defined shall have the respective meanings ascribed to such terms in that certain WIFIA Loan Agreement, dated as of [●], by and among the Borrower, the District and the WIFIA Lender or, if not defined therein, the WIFIA Master Agreement.

Reporting Period: [Prior to the Effective Date][within ninety (90) days following the Substantial Completion Date][within ninety (90) days following the fifth (5th) anniversary of the Substantial Completion Date]

(i) The number of total jobs and direct jobs projected to be created by the Project during the period between the WIFIA Loan Agreement Effective Date and the Substantial Completion Date:

WIFIA projects that the Project will create [] total jobs, of which the District projects [] will be direct jobs.

(ii) Indicate (yes or no) whether the Project will assist the District in complying with applicable regulatory requirements, and if yes, describe how the Project assists with regulatory compliance:

Yes

If yes, additional description: []

No

(iii) The Project will assist the District with the following environmental measure:¹⁸

[]

¹⁸ **NTD:** WIFIA Lender to provide applicable measure.

EXHIBIT J

FORM OF WIFIA PROJECT TERM SHEET

[Attached.]

EXHIBIT K
FORM OF WIFIA LOAN AGREEMENT

[Attached.]

EXHIBIT L
FORM OF WIFIA IPA

[Attached.]

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

WIFIA LOAN AGREEMENT

for up to \$[●]

with

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

SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT

for the

**WATERSHED CONNECT – SAN BERNARDINO MASTER PROGRAM – PROJECT 1
(WIFIA ID – 21149CA)**

Dated as of [●], 2023

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SCHEDULE I – Project Budget

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EXHIBIT

EXHIBIT A –WIFIA Loan Amortization Schedule

WIFIA LOAN AGREEMENT

THIS WIFIA LOAN AGREEMENT (this “**Agreement**”), dated as of [●], 2023, is by and among **UPPER SANTA ANA RIVER WATERSHED INFRASTRUCTURE FINANCING AUTHORITY**, a joint exercise of powers agency duly organized and existing under the laws of the State of California (the “**State**”), with an address at 380 E Vanderbilt Way, San Bernardino, CA 92408 (the “**Borrower**”), **SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT**, a municipal water district duly organized and existing under the laws of the State, with an address at 380 E Vanderbilt Way, San Bernardino, CA 92408 (the “**District**”), and the **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**, an agency of the United States of America, acting by and through the Administrator of the Environmental Protection Agency, with an address at 1200 Pennsylvania Avenue NW, Washington, DC 20460 (the “**WIFIA Lender**”).

RECITALS:

WHEREAS, the Congress of the United States of America enacted the Water Infrastructure Finance and Innovation Act, § 5021 *et seq.* of Public Law 113-121 (as amended, and as may be further amended from time to time, the “**Act**”), which is codified as 33 U.S.C. §§ 3901-3915;

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

WHEREAS, the Borrower, the District and the WIFIA Lender entered into that certain WIFIA Master Agreement, dated as of [●], 2023 (the “**WIFIA Master Agreement**”), pursuant to which the parties thereto have set forth certain common terms and conditions applicable to each WIFIA Loan and Project under the Master Program;

WHEREAS, pursuant to the WIFIA Master Agreement, the District, as agent of the Borrower pursuant to the WIFIA IPA (as defined below), has requested that the WIFIA Lender make the WIFIA Loan (as defined below) in a principal amount not to exceed \$[●] (excluding interest to be capitalized in accordance with the terms hereof and of the WIFIA Master Agreement) to be used to pay a portion of the Eligible Project Costs for the Project;

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

WHEREAS, based on the Application, the WIFIA Master Agreement and the representations, warranties and covenants set forth herein and therein, the WIFIA Lender proposes to make funding available to the Borrower through the purchase of the WIFIA Note (as defined below) to be issued by the Borrower, upon the terms and conditions set forth herein and in the WIFIA Master Agreement;

WHEREAS, the Borrower has entered into that certain Installment Purchase Agreement, dated as of [●], 2023 (the “**WIFIA IPA**”), with the District for the WIFIA Loan, pursuant to which (i) the Borrower agrees to purchase the Project from the District in exchange for the provision of

funds, in the amount of the WIFIA Loan, and (ii) the District agrees to purchase the Project from the Borrower in exchange for the payment of WIFIA Installment Payments by the District to the Borrower, such payments being secured by the Pledged Collateral;

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

WHEREAS, the WIFIA Lender has entered into this Agreement in reliance upon, among other things, the information and representations of the Borrower and the District set forth in the Application, the WIFIA Master Agreement, and the supporting information provided by the Borrower and the District (as the case may be).

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

ARTICLE I DEFINITIONS AND INTERPRETATION

Section 1. **Definitions.** Each capitalized term used in this Agreement (including in the recitals hereto) and not otherwise defined herein shall have the meaning assigned to such term in the WIFIA Master Agreement. Any term used in this Agreement (including in the recitals hereto) that is defined by reference to any other agreement shall continue to have the meaning specified in such agreement, whether or not such agreement remains in effect. In addition, as used in this Agreement (including in the recitals hereto), the following terms have the following meanings:

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

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

“**Construction Schedule**” means (a) the initial schedule or schedules on which the construction timetables for the Project are set forth, attached as **Schedule II** (*Construction Schedule*), and (b) any updates thereto included in the Construction Monitoring Report most recently submitted to the WIFIA Lender in accordance with Section 20(c)(ii) (*Reporting Requirements of the District – Construction Reporting – Construction Monitoring Report*) of the WIFIA Master Agreement.

“**Debt Service Payment Commencement Date**” means the earliest to occur of (a) [July 1], 20[29]; (b) if the Capitalized Interest Period ends pursuant to Section 8(b) (*Payment of Principal and Interest – Capitalized Interest*) of the WIFIA Master Agreement due to the occurrence of an Event of Default, the first Payment Date immediately following the end of the Capitalized Interest Period; and (c) the Payment Date falling closest to, but not later than, the fifth (5th) anniversary of the Substantial Completion Date.

“**Final Maturity Date**” means the earlier of (a) July 1, 20[●] (or such earlier date as is set forth in an updated **Exhibit A** (*WIFIA Loan Amortization Schedule*) pursuant to Section 8(f)

(*Payment of Principal and Interest – Adjustments to WIFIA Loan Amortization Schedule*) of the WIFIA Master Agreement); and (b) the Principal Payment Date immediately preceding the date that is thirty-five (35) years following the Substantial Completion Date.

“**Interest Payment Date**” means each January 1 and July 1.

“**Principal Payment Date**” means each July 1.

“**Project**” means the Watershed Connect – San Bernardino Master Program – Project 1, located in the Counties of San Bernardino and Riverside, California, as described in further detail in **Schedule III** (*Project*).

“**Project Budget**” means the budget for the Project attached to this Agreement as **Schedule I** (*Project Budget*) showing a summary of Total Project Costs with a breakdown of all Eligible Project Costs and the estimated sources and uses of funds for the Project.

“**Projected Substantial Completion Date**” means October 31, 2024, as such date may be adjusted in accordance with Section 20(c)(ii) (*Reporting Requirements of the District – Construction Reporting – Construction Monitoring Report*) of the WIFIA Master Agreement.

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

“**WIFIA Loan**” means the secured loan made by the WIFIA Lender to the Borrower on the terms and conditions set forth herein, in the WIFIA Master Agreement and in the WIFIA Note, pursuant to the Act, in a principal amount not to exceed \$[●] (excluding interest to be capitalized in accordance with the terms hereof and of the WIFIA Master Agreement), to be used in respect of Eligible Project Costs with respect to the Project.

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

“**WIFIA Loan Amortization Schedule**” means the loan amortization schedule reflected in **Exhibit A** (*WIFIA Loan Amortization Schedule*), as amended from time to time in accordance with Section 8(f) (*Adjustments to WIFIA Loan Amortization Schedule*) of the WIFIA Master Agreement.

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

“**WIFIA Note**” means the note issued and delivered by the Borrower in substantially the form of Exhibit A (*Form of WIFIA Note*) to the WIFIA Master Agreement.

Section 2. Interpretation.

(a) Except as otherwise expressly provided herein, the rules of interpretation set forth in Section 2 (*Interpretation*) of the WIFIA Master Agreement shall apply herein, *mutatis mutandis*, as if set out in this Agreement in full (and as if each reference therein to “this Agreement” were a reference to this Agreement, and each reference to any “WIFIA Loan” or any “WIFIA Note” were a reference, respectively, to the WIFIA Loan or the WIFIA Note as such terms are defined in this Agreement).

(b) This Agreement is one of the WIFIA Loan Agreements referenced in the WIFIA Master Agreement.

ARTICLE II THE WIFIA LOAN

Section 3. WIFIA Loan Amount. The principal amount of the WIFIA Loan shall not exceed \$[●] (excluding interest to be capitalized in accordance with the terms hereof and of the WIFIA Master Agreement). WIFIA Loan proceeds available to be drawn shall be disbursed from time to time in accordance with Section 4 (*Disbursement Conditions*) hereof and Section 11(c) (*Conditions Precedent – Conditions Precedent to Disbursements*) of the WIFIA Master Agreement.

Section 4. Disbursement Conditions. The WIFIA Loan shall be disbursed in accordance with Section 4 (*Disbursement Conditions*) of the WIFIA Master Agreement.

Section 5. [Reserved].

Section 6. Interest Rate. The interest rate with respect to the Outstanding WIFIA Loan Balance for the WIFIA Loan shall be [●] and [●] hundredths percent ([●]%) per annum. Interest will accrue and be computed on the Outstanding WIFIA Loan Balance from time to time pursuant to, and otherwise in accordance with, Section 6 (*Interest Rate*) of the WIFIA Master Agreement.

Section 7. [Reserved].

Section 8. Payment of Principal and Interest.

(a) Payment of WIFIA Debt Service. Payments of WIFIA Installment Payments under the WIFIA IPA shall be made by the District on each Installment Payment Date occurring on or after the Debt Service Payment Commencement Date in accordance with Section 8(a) (*Payment of Principal and Interest – Payment of WIFIA Debt Service*) of the WIFIA Master Agreement. Payments of WIFIA Debt Service shall be made by the Borrower on each Payment Date occurring on or after the Debt Service Payment Commencement Date in the amounts and manner and on the Payment Dates as set forth in the WIFIA Loan Amortization Schedule and otherwise in accordance with Section 8(a) (*Payment of Principal and Interest – Payment of WIFIA Debt Service*) of the WIFIA Master Agreement.

(b) WIFIA Note. As evidence of the Borrower's obligation to repay the WIFIA Loan, the Borrower shall issue and deliver to the WIFIA Lender, on or prior to the WIFIA Loan Agreement Effective Date, the WIFIA Note, having a maximum principal amount of \$[●] (excluding interest to be capitalized in accordance with the terms hereof and of the WIFIA Master Agreement).

Section 9. Prepayment. The WIFIA Note shall be prepaid in accordance with Section 9(a) (*Prepayment – Mandatory Prepayment from Insurance Proceeds or Eminent Domain Proceeds*) of the WIFIA Master Agreement. The Borrower may prepay the WIFIA Loan in accordance with Section 9(b) (*Prepayment – Optional Prepayments*) of the WIFIA Master Agreement.

Section 10. Fees and Expenses. The District shall pay, on behalf of the Borrower, to the WIFIA Lender, in each case pursuant to and in accordance with Section 10 (*Fees and Expenses*) of the WIFIA Master Agreement:¹

- (a) a one-time Servicing Set-Up Fee equal to \$[●];
- (b) an annual Construction Period Servicing Fee equal to \$[●] per annum; provided that the initial Construction Period Servicing Fee shall be in a pro-rated amount equal to \$[●] in accordance with Section 10(a)(ii) (*Fees and Expenses – Fees*) of the WIFIA Master Agreement; and
- (c) an Operating Period Servicing Fee equal to \$[●] per annum; and
- (d) any other applicable fees, costs, charges and expenses pursuant to, and otherwise in accordance with, Section 10 (*Fees and Expenses*) of the WIFIA Master Agreement.

ARTICLE III CONDITIONS PRECEDENT

Section 11. Conditions Precedent.

(a) Conditions Precedent to Effectiveness. The effectiveness of this Agreement is subject to the satisfaction, or the WIFIA Lender’s written waiver, as determined by the WIFIA Lender in its sole discretion, of each of the conditions precedent to the effectiveness of this Agreement set forth in Section 11(b) (*Conditions Precedent – Conditions Precedent to Effectiveness of Each WIFIA Loan Agreement*) of the WIFIA Master Agreement (each of which is incorporated by reference herein, *mutatis mutandis*, as if set out in this Agreement in full and as if each reference therein to any “Project,” any “WIFIA Loan,” any “WIFIA Note,” or any “WIFIA Loan Agreement” were a reference, respectively, to the Project, the WIFIA Loan, the WIFIA Note, or this Agreement (as such terms are defined in this Agreement)).

(b) Conditions Precedent to Disbursements. Notwithstanding anything in this Agreement to the contrary, the WIFIA Lender’s obligation to make any disbursement of the WIFIA Loan to the Borrower (including the initial disbursement hereunder) is subject to the satisfaction or the WIFIA Lender’s written waiver, as determined by the WIFIA Lender in its sole discretion, of each of the conditions precedent to disbursements set forth in Section 11(c) (*Conditions Precedent – Conditions Precedent to Disbursements*) of the WIFIA Master Agreement (each of which is incorporated by reference herein, *mutatis mutandis*, as if set out in this Agreement in full and as if each reference therein to any “WIFIA Loan” or any “WIFIA Loan Agreement” were a reference, respectively, to the WIFIA Loan or this Agreement (as such terms are defined in this Agreement)).²

¹ NTD: EPA to provide fees.

² NTD: This Agreement and the Project Budget will be updated to account for the relevant sub-project to be implemented jointly by San Bernardino Valley and Riverside.

**ARTICLE IV
REPRESENTATIONS AND WARRANTIES**

Section 12. Representations and Warranties of the Borrower. The representations and warranties set out in Section 12 (*Representations and Warranties of the Borrower*) of the WIFIA Master Agreement shall be made on the WIFIA Loan Agreement Effective Date and as of each date on which any disbursement of the WIFIA Loan is requested or made, except as otherwise expressly provided in Section 12 of the WIFIA Master Agreement. Each such representation and warranty is incorporated by reference herein, *mutatis mutandis*, for the benefit of the WIFIA Lender as if set out in this Agreement in full (and as if each reference therein to “this Agreement” were a reference to this Agreement and as if each reference therein to (a) any “Project” or the “Master Program”, (b) any “WIFIA IPA”, (c) any “WIFIA Loan” or (d) any “WIFIA Note” were a reference, respectively, to (i) the Project, (ii) the WIFIA IPA, (iii) the WIFIA Loan or (iv) the WIFIA Note (as such terms are defined in this Agreement)). The Borrower acknowledges that it makes such representations and warranties with the intention of inducing the WIFIA Lender to enter into this Agreement and the other WIFIA Loan Documents and to advance the WIFIA Loan to the Borrower, and that the WIFIA Lender has entered into this Agreement and the other WIFIA Loan Documents on the basis of, and in full reliance on, each such representation and warranty.

Section 13. Representations and Warranties of the District. The representations and warranties set out in Section 13 (*Representations and Warranties of the District*) of the WIFIA Master Agreement shall be made on the WIFIA Loan Agreement Effective Date and as of each date on which any disbursement of the WIFIA Loan is requested or made, except as otherwise expressly provided in Section 13 of the WIFIA Master Agreement. Each such representation and warranty is incorporated by reference herein, *mutatis mutandis*, for the benefit of the WIFIA Lender as if set out in this Agreement in full (and as if each reference therein to “this Agreement” were a reference to this Agreement and as if each reference therein to (a) any “Project” or the “Master Program”, (b) any “WIFIA IPA” or (c) any “WIFIA Loan” were a reference, respectively, to (i) the Project, (ii) the WIFIA IPA or (iii) the WIFIA Loan (as such terms are defined in this Agreement)). The District acknowledges that it makes such representations and warranties with the intention of inducing the WIFIA Lender to enter into this Agreement and the other WIFIA Loan Documents and to advance the WIFIA Loan to the Borrower, and that the WIFIA Lender has entered into this Agreement and the other WIFIA Loan Documents on the basis of, and in full reliance on, each such representation and warranty.

Section 14. Representations and Warranties of WIFIA Lender. The representations and warranties set out in Section 14 (*Representations and Warranties of WIFIA Lender*) of the WIFIA Master Agreement shall be made on the WIFIA Loan Agreement Effective Date, *mutatis mutandis*, for the benefit of the Borrower and the District as if set out in this Agreement in full (and as if each reference therein to any “WIFIA Loan” were a reference to the WIFIA Loan (as such term is defined in this Agreement)).

**ARTICLE V
COVENANTS**

Section 15. Covenants of the Borrower. The Borrower covenants and agrees, until the date the WIFIA Loan and all of the obligations of the Borrower under the WIFIA Loan Documents

with respect to the WIFIA Loan or the Project (other than contingent indemnity obligations) have been irrevocably paid in full in immediately available funds and the WIFIA Lender no longer has any commitment to make disbursements under this Agreement to the Borrower, unless the WIFIA Lender waives compliance in writing, to comply with each of the covenants set forth in the WIFIA Master Agreement, including Section 15 (*Affirmative Covenants of the Borrower*), Section 16 (*Negative Covenants of the Borrower*) and Section 19 (*Reporting Requirements of the Borrower*) of the WIFIA Master Agreement, which covenants are incorporated by reference herein *mutatis mutandis* as if fully set forth herein (and as if each reference therein to “this Agreement” were a reference to this Agreement and as if each reference therein to (a) any “Project” or the “Master Program,” (b) any “WIFIA IPA”, (c) any “WIFIA Loan” or (d) any “WIFIA Note” were a reference, respectively, to (i) the Project, (ii) the WIFIA IPA, (iii) the WIFIA Loan or (iv) the WIFIA Note (as such terms are defined in this Agreement)).

Section 16. [Reserved].

Section 17. Covenants of the District. The District covenants and agrees, until the date the WIFIA Loan and all of the obligations of the Borrower and the District under the WIFIA Loan Documents with respect to the WIFIA Loan or the Project (other than contingent indemnity obligations) have been irrevocably paid in full in immediately available funds and the WIFIA Lender no longer has any commitment to make disbursements under this Agreement to the Borrower or the District, unless the WIFIA Lender waives compliance in writing, to comply with each of the covenants set forth in the WIFIA Master Agreement, including Section 17 (*Affirmative Covenants of the District*), Section 18 (*Negative Covenants of the District*) and Section 20 (*Reporting Requirements of the District*) of the WIFIA Master Agreement, which covenants are incorporated by reference herein *mutatis mutandis* as if fully set forth herein (and as if each reference therein to “this Agreement” were a reference to this Agreement and as if each reference therein to (a) any “Project” or the “Master Program,” (b) any “WIFIA IPA”, (c) any “WIFIA Loan” or (d) any “WIFIA Note” were a reference, respectively, to (i) the Project, (ii) the WIFIA IPA, (iii) the WIFIA Loan or (iv) the WIFIA Note (as such terms are defined in this Agreement)).

Section 18. [Reserved].

Section 19. [Reserved].

Section 20. [Reserved].

ARTICLE VI EVENTS OF DEFAULT

Section 21. Events of Default and Remedies.

(a) Each Borrower Event of Default set out in Section 21(a) (*Events of Default and Remedies*) of the WIFIA Master Agreement shall constitute an Event of Default hereunder, except as otherwise expressly provided in Section 21(a) (*Events of Default and Remedies*) of the WIFIA Master Agreement.

(b) Each District Event of Default set out in Section 21(b) (*Events of Default and Remedies*) of the WIFIA Master Agreement shall constitute an Event of Default hereunder,

except as otherwise expressly provided in Section 21(b) (*Events of Default and Remedies*) of the WIFIA Master Agreement.

(c) Upon the occurrence and during the continuation of any Event of Default hereunder, the WIFIA Lender shall have each of the rights and remedies to which it is entitled as provided in and with the same effect as described in Section 21 (*Events of Default and Remedies*) of the WIFIA Master Agreement.

ARTICLE VII MISCELLANEOUS

Section 22. Governing Law. This Agreement shall be governed by the federal laws of the United States of America, if and to the extent such federal laws are applicable, and the internal laws of the State, if and to the extent such federal laws are not applicable.

Section 23. Effectiveness. This Agreement shall be effective on the WIFIA Loan Agreement Effective Date.

Section 24. Survival. The indemnification requirements of Section 37 (*Indemnification*) of the WIFIA Master Agreement, as incorporated herein, the reporting and record keeping requirements of Sections 15(j) (*Affirmative Covenants of the Borrower – Access; Records*) and 17(p) (*Affirmative Covenants of the District – Access; Records*) of the WIFIA Master Agreement, as incorporated herein, and the payment requirements of Section 10 (*Fees and Expenses*) shall survive the termination of this Agreement as provided in such sections.

Section 25. Miscellaneous. Article VII (*Miscellaneous*) of the WIFIA Master Agreement (other than Sections 30 (*Governing Law*), 39 (*Effectiveness*) and 40 (*Survival*) of the WIFIA Master Agreement) shall be incorporated in this Agreement, *mutatis mutandis*, as if set out in this Agreement in full (and as if each reference therein to “this Agreement” were a reference to this Agreement and as if each reference therein to (a) any “Project” or the “Master Program”, (b) any “WIFIA Loan” or (c) any “WIFIA Note” were a reference, respectively, to (i) the Project, (ii) the WIFIA Loan or (iii) the WIFIA Note (as such terms are defined in this Agreement)).

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

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

**UPPER SANTA ANA RIVER WATERSHED
INFRASTRUCTURE FINANCING
AUTHORITY**, by its authorized representative

By: _____
Name:
Title:

**SAN BERNARDINO VALLEY MUNICIPAL
WATER DISTRICT,**
by its authorized representative

By: _____
Name:
Title:

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

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

SCHEDULE I
PROJECT BUDGET

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

SCHEDULE II

CONSTRUCTION SCHEDULE³

Projected Substantial Completion Date: October 31, 2024

Project Component	Design Start	Design End	Construction Start	Construction End
Regional Recycled Water System Phase 1				
Enhanced Recharge Phase 1B				
Enhanced Recharge Phase 1A Liner				

³ **Note to Borrower:** Please complete the table.

SCHEDULE III

PROJECT

The Project is the first project under the Watershed Connect – San Bernadino Master Program, located in the Counties of San Bernardino and Riverside, California. Watershed Connect is a regional infrastructure program designed to achieve water supply reliability, climate resilience, and long-term ecological health of the Upper Santa Ana River Watershed. The Project consists of the following Project components:

1. Regional Recycled Water System Phase 1: development and construction of recycled water pipelines and groundwater recharge basins to augment groundwater supply;
2. Enhanced Recharge Phase 1B: development and construction of new groundwater recharge basins and expansion of existing basins for capture of stormwater diverted from the Seven Oaks Dam, and construction of pipelines to move water between basins; and
3. Enhanced Recharge Phase 1A Liner: construction of a geosynthetic liner across an existing sedimentation basin to reduce water turbidity in recaptured stormwater from the Seven Oaks Dam.

SCHEDULE 13(m)

EXISTING CONSTRUCTION CONTRACTS⁴

Contract Name	Effective Date	Construction Contractor	Amount	Description

⁴ **Note to Borrower:** Please advise.

EXHIBIT A
WIFIA LOAN AMORTIZATION SCHEDULE⁵

[See attached]

⁵ **NTD:** WIFIA Lender to provide on the WIFIA Loan Agreement Effective Date.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

[●], 2023

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
Email: [●]

San Bernardino Valley Municipal Water District
380 E Vanderbilt Way
San Bernardino, California 92408
Attention: General Manager
Email: [●]

RE: WIFIA Loan Term Sheet for Watershed Connect – San Bernardino Master Program –
Project 1 with Upper Santa Ana River Watershed Infrastructure Financing Authority and
San Bernardino Valley Municipal Water District (WIFIA ID – 21149CA)

Ladies and Gentlemen:

This WIFIA Loan Term Sheet (this “**Term Sheet**”) constitutes (a) the approval of the United States Environmental Protection Agency, acting by and through the Administrator of the Environmental Protection Agency (hereinafter, the “**USEPA**”), of the application for credit assistance of the Borrower (as defined below) received on August 5, 2022 (the “**Application**”) and (b) the agreement of USEPA to provide financing for the above-referenced project (as further described below, the “**Project**”) in the form of a secured loan (the “**WIFIA Loan**”), pursuant to the Water Infrastructure Finance and Innovation Act (“**WIFIA**”), § 5021 *et seq.* of Public Law 113-121 (as amended, and as may be amended from time to time, the “**Act**”), codified as 33 U.S.C. §§ 3901-3915, subject in all respects to (i) the terms and conditions contained herein, (ii) the terms and conditions contained in that certain WIFIA Master Agreement, dated as of [●], 2023, by and among the WIFIA Lender (as defined below), the Borrower and the District (as defined below) (the “**WIFIA Master Agreement**”), and (iii) the execution and delivery of the WIFIA loan agreement with respect to the Project to be entered into on or after the date hereof (the “**WIFIA Loan Agreement**”) on terms and conditions acceptable to USEPA contained therein. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the WIFIA Loan Agreement or, if not defined therein, the WIFIA Master Agreement.

By executing this Term Sheet, the District, on behalf of the Borrower, confirms its agreement to reimburse USEPA for any and all fees and expenses that USEPA incurs for legal counsel, financial advice, and other consultants in connection with the evaluation of the Project and the negotiation and preparation of the WIFIA Loan Agreement and related documents whether or not any such agreement is ultimately executed.

This Term Sheet shall be governed by the federal laws of the United States of America if and to the extent such federal laws are applicable, and the internal laws of the State of California,

if and to the extent such federal laws are not applicable. This Term Sheet, and any amendments, waivers, consents or supplements hereto may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument. Electronic delivery of an executed counterpart of a signature page shall be effective as delivery of an original executed counterpart.

INDICATIVE TERMS OF THE WIFIA LOAN

WIFIA LENDER	United States Environmental Protection Agency, an agency of the United States of America, acting by and through the Administrator of the Environmental Protection Agency (the “ WIFIA Lender ”).
BORROWER	Upper Santa Ana River Watershed Infrastructure Financing Authority, a joint exercise of powers agency duly organized and existing under the laws of the State of California (the “ Borrower ”).
DISTRICT	San Bernardino Valley Municipal Water District, a municipal water district duly organized and existing under the laws of the State of California (the “ District ”).
PROJECT	The “ Project ” means the Watershed Connect – San Bernardino Master Program – Project 1, located in the Counties of San Bernardino and Riverside, California, which consists of various Project components under Watershed Connect’s regional infrastructure program designed to achieve water supply reliability, climate resilience, and long-term ecological health of the Upper Santa Ana River Watershed, as further described in Schedule III (<i>Project</i>) to the WIFIA Loan Agreement.
WIFIA LOAN AMOUNT	A maximum principal amount (sum of disbursements) not to exceed \$[●]; <u>provided</u> that (a) the maximum principal amount of the WIFIA Loan, together with the amount of any other credit assistance provided under the Act, shall not exceed forty-nine percent (49%) of reasonably anticipated Eligible Project Costs for the Project, (b) the total federal assistance for the Project, including but not limited to the maximum principal amount of the WIFIA Loan and all federal grants, shall not exceed eighty percent (80%) of Total Project Costs for the Project and (c) such maximum principal amount does not include any interest that may be capitalized in accordance with the WIFIA Master Agreement and added to the principal amount of the WIFIA Loan.
INTEREST RATE	<p>The WIFIA Loan shall bear interest at a fixed rate, calculated by adding one basis point (0.01%) to the rate of securities of a similar maturity (based on the weighted-average life of the WIFIA Loan) as published, on the execution date of the WIFIA Loan Agreement, in the United States Treasury Bureau of the Fiscal Service’s daily rate table for State and Local Government Series (SLGS) securities.</p> <p>The WIFIA Loan shall also bear default interest at a rate of two hundred (200) basis points above the otherwise applicable interest</p>

	rate, at such times and upon such terms as provided in the WIFIA Master Agreement.
PAYMENT DATES	<p>Pursuant to the WIFIA Loan Documents, not later than the fifth (5th) day prior to each interest payment date occurring on or after the debt service payment commencement date (each such date, an “Installment Payment Date”), the District shall make installment payments of interest and principal scheduled to be paid by the District to the Borrower (“WIFIA Installment Payments”), which shall be assigned by the Borrower to the WIFIA Lender.</p> <p>Principal of the WIFIA Loan shall be repaid in annual installments on July 1 of each year, beginning on July 1, 20[30].</p> <p>Interest on the WIFIA Loan shall be paid in arrears on January 1 and July 1 of each year, beginning on [July] 1, 20[29].</p> <p>The debt service payment commencement date shall in no event be later than five (5) years after the Substantial Completion Date of the Project.</p> <p>Subject to the terms and conditions of the WIFIA Loan Agreement and the WIFIA Master Agreement, no principal or interest shall be paid during the capitalized interest period.</p> <p>During the Interest Only Period, the WIFIA Debt Service payable by the Borrower shall consist of one hundred percent (100%) of the amount of interest then due and payable on the Outstanding WIFIA Loan Balance, and no payment of principal will be due and payable.</p>
FINAL MATURITY DATE	The earlier of (a) July 1, 20[●] and (b) the Principal Payment Date immediately preceding the date that is thirty-five (35) years following the Substantial Completion Date.
PROJECTED SUBSTANTIAL COMPLETION DATE	October 31, 2024.
DEDICATED SOURCE OF REPAYMENT	<p>The dedicated source of repayment for the WIFIA Installment Payments shall be Net Revenues (as defined below) in accordance with the terms of the WIFIA IPA and the WIFIA Master Agreement.</p> <p>“Net Revenues” means, for any District Fiscal Year or other period, the Revenues for such District Fiscal Year or other period, as the case may be, less the Operation and Maintenance Costs for such District Fiscal Year or other period, as the case may be.</p> <p>“Revenues” means all income, rents, rates, fees, charges and other moneys derived by the District from the ownership or</p>

	<p>operation of the System, including, without limiting the generality of the foregoing:</p> <p>(a) all income, rents, rates, fees, charges and other moneys derived by the District from the sale, furnishing and supplying of the water or other services, facilities, and commodities sold, furnished or supplied through the facilities of or in the conduct or operation of the business of the System, including but not limited to income received from retail water agencies under take-or-pay contracts for water produced by the Project;</p> <p>(b) all proceeds of the County of San Bernardino and County of Riverside 1% ad valorem property tax allocated to and received by the District, including all proceeds of the unitary tax received by the District;</p> <p>(c) pass-through payments from redevelopment or successor agencies pursuant to the Health and Safety Code of the State;</p> <p>(d) all other income, rents, rates, fees, charges, business interruption insurance proceeds or other moneys received by the District; and</p> <p>(e) the earnings on and income derived from the investment of amounts described in clauses (a) – (d) above and from District unrestricted reserves;</p> <p>but excluding:</p> <p>(i) customers’ deposits or any other deposits or advances subject to refund until such deposits or advances have become the property of the District; and</p> <p>(ii) any proceeds of taxes or assessments levied by the District to pay the Water Supply Contract and any other bonds, notes, contracts or obligations hereafter issued or executed.</p> <p>“Revenues” also include all amounts transferred from the Rate Stabilization Fund to the Revenue Fund in accordance with Section 5.06 of the WIFIA IPA. “Revenues” do not include any amounts transferred from the Revenue Fund to the Rate Stabilization Fund during any District Fiscal Year in accordance with Section 5.02(d) of the WIFIA IPA.</p>
<p>SECURITY OF WIFIA LOAN</p>	<p>The WIFIA Loan shall be secured by a pledge and assignment by the Borrower for the benefit of the WIFIA Lender of (a) all of the Borrower’s right, title and interest to receive the Authority Revenues (as defined below), (b) all of the Borrower’s rights to receive amounts from the District from the WIFIA Debt Service Account and (c) all of the Borrower’s rights and remedies to enforce the WIFIA IPA upon an event of default under the WIFIA IPA.</p>

	<p>“Authority Revenues” means (a) the WIFIA Installment Payments received by the Borrower pursuant to or with respect to the WIFIA IPA and (b) all interest or gain derived from the investment of amounts in any of the funds or accounts established under the WIFIA IPA or the WIFIA Master Agreement.</p> <p>The debt obligation of the Borrower under the WIFIA Loan shall be evidenced through the issuance by the Borrower of the WIFIA Note.</p>
<p>SECURITY AND LIEN PRIORITY OF WIFIA INSTALLMENT PAYMENTS</p>	<p>The obligation of the District to make the WIFIA Installment Payments under the WIFIA IPA shall (a) be secured by the Liens on the Pledged Collateral (as defined below), (b) not be subordinate in right of payment or in right of security to any Lien on the Pledged Collateral, (c) be <i>pari passu</i> in right of payment and right of security only to the Lien on the Pledged Collateral for the benefit of the Parity Obligations and (d) be senior in right of payment and right of security to the Lien on the Pledged Collateral for the benefit of the Subordinate Obligations, in each case, without the need for any notice to or from any Person, physical delivery, recordation, filing or further act.</p> <p>The obligation of the District to make the WIFIA Installment Payments under the WIFIA IPA constitutes Parity Obligations under the WIFIA Master Agreement and “Contracts” under the WIFIA IPA, and the WIFIA IPA constitutes a “Contract” under the WIFIA IPA.</p> <p>“Pledged Collateral” means (w) all Revenues, the Revenue Fund and all amounts on deposit in the Revenue Fund, (x) the Rate Stabilization Fund and all amounts on deposit in the Rate Stabilization Fund, (y) the Acquisition Fund and all amounts on deposit in the Acquisition Fund and (z) the WIFIA Debt Service Account and all amounts on deposit in the WIFIA Debt Service Account.</p>
<p>PREPAYMENT</p>	<p>The WIFIA Loan shall be subject to mandatory prepayment, without prepayment premium, from and in the amount of any prepayments of the WIFIA Installment Payments received from the District pursuant to the WIFIA IPA and Section 17(f)(viii) (<i>Affirmative Covenants of the District – Insurance; Net Proceeds</i>) and Section 17(s)(ii) (<i>Affirmative Covenants of the District – Eminent Domain; Net Proceeds</i>) of the WIFIA Master Agreement.</p> <p>After the Final Disbursement Date, the Borrower may prepay the WIFIA Loan in whole or in part, from time to time, but not more than annually, without penalty or premium; <u>provided</u> that any such prepayment shall be made in a minimum principal amount of \$500,000 or any integral multiple of \$1.00 in excess thereof,</p>

	and otherwise in accordance with the WIFIA Loan Agreement and the WIFIA Master Agreement.
RATE COVENANT	<p>(a) To the fullest extent permitted by law, the District shall fix and prescribe, at the commencement of each District 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 District Fiscal Year (i) Net Revenues equal to one hundred twenty-five percent (125%) of the Parity Debt Service payable in such District Fiscal Year and (ii) Net Revenues remaining after payment of Parity Debt Service payable in such District Fiscal Year equal to one hundred ten percent (110%) of the Subordinate Debt Service payable in such District Fiscal Year. Budgeted Transfers, in an amount not to exceed twenty-five percent (25%) of Parity Debt Service referred to in the preceding sentence, as of the last day of the immediately preceding District Fiscal Year may be credited towards the District’s obligations under this clause (a).</p> <p>(b) 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 clause (a) above.</p> <p>(c) For avoidance of doubt, so long as the District has complied with its obligations set forth in clause (a) and clause (b) above, the failure of Net Revenues to meet the threshold set forth in clause (a) above at the end of a District Fiscal Year shall not constitute a Default or an Event of Default so long as the District has complied with clause (a) and clause (b) above at the commencement of the immediately succeeding District Fiscal Year.</p> <p>(d) In accordance with Section 6.14 (<i>Collection of Rates and Charges</i>) of the WIFIA IPA, the District shall 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.</p> <p>“Budgeted Transfers” means, for any District Fiscal Year, lawfully available amounts, including in the Rate Stabilization Fund, as of the last day of such District Fiscal Year, in each case, (a) which may be lawfully used to pay the WIFIA Installment Payments and (b) that have been transferred to the Revenue Fund, pursuant to a budget process where such amounts have been budgeted and approved by the Board of Directors of the District (and which removal from the Revenue Fund would require a separate budget and approval process by the Board of Directors</p>

	of the District prior to any such removal), for application solely to the System.
ADDITIONAL OBLIGATIONS OF THE DISTRICT	<p>(a) The District shall not create, incur or suffer to exist (i) any obligations which are senior or prior in right of payment or right of security with respect to the Pledged Collateral to the Parity Obligations; (ii) any obligations, all or a portion of the proceeds of which are or will be applied at any time to fund all or any portion of Total Project Costs of any Project, that are secured by a Lien on any assets or property of the District other than the Pledged Collateral; or (iii) any obligations, all or a portion of the proceeds of which are or will be applied at any time to fund any purchase, construction, condemnation, acquisition or expansion of the System, that are secured by a Lien on the Pledged Collateral or payable from the Pledged Collateral except in either case, Parity Obligations or Subordinate Obligations. While an Event of Default relating to a Payment Default or a Bankruptcy Related Event has occurred and is continuing, the District shall not incur any indebtedness of any kind payable from, secured or supported by the Pledged Collateral without the prior written consent of the WIFIA Lender.</p> <p>(b) The District may incur Additional Parity Obligations in accordance with the terms of the WIFIA Master Agreement; <u>provided</u> that:</p> <p>(i) the Net Revenues for the last audited District Fiscal Year or for any consecutive twelve (12) calendar month period during the eighteen (18) calendar month period preceding the date of adoption by the Board of Directors of the District of the resolution authorizing the issuance of such Additional Parity Obligations or the date of the execution of such Additional Parity Obligations, 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-five percent (125%) of the Parity Debt Service for such District Fiscal Year or twelve (12) month period;</p> <p>(ii) the Net Revenues for the last audited District Fiscal Year or for any consecutive twelve (12) calendar month period during the eighteen (18) calendar month period preceding the date of adoption by the Board of Directors of the District of the resolution authorizing the issuance of such Additional Parity Obligations or the date of the execution of such Additional Parity Obligations, as the case may be, including adjustments to give effect as of the first day of such District Fiscal Year or other twelve (12) month period, to increases or decreases in rates and</p>

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-five percent (125%) of the sum of (A) the Parity Debt Service for such District Fiscal Year or other twelve (12) month period, plus (B) the Parity Debt Service which would have accrued on any Parity Obligations executed or issued since the end of such District Fiscal Year or other twelve (12) month period, assuming that such Parity Obligations had been executed or issued at the beginning of such District Fiscal Year or other twelve (12) month period, plus (C) the Parity Debt Service which would have accrued had such proposed Additional Parity Obligations been executed or issued at the beginning of such District Fiscal Year or other twelve (12) month period; and

(iii) the estimated Net Revenues for the then current District Fiscal Year and for each District Fiscal Year thereafter to and including the first complete District Fiscal Year after the latest Date of Operation of any uncompleted Parity Project, as evidenced by a certificate of the Manager on file with the District, including (after giving effect to the completion of all such uncompleted Parity Projects) an allowance for estimated Net Revenues for each such District Fiscal Year arising from any increase in the income, rents, fees, rates and charges estimated to be fixed and prescribed or received for the Service and which are economically feasible and reasonably considered necessary based on projected operations for such period, as evidenced by a certificate of the Manager on file with the District, shall produce a sum equal to at least one hundred twenty-five percent (125%) of the estimated Parity Debt Service for each of such District Fiscal Years, after giving effect to the incurrence of all Parity Obligations estimated to be required to be incurred to pay the costs of completing all uncompleted Parity Projects within such District Fiscal Years, assuming that all such Parity Obligations have maturities, interest rates and proportionate principal repayment provisions similar to the Parity Obligation last incurred or then being incurred for the purpose of acquiring and constructing any of such uncompleted Parity Projects.

(iv) For purposes of this clause (b), the amount of Net Revenues may be increased by Budgeted Transfers (measured as of the last day of the immediately preceding District Fiscal Year), such amount to be no greater than twenty-five percent (25%) of Parity Debt Service payable in the applicable District Fiscal Year.

	<p>(c) Notwithstanding clause (b) above, Additional Parity Obligations may be incurred to refund outstanding Parity Obligations if the Parity Debt Service in each District Fiscal Year after the District Fiscal Year in which such Additional Parity Obligations are issued or executed is not greater than one hundred ten percent (110%) of the Parity Debt Service which would have been payable in each such District Fiscal Year prior to the issuance or execution of such Additional Parity Obligations.</p> <p>(d) The District may incur Additional Subordinate Obligations in accordance with the terms of the WIFIA Master Agreement; <u>provided that:</u></p> <p>(i) the Net Revenues remaining after payment of Parity Debt Service for the last audited District Fiscal Year, or any consecutive twelve (12) calendar month period during the eighteen (18) calendar month period preceding the date of the issuance or execution of such Additional Subordinate Obligations, 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 District Fiscal Year or other twelve (12) month period; and</p> <p>(ii) the Net Revenues remaining after payment of Parity Debt Service for the last audited District Fiscal Year, or any consecutive twelve (12) calendar month period during the eighteen (18) calendar month period preceding the date of issuance or the execution of such Additional Subordinate Obligations, including adjustments to give effect as of the first day of such District Fiscal Year or other twelve (12) 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 sum of (A) the Subordinate Debt Service for such District Fiscal Year or other twelve (12) month period, plus (B) the Subordinate Debt Service which would have accrued on any Subordinate Obligations issued since the end of such District Fiscal Year or other twelve (12) month period, assuming that such Subordinate Obligations had been issued or executed at the beginning of such District Fiscal Year or other twelve (12) month period, plus (C) the Subordinate Debt Service which would have accrued had such proposed Additional Subordinate</p>
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	<p>Obligations been issued or executed at the beginning of such District Fiscal Year or other twelve (12) month period.</p> <p>(iii) For purposes of this clause (d), the amount of Net Revenues may be increased by Budgeted Transfers (measured as of the last day of the immediately preceding District Fiscal Year), such amount to be no greater than ten percent (10%) of Subordinate Debt Service payable in the applicable District Fiscal Year.</p> <p>(e) Notwithstanding clause (d) above, Additional Subordinate Obligations may be incurred to refund outstanding Parity Obligations or Subordinate Obligations if the sum of the Parity Debt Service and Subordinate Debt Service in each District Fiscal Year after the District Fiscal Year in which such Additional Subordinate Obligations are incurred is not greater than one hundred ten percent (110%) of the sum of the Parity Debt Service and Subordinate Debt Service which would have been payable in each such District Fiscal Year prior to the incurrence of such Additional Subordinate Obligations.</p> <p>“System” means the whole and each and every part of the water system of the District, including all real property and buildings, including the portion thereof existing on the date hereof and including the Project and all additions, betterments, extensions and improvements to such system or any part thereof hereafter acquired or constructed.</p>
<p>RESTRICTED PAYMENTS AND TRANSFERS</p>	<p>The District shall not permit Revenues or any funds in any other fund or account held by or on behalf of the District with respect to the System, to be paid or transferred or otherwise applied for purposes that would violate the terms of Section 5.02 (<i>Allocation of Revenues</i>) of the WIFIA IPA.</p>
<p>WIFIA LOAN DOCUMENTATION</p>	<p>The WIFIA Loan shall be subject to the preparation, execution and delivery of the WIFIA Loan Agreement, the WIFIA IPA, the WIFIA Note and any other loan documentation required by the WIFIA Lender in connection therewith, in each case acceptable to the WIFIA Lender, the Borrower and the District, which will contain certain conditions precedent, representations and warranties, affirmative and negative covenants, events of default, in each case, with respect to the Borrower and the District, and other provisions as agreed among the WIFIA Lender, the Borrower and the District, in each case in accordance with the terms of the WIFIA Master Agreement.</p>
<p>GOVERNING LAW</p>	<p>Federal laws of the United States of America, if and to the extent such federal laws are applicable, and the internal laws of the State of California, if and to the extent such federal laws are not applicable.</p>

[Signature pages follow]

If the foregoing terms are acceptable, please countersign this letter in the space indicated below.

Sincerely,

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

By: _____

Name: Michael S. Regan

Title: Administrator

ACKNOWLEDGED AND AGREED:

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

by its authorized representative

By: _____

Name:

Title:

ACKNOWLEDGED AND AGREED:

SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT,
by its authorized representative

By: _____
Name:
Title:

INSTALLMENT PURCHASE AGREEMENT

by and between

SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT

and

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

Dated as of _____, 2023

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 ____, 2023, by and between SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT, a municipal water 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.

B. The Authority has agreed to assist the District in financing a portion of the WIFIA Project (as defined below) 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 20 of the Water Code of the State of California, including but not limited to Section 71690 and 71691 thereof, to acquire and construct facilities such as the WIFIA Project for its System.

E. The Authority, the District 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) a WIFIA Master Agreement dated as of ____, 2023 (the “**WIFIA Master Agreement**”) and (b) a WIFIA Loan Agreement dated as of ____, 2023 (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.

Budgeted Transfers

The term "Budgeted Transfers" means, for any Fiscal Year, lawfully available amounts, including in the Rate Stabilization Fund, as of the last day of such Fiscal Year, in each case, (a) which may be lawfully used to pay the WIFIA Installment Payments and (b) that have been transferred to the Revenue Fund, pursuant to a budget process where such amounts have been budgeted and approved by the Board of Directors of the District (and which removal from the Revenue Fund would require a separate budget and approval process by the Board of Directors of the District prior to any such removal), for application solely to the System.

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 the 2011 Installment Purchase Agreement, but excluding contracts entered into for operation and maintenance of the System.

Date of Operation

The term “Date of Operation” means, with respect to any uncompleted Project, the estimated date by which such uncompleted Project will have been completed and, in the opinion of the District, will be ready for operation by or on behalf of the District.

Debt Service

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

(i) the interest required to be paid 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 Contracts 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 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 the San Bernardino Valley Municipal Water District, a municipal water district that is duly organized and existing under and by virtue of the Law.

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 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 Municipal Water District Act, of the State of California (being Division 20 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 in a Fiscal Year 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) required to be paid by it to comply with the terms of this WIFIA Installment Purchase Agreement or any other Contract or of any resolution or indenture authorizing the issuance of any Bonds or of such Bonds and (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 including but not limited to payments under the Water Supply Contract; *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 (II) 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 any 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 established by that name pursuant to Section 5.06.

Revenue Fund

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

Revenues

The term “Revenues” means all income, rents, rates, fees, charges and other moneys derived by the District from the ownership or operation of the System on or after the date hereof, including, without limiting the generality of the foregoing:

(a) all income, rents, rates, fees, charges and other moneys derived by the District from the sale, furnishing and supplying of the water or other services, facilities, and commodities sold, furnished or supplied through the facilities of or in the conduct or operation of the business of the System, including but not limited to income received from retail water agencies under take-or-pay contracts for water produced by the Project;

(b) all proceeds of the County of San Bernardino and County of Riverside 1% *ad valorem* property tax allocated to and received by the District, including all proceeds of the unitary tax received by the District;

(c) pass-through payments from redevelopment or successor agencies pursuant to the Health and Safety Code of the State;

(d) all other income, rents, rates, fees, charges, business interruption insurance proceeds or other moneys received by the District; and

(e) the earnings on and income derived from the investment of amounts described in clauses (a) – (d) above and from District unrestricted reserves;

but excluding:

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

(II) any proceeds of taxes or assessments levied by the District to pay the Water Supply Contract and any other bonds, notes, contracts or obligations hereafter issued or executed.

“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(d).

Service

The term “Service” means the water service that is made available or provided by the District, including wholesale water sales to retail water providers.

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(b) 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 system of the District, including all real property and buildings, including the portion thereof existing on the date hereof, and including the WIFIA Project and all additions, betterments, extensions and improvements to such System or any part thereof hereafter acquired or constructed.

Treasurer

The term “Treasurer” means the Chief Financial Officer/Deputy General Manager of the District or the successor thereto.

2011 Installment Purchase Agreement

The term “2011 Installment Purchase Agreement” means the Installment Purchase Agreement, dated as of June 1, 2011, by and between the District and the San Bernardino Valley Municipal Water District Financing Corporation, as originally executed and as it may be amended or supplemented in accordance with the terms thereof.

Water Supply Contract

The term “Water Supply Contract” means the Water Supply Contract, dated December 30, 1960, between the State of California Department of Water Resources and the District, as amended to the date hereof and as may be amended or extended from time to time in accordance therewith and including an interim or renewal arrangement with respect thereto.

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 identified by account number 6232, 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, as more particularly set forth in Exhibit A attached hereto, (a) with respect to the payment of interest, the fifth (5th) day prior to each January 1 and July 1 and (b) with respect to the payment of principal, the fifth (5th) day prior to each July 1, in each case if said date is not a Business Day, then the preceding Business Day.

WIFIA Installment Payments

The term “WIFIA Installment Payments” means payments of interest and principal scheduled to be paid by the District under and pursuant to this WIFIA 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 _____, 2023, 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” has the meaning ascribed to the term “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, 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 municipal 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 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 due to the occurrence of any Uncontrollable Force (as defined in the WIFIA Master Agreement) 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 WIFIA Installment Payments to be made by the District hereunder and the applicable WIFIA Installment Payment Dates are 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 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 WIFIA Loan Amortization Schedule in Exhibit A (*WIFIA Loan Amortization Schedule*) to the WIFIA Loan Agreement 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 A (*WIFIA Loan Amortization Schedule*) 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. All Revenues, the Revenue Fund and all amounts that are on deposit in the Revenue Fund, and the Rate Stabilization Fund and all amounts that are on deposit in the Rate Stabilization Fund, 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, the Revenue Fund and the Rate Stabilization Fund for the payment of the WIFIA Installment Payments and all other Contracts and Bonds in accordance with the terms hereof, which lien shall be (a) *pari passu* with the liens created with respect to any Bonds and Contracts in accordance with the terms hereof and (b) senior to the liens created with respect to any Subordinate Debt 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 Account and all amounts on deposit in the WIFIA Debt Service Account, 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 WIFIA Debt Service Account 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 at the following times in the following respective special funds in the following order of priority, as provided in this Section 5.02. All moneys in such funds shall be held in trust and shall be applied, used and withdrawn only for the purposes hereinafter authorized in this Section 5.02.

(a) Operation and Maintenance Costs. 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.

(b) Bonds and Contracts. The District shall, from the moneys in the Revenue Fund, transfer to the WIFIA Debt Service Account 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 WIFIA Loan Agreement, Contract, Bond, resolution or indenture relating thereto.

(c) 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.

(d) 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 the Law, in accordance with Article XIID of the California Constitution, including but not limited to payment of Subordinate Debt, or deposited in the Rate Stabilization Fund, subject to the terms of the WIFIA Master Agreement.

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-five percent (125%) of the Debt Service for such Fiscal Year or other twelve month period;

(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-five percent (125%) 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; and

(c) The estimated Net Revenues for the then current Fiscal Year and for each Fiscal Year thereafter to and including the first complete Fiscal Year after the latest Date of Operation of any uncompleted Project, as evidenced by a certificate of the Manager on file with the District, including (after giving effect to the completion of all such uncompleted Projects) an allowance for estimated Net Revenues for each of such Fiscal Years arising from any increase in the income, rents, fees, rates and charges estimated to be fixed and prescribed or received for the Service and which are economically feasible and reasonably considered necessary based on projected operations for such period, as evidenced by a certificate of the Manager on file with the District, shall produce a sum equal to at least one hundred twenty five-percent (125%) of the estimated Debt Service for each of such Fiscal Years, after giving effect to the execution of all Contracts and the issuance of all Bonds estimated to be required to be executed or issued to pay the costs of completing all uncompleted Projects within such Fiscal Years, assuming that all such Contracts and Bonds have maturities, interest rates and proportionate principal repayment provisions similar to the Contract last executed or then being executed or the Bonds last issued or then being issued for the purpose of acquiring and constructing any of such uncompleted Projects.

(d) For purposes of this Section 5.03, the amount of Net Revenues may be increased by Budgeted Transfers (measured as of the last day of the immediately preceding Fiscal Year), such amount to be no greater than twenty-five percent (25%) of Debt Service payable in the applicable 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 110% 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; and

(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 date of 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 sum of (i) the Subordinate Debt Service for such Fiscal Year or other twelve month period, plus (ii) 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 (iii) 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.

(c) For purposes of this Section 5.04, the amount of Net Revenues may be increased by Budgeted Transfers (measured as of the last day of the immediately preceding Fiscal Year), such amount to be no greater than ten percent (10%) of Subordinate Debt Service payable in the applicable Fiscal Year.

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 110% 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. There is hereby 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(d) 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 6232. 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 Master 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 WIFIA Installment Purchase Agreement that, subject to Section 9.06 hereof, each of the agreements, conditions, covenants and terms contained in this WIFIA Installment Purchase 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 or the Rate Stabilization 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, (a) 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 or the Rate Stabilization 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 (b) issue Subordinate Debt 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 or the Rate Stabilization Fund as may from time to time be deposited therein (as provided in Section 5.02) 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 Master 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 and the Authority hereby acknowledge that certain public and private agencies, corporations, districts or other political subdivisions, other than the District, currently operate water supply and distribution systems within the boundaries of the District and that nothing contained in this Agreement is intended to alter or affect such activities. The District shall not: (i) to the extent permitted by law, acquire, construct, maintain or operate, any water importation and treatment facility that is competitive with the System; or (ii) 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 service area of the System any water importation and treatment facility that is 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 Master 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 damage 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 from reputable insurance companies 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-five percent (125%) of the Debt Service payable in such Fiscal Year and (ii) Net Revenues remaining after payment of Debt Service payable in such Fiscal Year equal to one hundred ten percent (110%) of Subordinate Debt Service payable in such Fiscal Year. Budgeted Transfers, in an amount not to exceed twenty-five percent (25%) of Debt Service referred to in the preceding sentence, as of the last day of the immediately preceding Fiscal Year may be credited towards the District's obligations under this clause (a).

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 clause (a) 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 immediately 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 to be supplied to the District which consent, revision, amendment or other action will reduce the supply of 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 Master 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 ten (10) days nor more than thirty (30) 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” (as defined in the WIFIA Master Agreement) under the WIFIA Loan Agreement or the WIFIA Master 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 referred to in clause (1) 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 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, with the prior written consent of the Authority Lender, may rescind and annul such declaration and its consequences by written notice to the District; 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 foregoing 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, without preference or priority, and in the event of any insufficiency of such moneys ratably without any discrimination or preference, of the entire principal amount of the unpaid WIFIA Installment Payments and the unpaid principal amount of all Bonds and all 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;

(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;

(d) to apply the Default Rate to the unpaid balance of the Purchase Price; or

(e) suspend or terminate all of its obligations hereunder with respect to the allocation of any undisbursed amount of the WIFIA Loan.

Notwithstanding anything contained herein, other than as expressly provided 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 Master 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 WIFIA Installment Purchase 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 WIFIA Installment Purchase 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, the Rate Stabilization 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, the Rate Stabilization 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. Each of the Authority and the District agrees that the Authority Lender shall be a third party beneficiary to this WIFIA Installment Purchase Agreement 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 parties.

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 WIFIA Installment Payment 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 of 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 (a) in the case of the Authority Lender, by email to its email address set forth below and (b) in the case of the Authority and the District, 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: San Bernardino Valley Municipal Water District
380 E Vanderbilt Way
San Bernardino, California 92408
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- E 7334A
1200 Pennsylvania Avenue NW
Washington, D.C. 20460
Attention: WIFIA Director
Email: 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 their duties hereunder or to the extent provided in the WIFIA Loan Agreement, under the WIFIA Loan Agreement.

Section 9.14. Amendments Permitted. This WIFIA Installment Purchase 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.

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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.

SAN BERNARDINO VALLEY MUNICIPAL
WATER DISTRICT

By: _____
President of the Board of Directors

ATTEST:

Clerk of the Board of Directors

UPPER SANTA ANA RIVER WATERSHED
INFRASTRUCTURE FINANCING AUTHORITY

By: _____
Executive Director

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 are payable in the amounts and on the WIFIA Installment Payment Dates as follows:

<i>Installment Payment Dates (Five Days Prior to)</i>	<i>Amount Attributable to Principal</i>	<i>Amount Attributable to Interest</i>	<i>Total</i>
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<i>Installment Payment Dates (Five Days Prior to)</i>	<i>Amount Attributable to Principal</i>	<i>Amount Attributable to Interest</i>	<i>Total</i>
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Total	\$	\$	\$
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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 San Bernardino Valley Municipal Water District, a municipal water 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 as of _____, 2023 (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__

SAN BERNARDINO VALLEY MUNICIPAL
WATER 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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EXHIBIT E

GOOD FAITH ESTIMATES PURSUANT TO GOVERNMENT CODE SECTION 5852.1

The good faith estimates set forth herein are provided with respect to the 2023 SBVMWD WIFIA Loan and the 2023 SBVMWD WIFIA Loan Agreement in accordance with California Government Code Section 5852.1. Such good faith estimates have been provided to the Upper Santa Ana River Watershed Infrastructure Financing Authority (the “Authority”) by Fieldman, Rolapp & Associates, Inc., the Authority’s municipal advisor in connection with the execution of the 2023 SBVMWD WIFIA Loan Agreement (the “Municipal Advisor”).

Principal Amount. The Municipal Advisor has informed the Authority that, based on the Authority’s financing plan and current market conditions, its good faith estimate of the aggregate amount of the 2023 SBVMWD WIFIA Loan is expected to be \$85,155,031 (reflecting a draw of \$69,818,796 and capitalized interest of \$15,336,235).

True Interest Cost of the 2023 SBVMWD WIFIA Loan. The Municipal Advisor has informed the Authority that based on the expected interest rates prevailing at the time of preparation of such estimate, their good faith estimate of the true interest cost of the 2023 SBVMWD WIFIA Loan, which means the rate necessary to discount the amounts payable on the respective principal and interest payment dates to the purchase price received for the 2023 SBVMWD WIFIA Loan, is 3.94%.

Finance Charge of the 2023 SBVMWD WIFIA Loan. The Municipal Advisor has informed the Authority that, assuming that the 2023 SBVMWD WIFIA Loan is executed, their good faith estimate of the finance charge for the 2023 SBVMWD WIFIA Loan, which means the sum of all fees and charges paid to third parties (or costs associated with the 2023 SBVMWD WIFIA Loan), is \$1,508,797.

Amount of Proceeds to be Received. The Municipal Advisor has informed the Authority that based on estimated interest rates prevailing at the time of preparation of such estimate, their good faith estimate of the amount of proceeds expected to be received by the Authority for sale of the 2023 SBVMWD WIFIA Loan, less the finance charge of the 2023 SBVMWD WIFIA Loan, as estimated above, and any reserves or capitalized interest paid or funded with proceeds of the 2023 SBVMWD WIFIA Loan, is \$58,818,796.

Total Payment Amount. The Municipal Advisor has informed the Authority that based on interest rates prevailing at the time of preparation of such estimate, their good faith estimate of the total payment amount, which means the sum total of all payments the Authority will make to pay debt service on the 2023 SBVMWD WIFIA Loan, plus the finance charge for the 2023 SBVMWD WIFIA Loan, as described above, not paid with the proceeds of the 2023 SBVMWD WIFIA Loan, calculated to the final maturity of the 2023 SBVMWD WIFIA Loan, is \$171,369,824, which excludes any reserves funded with proceeds of the 2023 SBVMWD WIFIA Loan (which may offset such total payment amount).

The foregoing estimates constitute good faith estimates only as of February 27, 2023, and are based on information provided in the draft 2023 SBVMWD WIFIA Loan Agreement at the time of preparation of such estimates. The actual principal amount of the 2023 SBVMWD WIFIA Loan to be incurred, the true interest cost thereof, the finance charges thereof, the amount of proceeds received therefrom and total payment amount with respect thereto may differ from such good faith estimates

due to (a) the actual date of the entering into the 2023 SBVMWD WIFIA Loan being different than the date assumed for purposes of such estimates, (b) the actual principal amount of 2023 SBVMWD WIFIA Loan sold being different from the principal amount, (c) the actual amortization of the 2023 SBVMWD WIFIA Loan being different than the amortization assumed for purposes of such estimates, (d) the actual interest rates at the time of sale of the 2023 SBVMWD WIFIA Loan being different than those estimated for purposes of such estimates, (e) other market conditions, (f) alterations in the Authority's financing plan, or a combination of such factors. The actual date of execution of the 2023 SBVMWD WIFIA Loan and the actual principal amount of the 2023 SBVMWD WIFIA Loan sold will be determined by the Authority based on the timing of the need for proceeds of the 2023 SBVMWD WIFIA Loan and other factors. Factors such as the final loan repayment schedule, any changes to the interest rate on the 2023 SBVMWD WIFIA Loan and timing of the execution of the 2023 SBVMWD WIFIA Loan Agreement may be affected by factors beyond the control of the Authority, or the Municipal Advisor.