



CLEAN WATER

COUNTY SANITATION DISTRICTS OF LOS ANGELES COUNTY

named herein

AND

CALIFORNIA STATE WATER RESOURCES CONTROL BOARD



CONSTRUCTION
INSTALLMENT SALE AGREEMENT

DATED AS OF _____, 2022

[JOINT WATER POLLUTION CONTROL PLANT EFFLUENT OUTFALL TUNNEL PROJECT]

AGREEMENT NO. []

PROJECT FUNDING AMOUNT: \$
ESTIMATED REASONABLE PROJECT COST: \$

ELIGIBLE WORK START DATE: _____
ELIGIBLE CONSTRUCTION START DATE: _____
CONSTRUCTION COMPLETION DATE: _____
FINAL DISBURSEMENT REQUEST DATE: _____
FINAL PAYMENT DATE: _____
RECORDS RETENTION END DATE: _____

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AGREEMENT

1. AUTHORITY.

(a) The State Water Resources Control Board (State Water Board) is authorized, and implements its authority, to provide financial assistance under this Agreement pursuant to Section 13475 et seq. of the Water Code, and Resolution Nos. 2019-0064 and 2020-0023.

(b) The Recipients are authorized to enter into this Construction Installment Sale Agreement (Agreement) pursuant to Resolution No. _____, dated _____ (District No. _____), Resolution No. _____, dated _____ (District No. _____), Resolution No. _____, dated _____ (District No. _____), Resolution No. _____, dated _____ (District No. _____), Resolution No. _____, dated _____ (District No. _____), Resolution No. _____, dated _____ (District No. _____), Resolution No. _____, dated _____ (District No. _____), Resolution No. _____, dated _____ (District No. _____), Resolution No. _____, dated _____ (District No. _____), Resolution No. _____, dated _____ (District No. _____), Resolution No. _____, dated _____ (District No. _____), Resolution No. _____, dated _____ (District No. _____), Resolution No. _____, dated _____ (District No. _____), Resolution No. _____, dated _____ (District No. _____), Resolution No. _____, dated _____ (District No. _____), and Resolution No. _____, dated _____ (District No. _____).

2. INTENTION.

(a) The Recipients desire to receive financial assistance for and undertake work required for the wastewater construction Project according to the terms and conditions set forth in this Agreement.

(b) The State Water Board proposes to assist in providing financial assistance for eligible costs of the Project in the amount set forth in Exhibit B, according to the terms and conditions set forth in this Agreement, with the expectation that the Recipients shall repay all of the financial assistance to the State Water Board.

(c) Each Recipient intends to evidence its obligation to submit Payments to the State Water Board and secure its obligation with Net Revenues of its Sewerage System, as set forth in Exhibit B, according to the terms and conditions set forth in this Agreement.

3. AGREEMENT, TERM, DOCUMENTS INCORPORATED BY REFERENCE.

In consideration of the mutual representations, covenants and agreements herein set forth, the State Water Board and each Recipient, each binding itself, its successors and assigns, do mutually promise, covenant, and agree to the terms, provisions, and conditions of this Agreement.

(a) Each Recipient hereby purchases from the State Water Board, and the State Water Board hereby sells to such Recipient, such Recipient's Shared Project Percentage with respect to the Project for a purchase price equal to the Payments payable by such Recipient to the State Water Board in accordance with the provisions of this Agreement. All right, title, and interest in the Project shall immediately vest in the Recipients on the date of execution and delivery of this Agreement by all of the parties without further action on the part of the Recipients or the State Water Board.

(b) Subject to the satisfaction of any condition precedent to this Agreement, this Agreement shall become effective upon the signature of all of the Recipients and the State Water Board. Conditions precedent are not limited to the following:

- i. Each Recipient must deliver to the Division a resolution authorizing this Agreement.

- ii. Each Recipient must deliver an opinion of bond counsel and general counsel satisfactory to the State Water Board's counsel dated on or after the date that the Recipients sign this Agreement.
- (c) Upon execution, the term of the Agreement shall begin on the Eligible Work Start Date and extend through the Final Payment Date.
- (d) This Agreement includes the following exhibits and attachments thereto:
- i. EXHIBIT A – SCOPE OF WORK
 - ii. EXHIBIT B – FUNDING TERMS
 - iii. EXHIBIT C – GENERAL & PROGRAMMATIC TERMS & CONDITIONS
 - iv. EXHIBIT D – SPECIAL CONDITIONS
 - v. EXHIBIT E – PAYMENT SCHEDULE
 - vi. EXHIBIT F – [Reserved.]
 - vii. EXHIBIT G – MASTER OBLIGATION AGREEMENT
- (e) This Agreement includes the following documents incorporated by reference:
- i. the Final Plans & Specifications, dated _____, which are the basis for the construction contract to be awarded by the Recipient;
 - ii. the Waste Discharge Requirement Order No. _____ (and/or National Pollutant Discharge Elimination System Permit No. _____);
 - iii. the Davis-Bacon requirements found at:
https://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/docs/davisbac/on/davis-bacon_2020_cwsrf-governmental_entities_public.pdf
 - iv. the Master Obligation Agreement
- (f) This Agreement, and any amendments hereto, may be executed and delivered in any number of counterparts, each of which when delivered shall be deemed to be an original, but such counterparts shall together constitute one document. The parties may sign this Agreement, and any amendments hereto, either by an electronic signature using a method approved by the State Water Board or by a physical, handwritten signature. The parties mutually agree that an electronic signature using a method approved by the State Water Board is the same as a physical, handwritten signature for the purposes of validity, enforceability, and admissibility.

4. PARTY CONTACTS

| | | | |
|-------------------|---|---|---|
| State Water Board | | County Sanitation District No.2 of Los Angeles County | |
| Section: | Division of Financial Assistance | | |
| Name: | Project Manager | Name: | Title |
| Address: | 1001 I Street, ___ Floor | Address: | 1955 Workman Mill Road P.O. Box 4998 |
| City, State, Zip: | Sacramento, CA 95814 | City, State, Zip: | Whittier, California 90607-4998 |
| Phone: | (916) | Phone: | |
| Fax: | (916) | Fax: | |
| Email: | [PMemail]@waterboards.ca.gov [programemail@waterboards.ca.gov] | Email: | |

The Recipients may change their contact upon written notice to the Division, which notice shall be accompanied by authorization from the Recipients' Authorized Representative. The State Water Board will notify the Recipients of any changes to its contact.

While the foregoing are contacts for day-to-day communications regarding Project work, the Recipients shall provide official communications and events of Notice as set forth in Exhibit C to the Division's Deputy Director.

5. DEFINITIONS AND MASTER OBLIGATION AGREEMENT PROVISIONS.

Section 5.1. Definitions.

The terms defined in this Section shall for all purposes of this Agreement and of any certificate, opinion or other document herein or therein mentioned, have the meanings herein specified. Except as otherwise defined herein and unless the context otherwise requires, capitalized undefined terms used herein shall have the same meanings ascribed thereto in the Master Obligation Agreement. References in the Master Obligation Agreement to "District" shall, for the purposes hereof, be deemed to be a reference to "Recipient," and references in the Master Obligation Agreement to "Districts" shall, for the purposes hereof, be deemed to be references to "Recipients."

"Additional Payments" means the reasonable extraordinary fees and expenses of the State Water Board, and of any assignee of the State Water Board's right, title, and interest in and to this Agreement, in connection with this Agreement, including all expenses and fees of accountants, trustees, staff, contractors, consultants, costs, insurance premiums and all other extraordinary costs reasonably incurred by the State Water Board or assignee of the State Water Board.

"Administering District" means District No. 2.

"Administrative Costs" has the meaning ascribed to such term in the Master Obligation Agreement and Exhibit D of this Agreement.

"Allowance" means an amount based on a percentage of the accepted bid for an eligible project to help defray the planning, design, and construction engineering and administration costs of the Project.

"Agreement" means this Construction Installment Sale Agreement, Agreement No ____, including all exhibits and attachments hereto, by and among the Recipients and the State Water Board, as originally executed and as it may from time to time be amended, supplemented or otherwise modified in accordance with the terms hereof.

"Authorized Representative" means (a) with respect to the Recipients, the Chief Engineer and General Manager of District No. 2 (or his or her designee) and any other Person designated as an Authorized Representative of the Recipients in a Written Certificate of District No. 2 filed with the State Water Board, and (b) with respect to a Recipient, the Chief Engineer and General Manager of such Recipient (or his or her designee) and any other Person designated as an Authorized Representative of such Recipient in a Written Certificate of such Recipient filed with the State Water Board.

"Charge In Lieu of Interest" means any fee or charge in lieu of some or all of, but not to exceed, the interest that would otherwise be owed under this Agreement, as set forth in Exhibit E.

"Completion of Construction" means the date, as determined by the Division after consultation with the Recipient, that the work of building and erection of the Project is substantially complete, and is identified in Exhibit A of this Agreement.

"Cover Page" means the front page of this Agreement.

"Days" means calendar days unless otherwise expressly indicated.

"Debt Service" has the meaning ascribed to such term in the Master Obligation Agreement and Exhibit D of this Agreement.

“Deputy Director” means the Deputy Director of the Division.

“Division” means the Division of Financial Assistance of the State Water Board or any other segment of the State Water Board authorized to administer this Agreement.

“Eligible Construction Start Date” means the date set forth on the Cover Page of this Agreement, establishing the date on or after which construction costs may be incurred and eligible for reimbursement hereunder.

“Eligible Work Start Date” means the date set forth on the Cover Page of this Agreement, establishing the date on or after which any non-construction costs may be incurred and eligible for reimbursement hereunder.

“Event of Default” means, with respect to a Recipient and this Agreement, the occurrence of any of the following events:

- a) Failure by such Recipient to make any Payment required to be paid pursuant to this Agreement;
- b) A representation or warranty made by or on behalf of such Recipient in this Agreement or in any document furnished by or on behalf of such Recipient to the State Water Board pursuant to this Agreement shall prove to have been inaccurate, misleading or incomplete in any material respect;
- c) A material adverse change in the condition of such Recipient, the Revenues of such Recipient, or the Sewerage System of such Recipient, which the Division reasonably determines would materially impair such Recipient’s ability to satisfy its obligations under this Agreement.
- d) Failure by such Recipient to comply with the additional debt test or reserve fund requirement, if any, in Exhibit B or Exhibit D of this Agreement or the MOA;
- e) Failure by such Recipient to operate its Sewerage System or the Project without the Division’s approval;
- f) Failure by such Recipient to observe and perform any covenant, condition, or provision in this Agreement, which failure shall continue for a period of time, to be determined by the Division;
- g) The occurrence of a material breach or event of default under any Senior Obligations of such Recipient that results in the acceleration of principal or interest or otherwise requires immediate prepayment, repurchase or redemption;
- h) Initiation of proceedings seeking arrangement, reorganization, or any other relief with respect to such Recipient under any applicable bankruptcy, insolvency, or other similar law; the appointment of or taking possession of such Recipient’s property by a receiver, liquidator, assignee, trustee, custodian, conservator, or similar official; such Recipient’s entering into a general assignment for the benefit of creditors; the initiation of resolutions or proceedings to terminate such Recipient’s existence, or any action in furtherance of any of the foregoing;
- i) A determination pursuant to Government Code section 11137 that such Recipient has violated any provision in Article 9.5 of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code;
- j) Loss of such Recipient’s rights, licenses, permits, or privileges necessary for the operation of its Sewerage System or the Project, or the occurrence of any material restraint on such Recipient’s Sewerage System by a government agency or court order; or
- k) The occurrence and continuance of an MOA Default Event with respect to such Recipient.

“Final Disbursement Request Date” means the date set forth as such on the Cover Page of this Agreement, after which date, no further Project Funds disbursements may be requested.

“Final Payment Date” is the date by which all principal and accrued interest of the Payments due under this Agreement is to be paid in full to the State Water Board and is specified on the Cover Page of this Agreement.

"Fiscal Year" has the meaning ascribed to such term in the Master Obligation Agreement and Exhibit D of this Agreement; for purposes hereof, references therein to "District" shall be deemed to be references to the Recipient.

"Force Account" means the use of a Recipient's own employees, equipment or resources for the Project.

"Generally Accepted Accounting Principles" or "GAAP" has the meaning ascribed to the term "Generally Accepted Accounting Principles" in the Master Obligation Agreement and Exhibit D of this Agreement.

"Initiation of Construction" means the date that notice to proceed with work is issued for the Project, or, if notice to proceed is not required, the date of commencement of building and erection of the Project.

"Master Obligation Agreement" or "MOA" means the Master Obligation Agreement, dated as of April 1, 2022, by and among the County Sanitation Districts of Los Angeles County party thereto and Zions Bancorporation, National Association, as Master Trustee, as originally executed and as amended, supplemented or otherwise modified in accordance with the terms thereof [, as of (date), and as incorporated as Exhibit G of this Agreement].

"Material Obligation" means, with respect to a Recipient, an obligation of such Recipient that is material to this transaction, including System Obligations of such Recipient.

"MOA Default Event" has the meaning ascribed to the term "Event of Default" in the Master Obligation Agreement

"Net Revenues" has the meaning ascribed to such term in the Master Obligation Agreement and Exhibit D of this Agreement.

"Obligation" has the meaning ascribed to the term "Obligations" in the Master Obligation Agreement and Exhibit D of this Agreement.

"Operations and Maintenance Costs" has the meaning ascribed to such term in the Master Obligation Agreement and Exhibit D of this Agreement.

"Payments" means installment payments due to the State Water Board from the Recipients pursuant to this Agreement.

"Policy" means the State Water Board's "Policy for Implementing the Clean Water State Revolving Fund," as amended from time to time, including the Intended Use Plan in effect as of the execution date of this Agreement.

"Project" means the Project financed by this Agreement as described in Exhibits A and B and in the documents incorporated by reference herein.

"Project Completion" means the date, as determined by the Division after consultation with the Recipients, that operation of the Project is initiated or is capable of being initiated, whichever comes first.

"Project Costs" means the incurred costs of the Recipients which are eligible for financial assistance under this Agreement, which are allowable costs as defined under the Policy, and which are reasonable, necessary and allocable by the Recipients to the Project under Generally Accepted Accounting Principles, and may include capitalized interest.

"Project Funds" means all moneys disbursed to the Recipients by the State Water Board for eligible Project Costs pursuant to this Agreement.

“Recipients” means District No. 1, District No. 2, District No. 3, District No. 5, District No. 8, District No. 15, District No. 16, District No. 17, District No. 18, District No. 19, District No. 21, District No. 22, District No. 23, District No. 28, District No. 29, District No. 34 and SBC Sanitation District.

“Records Retention End Date” means the last date that the Recipients are obligated to maintain records and is set forth on the Cover Page of this Agreement.

“Regional Water Quality Control Board” or “Regional Water Board” means the appropriate Regional Water Quality Control Board.

“Reserve Fund” means the reserve fund required pursuant to Exhibit B of this Agreement.

“Revenues” has the meaning ascribed to such term in the Master Obligation Agreement and Exhibit D of this Agreement.

“Senior Obligations” has the meaning ascribed to such term in the Master Obligation Agreement and Exhibit D of this Agreement; which, as of the date of execution of this Agreement, include the following Obligations:

- .

“Sewerage System” has the meaning ascribed to such term in the Master Obligation Agreement and Exhibit D of this Agreement.

“Shared Project” has the meaning ascribed to such term in the Master Obligation Agreement and Exhibit D of this Agreement.

“Shared Project Group” has the meaning ascribed to such term in the Master Obligation Agreement and Exhibit D of this Agreement.

“Shared Project Percentage” means, with respect to a Recipient, [for any period, the percentage, specified in decimal form, of the quotient of (a) the number of Sewage Units attributable to such Recipient for such period, divided by (b) the aggregate number of Sewage Units attributable to all of the Recipients for such period (which methodology for determining such Shared Project Percentage conforms to the methodology by which costs of the Joint Outfall System are allocated among the Recipients pursuant to the Joint Outfall Agreement)] [Replace with reference Exhibit F fixed percentages, if applicable].

“SRF” means the Clean Water State Revolving Fund.

“State” means State of California.

“State Water Board” means the State Water Resources Control Board.

“Subordinate Obligations” has the meaning ascribed to such term in the Master Obligation Agreement and Exhibit D of this Agreement. As of the date of execution of this Agreement, the Recipients do not have any Subordinate Obligations.

“Support Group” has the meaning ascribed to such term in the Master Obligation Agreement and Exhibit D of this Agreement.

“Supported Obligations” has the meaning ascribed to such term in the Master Obligation Agreement and Exhibit D of this Agreement.

“System Obligation” means any obligation of the Recipient payable from the Revenues, including but not limited this Obligation, any Senior Obligation, and any Subordinate Obligation, and such additional

obligations as may hereafter be issued in accordance with the provisions of such obligations, the Master Obligation Agreement, and this Agreement.

“Useful Life” means the economically useful life of the Project beginning at Completion of Construction and is set forth in Exhibit A.

“Year” means calendar year unless otherwise expressly indicated.

Section 5.2. Senior Obligations; Senior Obligation Instrument.

The Payments of each Recipient are hereby designated as Senior Obligations of such Recipient. This Agreement constitutes a Senior Contract with respect to each Recipient and, consequently, a Senior Obligation Instrument with respect to each Recipient.

Section 5.3. Shared Project Obligations. The Payments are Shared Project Obligations.

- (b) The members of the Shared Project Group for the Payments are the Recipients.
- (c) The Shared Project financed by the Payments is the Project.
- (d) The Shared Project Percentage with respect to a Recipient is the Shared Project Percentage (as defined in this Agreement) with respect to such Recipient, and each Recipient shall be responsible only for its Shared Project Percentage of the costs of the Project and shall not be responsible for the Shared Project Percentage of such costs of any other Recipient.
- (e) Each Recipient’s Payments due and payable on any date shall be equal to the product of (i) such Recipient’s Shared Project Percentage, times (ii) the aggregate of the Payments of all of the Recipients, including such Recipient, due and payable on such date.
- (f) The obligations of the Recipients hereunder are several, and not joint, obligations.

Section 5.4. Supported Obligations.

- (a) The Payments are both Shared Project Obligations and Supported Obligations. The Recipients, which constitute the members of the Shared Project Group for the Payments, also constitute the members of the Support Group for the Payments.
- (c) The Project, which constitutes the Shared Project financed by the Payments, also constitutes the Supported Project financed by the Payments.
- (d) The Shared Project Percentage for each Recipient with respect to the Shared Project, which is the Shared Project Percentage (as defined in this Agreement) with respect to such Recipient, is also the Shared Project Percentage for such Recipient with respect to the Support Project.
- (e) The provisions of Section 3.04(a) of the Master Obligation Agreement are expressly incorporated herein and each Recipient expressly agrees to be bound by the provisions of said Section 3.04(a).

Section 5.5. Special Limited Obligations. The obligation of each Recipient to pay its Payments is a special, limited obligation of such Recipient payable, in the manner provided in the Master Obligation Agreement, solely from its Net Revenues and the other assets pledged to the payment thereof under the Master Obligation Agreement, and does not constitute a debt of such Recipient or of the State or of any political subdivision thereof in contravention of any constitutional or statutory debt limit or restriction. Neither the faith and credit nor the taxing power of a Recipient or the State or any political subdivision thereof is pledged to the payment of the Payments of such Recipient.

(c) The State Water Board by entering into this Agreement acknowledges that it has no right to payment of the Payments of a Recipient from any source other than the Net Revenues of such Recipient and the other assets pledged to the payment thereof under the Master Obligation Agreement.

(d) None of the income or revenue from the ownership or operation of a Recipient's Solid Waste System, or any real or personal property, or any interest therein, constituting a part thereof, or any other assets of such Solid Waste System, secures, is pledged to or is available, under any circumstances, for the payment of such Recipient's Payments, such Recipient's Solid Waste System being defined for such purposes as the whole and each and every part of the solid waste collection, transfer, treatment, disposal, processing and storage facilities owned by such Recipient, or in which such Recipient has an ownership interest, and all resource recovery facilities, waste-to-energy facilities, landfills, recycling facilities, transfer stations, collection equipment and rail transportation facilities and equipment owned by such Recipient, or in which such Recipient has an ownership interest, and any and all facilities and equipment owned by such Recipient, or in which such Recipient has an ownership interest, related to the interconnection of such Solid Waste System to any purchaser of energy generated through the operation of such Solid Waste System, and other real and personal property, fixtures, rights therein, rights-of-way, easements and other interests constituting a part thereof.

(e) The provisions of this Section shall not be amended, supplemented or otherwise modified, except to reflect amendments, supplements or other modifications to the Master Obligation Agreement addressing such matters.

Section 5.6. Limitations on Rights; Rights of the Master Trustee. The rights and obligations of a Recipient under and as provided in this Agreement and the Payments of such Recipient, and the rights and obligations of the State Water Board under and as provided in this Agreement and the Payments, shall, in all respects, be subject to the rights and obligations of, and the restrictions and limitations on, such Recipient and the State Water Board under and as provided in the Master Obligation Agreement. Upon the occurrence and during the continuance of an Event of Default with respect to a Recipient, the Master Trustee shall be entitled to exercise rights and take action with respect to such Event of Default in accordance with, and subject to, the provisions of Article VI of the Master Obligation Agreement; provided, however that the State Water Board shall have and be entitled to exercise any and all such rights as are granted thereto under and pursuant to, but subject to the provisions of, said Article VI, including requesting or directing the Master Trustee to take or refrain from taking certain actions as specified therein.

(c) The State Water Board, by entering into this Agreement, acknowledges and agrees that the Master Trustee is vested with all the moneys, estates, properties, rights, powers, trusts, duties, obligations and protections set forth or provided for in the Master Obligation Agreement and the State Water Board irrevocably authorizes the Master Trustee, subject to the provisions of the Master Obligation Agreement, to take such actions and execute such rights, powers and duties as are granted to the Master Trustee by the terms of the Master Obligation Agreement.

(d) The provisions of this Section shall not be amended, supplemented or otherwise modified, except to reflect amendments, supplements or other modifications to the Master Obligation Agreement addressing such matters.

Section 5.7. Responsibilities of Administrating District. The Administrating District shall perform all its administrative, notice, accounting, and fund management duties with respect to the Recipients and the Recipient's obligations under this Agreement.

Section 5.8. Compliance with MOA. Each Recipient shall comply with, keep, observe, and perform all the agreements, covenants, provisions and terms contained in the MOA required to be complied with, kept, observed or performed by such Recipient.

Section 5.8. Administrative Costs. Pursuant to the MOA, Administrative Costs shall be paid as part of Operations and Maintenance Costs.

DRAFT

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

COUNTY SANITATION DISTRICT NO. 1 OF LOS ANGELES COUNTY

By: _____

COUNTY SANITATION DISTRICT NO. 2 OF LOS ANGELES COUNTY

By: _____

COUNTY SANITATION DISTRICT NO. 3 OF LOS ANGELES COUNTY

By: _____

COUNTY SANITATION DISTRICT NO. 5 OF LOS ANGELES COUNTY

By: _____

COUNTY SANITATION DISTRICT NO. 8 OF LOS ANGELES COUNTY

By: _____

COUNTY SANITATION DISTRICT NO. 15 LOS ANGELES COUNTY

By: _____

COUNTY SANITATION DISTRICT NO. 16 OF LOS ANGELES COUNTY

By: _____

COUNTY SANITATION DISTRICT NO. 17 OF LOS ANGELES COUNTY

By: _____

COUNTY SANITATION DISTRICT NO. 18 OF LOS ANGELES COUNTY

By: _____

COUNTY SANITATION DISTRICT NO. 19 OF LOS ANGELES COUNTY

By: _____

COUNTY SANITATION DISTRICT NO. 21 OF LOS ANGELES COUNTY

By: _____

DRAFT

COUNTY SANITATION DISTRICT NO. 22 OF LOS ANGELES COUNTY

By: _____

COUNTY SANITATION DISTRICT NO. 23 OF LOS ANGELES COUNTY

By: _____

COUNTY SANITATION DISTRICT NO. 28 OF LOS ANGELES COUNTY

By: _____

COUNTY SANITATION DISTRICT NO. 29 OF LOS ANGELES COUNTY

By: _____

COUNTY SANITATION DISTRICT NO. 34 OF LOS ANGELES COUNTY

By: _____

SOUTH BAY CITIES SANITATION DISTRICT OF LOS ANGELES COUNTY

By: _____

Date: _____, 2022

STATE WATER RESOURCES CONTROL BOARD:

By: _____

Name: [Officer]
Title: Deputy Director
Division of Financial Assistance

Date: _____, 2022

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EXHIBIT A – SCOPE OF WORK

A.1. PROJECT DESCRIPTION, USEFUL LIFE, AND SCOPE OF WORK.

- (a) The Project is the project set forth on the Cover Page of this Agreement.
- (b) The Useful Life of this Project is at least _____ years.
- (c) Scope of Work.

[leave placeholder “to be inserted by DFA”]

A.2. STANDARD PROJECT REQUIREMENTS.

A.2.1 Acknowledgements.

Each Recipient shall include the following acknowledgement in any document, written report, or brochure prepared in whole or in part pursuant to this Agreement:

“Funding for this project has been provided in full or in part through an agreement with the State Water Resources Control Board. California’s Clean Water State Revolving Fund is capitalized through a variety of funding sources, including grants from the United States Environmental Protection Agency and state bond proceeds. The contents of this document do not necessarily reflect the views and policies of the foregoing, nor does mention of trade names or commercial products constitute endorsement or recommendation for use.”

A.2.2 Reports

A.2.2.1 Progress Reports.

- (a) The Recipients must provide a progress report to the Division each quarter, beginning no later than 90 days after execution of this Agreement.
- (b) The Recipients must provide a progress report with each disbursement request. Failure to provide a complete and accurate progress report may result in the withholding of Project Funds, as set forth in Exhibit B.
- (c) A progress report must contain the following information:
 - i. A summary of progress to date including a description of progress since the last report, percent construction complete, percent contractor invoiced, and percent schedule elapsed;
 - ii. A description of compliance with environmental requirements;
 - iii. A listing of change orders including amount, description of work, and change in contract amount and schedule; and
 - iv. Any problems encountered, proposed resolution, schedule for resolution, and status of previous problem resolutions.

A.2.2.2 Project Completion Report.

(a) The Recipients must submit a Project Completion Report to the Division with a copy to the appropriate Regional Water Board on or before the due date established by the Division and the Recipients at the time of final project inspection. The Project Completion Report must include the following:

- i. Description of the Project,
- ii. Description of the water quality problem the Project sought to address,
- iii. Discussion of the Project's likelihood of successfully addressing that water quality problem in the future, and
- iv. Summary of compliance with applicable environmental conditions.

(b) If the Recipients fail to submit a timely Project Completion Report, the State Water Board may stop processing pending or future applications for new financial assistance, withhold disbursements under this Agreement or other agreements, and begin administrative proceedings.

A.2.2.3 As Needed Reports.

The Recipient must provide expeditiously, during the term of this Agreement, any reports, data, and information reasonably required by the Division, including but not limited to material necessary or appropriate for evaluation of the funding program or to fulfill any reporting requirements of the state or federal government.

A.2.2.4 DBE Reports for SRF Projects.

The Recipients must report Disadvantaged Business Enterprise (DBE) utilization to the Division on the DBE Utilization Report, State Water Board Form DBE UR334. The Recipients must submit such reports to the Division annually within ten (10) calendar days following October 1 until such time as the "Notice of Completion" is issued. The Recipients must comply with 40 CFR § 33.301 and require its contractors and subcontractors on the Project to comply.

A.2.3 Signage.

The Recipients shall place a sign at least four feet tall by eight feet wide made of ¾ inch thick exterior grade plywood or other approved material in a prominent location on the Project site and shall maintain the sign in good condition for the duration of the construction period. The sign must include the following disclosure statement and color logos (available from the Division):



- b. "Funding for this \$x.x million [name of project] project has been provided in full or in part by the Clean Water State Revolving Fund through an agreement with the State Water Resources Control Board. California's Clean Water State Revolving Fund is capitalized through a variety of funding sources, including grants from the United States Environmental Protection Agency and state bond proceeds."
- c. The Project sign may include another agency's required promotional information so long as the above logos and disclosure statement are equally prominent on the sign. The sign shall be prepared in a professional manner.

A.2.4 Commencement of Operations.

Upon Completion of Construction of the Project, the Recipients must expeditiously initiate Project operations.

A.3 DATES & DELIVERABLES.

- (a) Time is of the essence.
- (b) The Recipients must expeditiously proceed with and complete construction of the Project.
- (c) The following dates are established as on the Cover Page of this Agreement:
 - i. Eligible Work Start Date
 - ii. Eligible Construction Start Date
 - iii. Completion of Construction Date
 - iv. Final Disbursement Request Date
 - v. Records Retention End Date
 - vi. Final Payment Date
- (d) The Recipients must award the prime construction contract timely.
- (e) The Recipients agree to start construction no later than [DFA will insert date that is within 6 months after execution of this Agreement].
- (f) The Recipients must deliver any request for extension of the Completion of Construction date no less than 90 days prior to the Completion of Construction date.
- (g) The undisbursed balance of this Agreement will be deobligated if the Recipient does not provide their final Disbursement Request to the Division on or before the Final Disbursement Request Date, unless prior approval has been granted by the Division.

EXHIBIT B – FUNDING TERMS

B.1. FUNDING AMOUNTS AND DISBURSEMENTS

B.1.1 Funding Contingency and Other Sources.

(a) If this Agreement's funding for any Fiscal Year expires due to reversion or is reduced, substantially delayed, or deleted by the Budget Act, by Executive Order, or by order or action of the Department of Finance, the State Water Board has the option to either cancel this Agreement with no liability accruing to the State Water Board, or offer an amendment to the Recipients to reflect the reduced amount.

(b) If funding for Project Costs is made available to the Recipients from sources other than this Agreement, the Recipients must notify the Division. The Recipients may retain such funding up to an amount which equals the Recipients' share of Project Costs. To the extent allowed by requirements of other funding sources, excess funding must be remitted to the State Water Board to be applied to Payments due hereunder, if any.

B.1.2 Estimated Reasonable Cost.

The estimated reasonable cost of the total Project, including associated planning and design costs is Written Dollar Amount dollars and no cents (\$Dollar Amount).

B.1.3 Project Funding Amount.

Subject to the terms of this Agreement, the State Water Board agrees to provide Project Funds not to exceed the amount of the Project Funding Amount set forth on the Cover Page of this Agreement.

B.1.4 [Reserved].

B. 1.5 Budget Costs.

(a) Estimated budget costs are contained in the Summary Project Cost Table below:

[DFA will insert table]

The Division's Final Budget Approval and related Form 259 and Form 260 will document a more detailed budget of eligible Project Costs and Project funding amounts.

Upon written request by the Recipients, the Division may adjust the line items of the Summary Project Cost Table at the time of Division's Final Budget Approval. Upon written request by the Recipients, the Division may also adjust the line items of the Summary Project Cost Table as well as the detailed budget at the time of Recipients' submittal of their final claim. Any line item adjustments to the Summary Project Cost Table that are due to a change in scope of work will require an Agreement amendment. The sum of adjusted line items in both the Summary Project Cost Table and the detailed budget must not exceed the Project Funding Amount. The Division may also propose budget adjustments.

(b) Under no circumstances may the sum of line items in the budget approved through the Final Budget Approval process exceed the Project Funding Amount. Any increase in the Project Funding Amount will require an Agreement amendment.

B.1.6 Contingent Disbursement.

(a) The State Water Board's disbursement of funds hereunder is contingent on the Recipients' compliance with the terms and conditions of this Agreement.

(b) The State Water Board's obligation to disburse Project Funds is contingent upon the availability of sufficient funds to permit the disbursements provided for herein. If sufficient funds are not available for any reason, including but not limited to failure of the federal or State government to appropriate funds necessary for disbursement of Project Funds, the State Water Board shall not be obligated to make any disbursements to the Recipients under this Agreement. This provision shall be construed as a condition precedent to the obligation of the State Water Board to make any disbursements under this Agreement. Nothing in this Agreement shall be construed to provide the Recipients with a right of priority for disbursement over any other entity. If any disbursements due the Recipients under this Agreement are deferred because sufficient funds are unavailable, it is the intention of the State Water Board that such disbursement will be made to the Recipients when sufficient funds do become available, but this intention is not binding.

(c) Construction costs and disbursements are not available until after the Division has approved the final budget form submitted by the Recipients.

(d) No costs incurred prior to the Eligible Work Start Date are eligible for reimbursement.

(e) Construction costs incurred prior to the Eligible Construction Start Date are not eligible for reimbursement.

(f) Failure to proceed according to the timelines set forth in this Agreement may require the Recipients to repay to the State Water Board all disbursed Project Funds.

(g) The Recipients agree to ensure that its final Disbursement Request is received by the Division no later than the Final Disbursement Request Date, unless prior approval has been granted by the Division. If the final Disbursement Request is not received timely, the undisbursed balance of this Agreement will be deobligated.

(h) The Recipients are not entitled to interest earned on undisbursed funds.

B.1.7 Disbursement Procedure.

Except as may be otherwise provided in this Agreement, disbursement of Project Funds will be made as follows:

1. Upon execution and delivery of this Agreement by all parties, the Administrating District may request immediate disbursement of any eligible incurred planning and design allowance costs through submission to the State Water Board of the Disbursement Request Form 260 and Form 261, or any amendment thereto, duly completed and executed.
2. The Administrating District must submit a disbursement request for costs incurred prior to the date this Agreement is executed by the State Water Board no later than ninety (90) days after this Agreement is executed by the State Water Board. Late disbursement requests may not be honored.
3. The Administrating District may request disbursement of eligible construction and equipment costs consistent with budget amounts approved by the Division in the Final Budget Approval.
4. Additional Project Funds will be promptly disbursed to the Administrating District upon receipt of Disbursement Request Form 260 and Form 261, or any amendment thereto,

duly completed and executed by the Recipients for incurred costs consistent with this Agreement, along with receipt of progress reports due under Exhibit A.

5. The Administering District must not request disbursement for any Project Cost until such cost has been incurred and is currently due and payable by the Recipients, although the actual payment of such cost by the Recipients is not required as a condition of disbursement request. Supporting documentation (e.g., receipts) must be submitted with each Disbursement Request. The amount requested for administration costs must include a calculation formula (i.e., hours or days worked times the hourly or daily rate = total amount claimed). Disbursement of Project Funds will be made only after receipt of a complete, adequately supported, properly documented, and accurately addressed Disbursement Request. Disbursement Requests submitted without supporting documents may be wholly or partially withheld at the discretion of the Division.
6. The Administering District must spend Project Funds within 30 days of receipt. If the Recipients earn interest earned on Project Funds, they must report that interest immediately to the State Water Board. The State Water Board may deduct earned interest from future disbursements.
7. The Administering District shall not request a disbursement unless that Project Cost is allowable, reasonable, and allocable.
8. The Administering District is solely responsible for submitting disbursement requests in compliance with this Exhibit B.1.7.
9. The State Water Board shall provide disbursements only to the Administering District.
10. Notwithstanding any other provision of this Agreement, no disbursement shall be required at any time or in any manner which is in violation of or in conflict with federal or state laws, policies, or regulations.
11. No work or travel outside the State of California is permitted under this Agreement unless the Division provides prior written authorization. Failure to comply with this restriction may result in termination this Agreement, pursuant to Exhibit C. Any reimbursement for necessary travel and per diem shall be at rates not to exceed those set by the California Department of Human Resources at <http://www.calhr.ca.gov/employees/Pages/travel-reimbursements.aspx>. as of the date costs are incurred by the Recipient.

B.1.8 Withholding of Disbursements.

Notwithstanding any other provision of this Agreement, the State Water Board may withhold all or any portion of the Project Funds upon the occurrence of any of the following events:

- (a) The Recipients' failure to maintain reasonable progress on the Project as determined by the Division;
- (b) Placement on the ballot or passage of an initiative or referendum to repeal or reduce a Recipient's taxes, assessments, fees, or charges levied for operation of the Sewerage System of such Recipient or payment of Debt Service on Senior Obligations of such Recipient;
- (c) Commencement of litigation or a judicial or administrative proceeding related to the Project, the Sewerage System of a Recipient, or Revenues of a Recipient that the State Water Board determines may impair the timely satisfaction of such Recipient's obligations under this Agreement;
- (d) Any investigation by the District Attorney, California State Auditor, Bureau of State Audits, United States Environmental Protection Agency's Office of Inspector General, the Internal Revenue Service, Securities and Exchange Commission, a grand jury, or any other state or

- federal agency, relating to a Recipient's financial management, accounting procedures, or internal fiscal controls;
- (e) A material adverse change in the condition of a Recipient, the Revenues of a Recipient, or the Sewerage System of a Recipient, that the Division reasonably determines would materially impair such Recipient's ability to satisfy its obligations under this Agreement, or any other event that the Division reasonably determines would materially impair a Recipient's ability to satisfy its obligations under this Agreement;
 - (f) A Recipient's material violation of, or threat to materially violate, any term of this Agreement;
 - (g) Suspicion of fraud, forgery, embezzlement, theft, or any other misuse of public funds a Recipient or its employees, or by its contractors or agents regarding the Project or the Sewerage System of a Recipient;
 - (h) An event requiring Notice as set forth in Exhibit C;
 - (i) An Event of Default with respect to a Recipient or an event that the Division determines that, with the passage of time of the giving of notice, of both, may become an Event of Default with respect to a Recipient.

B.1.9 Fraud and Misuse of Public Funds.

All requests for disbursement submitted must be accurate and signed by the Administrating District's Authorized Representative under penalty of perjury. All costs submitted pursuant to this Agreement must only be for the work or tasks set forth in this Agreement. The Administrating District must not submit any invoice containing costs that are ineligible or have been reimbursed from other funding sources unless required and specifically noted as such (i.e., match costs). Any eligible costs for which the Recipients are seeking reimbursement shall not be reimbursed from any other source. Double or multiple billing for time, services, or any other eligible cost is improper and will not be compensated. Any suspected occurrences of fraud, forgery, embezzlement, theft, or any other misuse of public funds may result in suspension of disbursements and, notwithstanding any other section in this Agreement, the termination of this Agreement requiring the repayment of all Project Funds disbursed hereunder. Additionally, the Deputy Director of the Division may request an audit and refer the matter to the Attorney General's Office or the appropriate district attorney's office for criminal prosecution or the imposition of civil liability.

B.2 RECIPIENTS' PAYMENT OBLIGATION, PLEDGE, AND RESERVE

B.2.1 Project Costs; Payments.

The Recipients must pay any and all costs connected with the Project including, without limitation, any and all Project Costs and Additional Payments. If the Project Funds are not sufficient to pay the Project Costs in full, the Recipients must nonetheless complete the Project and pay that portion of the Project Costs in excess of available Project Funds, and shall not be entitled to any reimbursement therefor from the State Water Board.

Each Recipient shall pay, or cause to be paid, its Payments to the State Water Board in accordance with the provisions of the MOA and this Agreement. The amount of the Payment payable by a Recipient on each payment date shall be equal to the product of such Recipient's Shared Project Percentage times the aggregate amount of the Payment payable by all of the Recipients on such payment date, as provided in the MOA and this Agreement. Each Recipient's Payments shall constitute installment payments payable by such Recipient for the purchase of such Recipient's interest in the Project from the State Water Board and such Payments shall be comprised of principal and accrued interest, as provided herein.

B.2.2 Estimated Principal Payment Due.

The estimated amount of the principal of the Payments that will be due to the State Water Board from the Recipients under this Agreement is Written Dollar Amount dollars and no cents (\$Dollar Amount).

B.2.3 Interest Rate and In-Lieu of Interest Charges.

(a) Each Recipient agrees to make all of its Payments according to the schedule in Exhibit E, and as otherwise set forth herein, at an interest rate of Written Interest Rate % (X%) per annum.

(b) Interest will accrue beginning with each disbursement.

(c) In lieu of, and not to exceed, interest otherwise due under this Agreement, each Recipient agrees to pay the following charge(s), as further set forth in Exhibit E:

- an Administrative Service Charge
- a Small Community Grant Fund Charge

B.2.4 [Reserved].

B.2.5 Obligation Absolute.

The obligation of each Recipient to make its Payments required to be made by it under this Agreement from its Net Revenues and the other assets pledged to the payment thereof under the Master Obligation Agreement, as described in the Master Obligation Agreement, is absolute and unconditional, and until such time as the Payments required to be made by it hereunder have been paid in full, such Recipient shall not discontinue or suspend any Payments required to be made by it hereunder when due, whether or not the Project, or any related part thereof is operating or operable or has been completed, or its use is suspended, interfered with, reduced or curtailed or terminated in whole or in part, and such Payments and other 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.

B.2.6 Payment Timing.

(a) Beginning one year after Completion of Construction, each Recipient must submit an annual Payment consisting of principal and accrued interest as provided in the payment schedule prepared in accordance with subsection (c), below. Each Recipient must make Payments fully amortizing the total principal of such Recipient's Payments by the Final Payment Date. Payments are based on a standard fully amortized assistance amount with equal annual payments.

(b) The remaining balance is the previous balance, plus the disbursements, plus the accrued interest on both, plus any Charge In Lieu of Interest, less the Payment. Payment calculations will be made beginning one (1) year after Completion of Construction. Exhibit E is a payment schedule based on the provisions of this Exhibit and an estimated disbursement schedule. Actual payments will be based on actual disbursements.

(c) Upon Completion of Construction and submission of necessary reports by the Recipients, the Division will prepare an appropriate payment schedule and supply the same to the Recipients. The Division may amend this schedule as necessary to accurately reflect amounts due under this Agreement. The Division will prepare any necessary amendments to the payment schedule and send them to the Recipients. Each Recipient must make each of its Payments on or before the due date therefor. A ten (10) day grace period will be allowed, after which time a penalty in the amount of costs incurred by the State Water Board will be assessed for late payment. These costs may include, but are not limited to, lost interest earnings, staff time, bond debt service default penalties, if any, and other related costs. For purposes of penalty assessment, payment will be deemed to have been made if payment is deposited in the U.S. Mail within the grace period with postage prepaid and properly addressed. Any penalties assessed will not be added to the assistance amount balance, but will be treated as a separate account and obligation of the Recipient. The interest penalty will be assessed from the payment due date.

(d) Each Recipient is obligated to make all payments required to be made by it by this Agreement to the State Water Board, notwithstanding any individual default by its constituents or others in the payment to

such Recipient of fees, charges, taxes, assessments, tolls or other charges ("Charges") levied or imposed by such Recipient. Each Recipient must provide for the punctual payment to the State Water Board of all amounts which become due by it under this Agreement and which are received from constituents or others in the payment to such Recipient. In the event of failure, neglect or refusal of any officer of a Recipient to levy or cause to be levied any Charge to provide payment by such Recipient under this Agreement, to enforce or to collect such Charge, or to pay over to the State Water Board any money collected on account of such Charge necessary to satisfy any amount due under this Agreement, the State Water Board may take such action in a court of competent jurisdiction as it deems necessary to compel the performance of all duties relating to the imposition or levying and collection of any of such Charges and the payment of the money collected therefrom to the State Water Board. Action taken pursuant hereto shall not deprive the State Water Board of, or limit the application of, any other remedy provided by law or by this Agreement.

(e) Each Payment must be paid in lawful money of the United States of America by check or other acceptable form of payment set forth at www.waterboards.ca.gov/make_a_payment.

B.2.7 Pledged Revenues.

B.2.7.1 Establishment of Operating Fund and Reserve Fund.

Each Recipient covenants that it shall establish and maintain or shall have established and maintained its Operating Fund, as provided in the Master Obligation Agreement. As provided in the Master Obligation Agreement, each Recipient, in order to carry out the Recipient's pledge contained in the Master Obligation Agreement, shall deposit in its Operating Fund all Revenues of such Recipient as and when received. As required in this Exhibit, the Recipient must establish and maintain a Reserve Fund.

B.2.7.2 Pledge of Net Revenues, Operating Fund, and Reserve Fund.

As provided in the Master Obligation Agreement, subject only to the provisions of the Master Obligation Agreement permitting the application thereof for the purposes and on the terms and conditions set forth therein, each Recipient, in order to secure the payment of its Senior Obligations, the Obligation Instruments pursuant to which such Senior Obligations are incurred and the Master Obligation Agreement, and to secure the performance and observance of all of the covenants and agreements of such Recipient contained therein, has granted a lien on and a security interest in, and has pledged to and for the benefit of the Obligees with respect to its Senior Obligations, all of its Revenues and any other amounts held in its Operating Fund and Senior Obligation Payment Fund (but not any such Revenues or other amounts held in its Subordinate Obligation Payment Fund, Rate Stabilization Fund or Surplus Fund). Said pledge of a Recipient constitutes a first lien on and security interest in such assets of such Recipient, which has immediately attached to such assets and is effective, binding and enforceable against such Recipient, its successors, purchasers of any of such assets, creditors and all others asserting rights therein, to the extent set forth in, and in accordance with, the Master Obligation Agreement, irrespective of whether such parties have notice of the lien on, security interest in and pledge of such assets and without the need for any physical delivery, recordation, filing or further act.

[The Reserve Fund shall constitute a Debt Service Reserve Fund of the Recipient to secure payment of the Payments and shall be subject to the provisions of the Master Obligation Agreement relating to Debt Service Reserve Funds. Subject only to the provisions of this Agreement permitting the application thereof for the purposes and on the terms and conditions set forth herein, the Recipient, in order to secure the payment of the Payments and this Agreement, and to secure the performance and observance of all of the covenants and agreements of the Recipient contained herein, hereby grants a lien on and a security interest in, and pledges to and for the benefit of the State Water Board, all amounts held in the Reserve Fund. Said pledge shall constitute a first lien on and security interest in such assets, which shall immediately attach to such assets and be effective, binding and enforceable against the Recipient, its successors, purchasers of any of such assets, creditors and all others asserting rights therein, to the extent set forth in, and in accordance with, this Agreement, irrespective of whether such

parties have notice of the lien on, security interest in and pledge of such assets and without the need for any physical delivery, recordation, filing or further act.] *[Is this applicable to this Agreement?]*

B.2.7.3 Application and Purpose of Operating Fund.

Money on deposit in a Recipient's Operating Fund shall be applied and used as provided in the Master Obligation Agreement.

B.2.8 No Prepayment.

Pursuant to State Water Board's Debt Management Policy, adopted on October 3, 2017, no Recipient may prepay any portion of the principal and interest due by such Recipient under this Agreement without the written consent of the Deputy Director of the Division.

B.2.9 Reserve Fund.

[Is a Reserve Fund being required?]

[Prior to Completion of Construction, the Recipient must establish a restricted Reserve Fund, held in its Operating Fund, equal to one year's Debt Service with respect to the Payments. The Recipient must maintain the Reserve Fund throughout the term of this Agreement. The Reserve Fund is subject to the lien and pledged as security for the payment of the Payments, and its use is restricted to payment of the Payments during the term of this Agreement. The Reserve Fund constitutes a "Debt Service Reserve Fund" for purposes of and as described in the Master Obligation Agreement and shall be subject to the provisions of the Master Obligation Agreement relating to Debt Service Reserve Funds.]

[The Reserve Requirement for the Payments shall not exceed the Maximum Reserve Requirement with respect thereto. The maximum amounts required, pursuant to this Agreement, to be deposited into the Reserve Fund in any month shall not exceed the amounts specified in paragraph (iii) of Section 3.03(c) of the Master Obligation Agreement. The maximum amount required, pursuant to this Agreement, to be deposited into the Reserve Fund shall be the amount necessary to restore such the Reserve Fund to the Reserve Requirement for the Payments.]

B.3 RATES, FEES AND CHARGES.

(a) Each Recipient shall, to the extent permitted by applicable law, fix, prescribe and collect rates and charges for the services of its Sewerage System as provided in Section 5.07 of the Master Obligation Agreement and Exhibit D of this Agreement.

(b) Upon consideration of a voter initiative to reduce Revenues of a Recipient, such Recipient must make a finding regarding the effect of such a reduction on such Recipient's ability to satisfy the rate covenant set forth in Section 5.07 of the Master Obligation Agreement. Such Recipient must make its findings available to the public. Such Recipient's Authorized Representative must request, if necessary, the authorization of such Recipient's decision-maker or decision-making body to file litigation to challenge any such initiative that it finds will render it unable to satisfy the rate covenant set forth in Section 5.07 of the Master Obligation Agreement and its obligation to operate and maintain the Project for its Useful Life. Such Recipient must diligently pursue and bear any and all costs related to such challenge. Such Recipient must notify and regularly update the State Water Board regarding the status of any such challenge.

B.4 ADDITIONAL OBLIGATIONS.

No Recipient shall incur additional Obligations of such Recipient except in accordance with Article IV of the Master Obligation Agreement.

B.5 NO LIENS.

No Recipient shall make any pledge of or place any lien on the Project, such Recipient's Sewerage System, or such Recipient's Revenues except as otherwise provided or permitted by this Agreement and the Master Obligation Agreement.

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EXHIBIT C – GENERAL & PROGRAMMATIC TERMS & CONDITIONS

C.1 REPRESENTATIONS & WARRANTIES.

Each Recipient represents, warrants, and commits to the following as of the Eligible Work Start Date and continuing thereafter for the term of this Agreement.

C.1.1 Application and General Recipient Commitments.

Such Recipient has not made any untrue statement of a material fact in its application for this financial assistance, or omitted to state in its application a material fact that makes the statements in its application not misleading.

Such Recipient agrees to comply with all terms, provisions, conditions, and commitments of this Agreement, including all incorporated documents.

Such Recipient agrees to fulfill all assurances, declarations, representations, and commitments in its application, accompanying documents, and communications filed in support of its request for funding under this Agreement.

C.1.2 Authorization and Validity.

The execution and delivery of this Agreement, including all incorporated documents, has been duly authorized by such Recipient. Upon execution by all parties, this Agreement constitutes a valid and binding obligation of such Recipient, enforceable in accordance with its terms, except as such enforcement may be limited by law.

C.1.3 No Violations.

The execution, delivery, and performance by such Recipient of this Agreement, including all incorporated documents, do not violate any provision of any law or regulation in effect as of the date set forth on the first page hereof, or result in any breach or default under any contract, obligation, indenture, or other instrument to which such Recipient is a party or by which such Recipient is bound as of the date of execution of this Agreement.

C.1.4 No Litigation.

There are, as of the date of execution of this Agreement by such Recipient, no pending or, to such Recipient's knowledge, threatened actions, claims, investigations, suits, or proceedings before any governmental authority, court, or administrative agency which materially affect the financial condition or operations of such Recipient, such Recipient's Sewerage System, such Recipient's Revenues, and/or the Project.

There are no proceedings, actions, or offers by a public entity to acquire by purchase or the power of eminent domain such Recipient's Sewerage System or any of the real or personal property related to or necessary for the Project.

C.1.5 Property Rights.

Such Recipient owns or has sufficient property rights in the Project property for the longer of the Useful Life or the term of this Agreement, either in fee simple or for a term of years that is not subject to third-party revocation during the Useful Life of the Project.

C.1.6 Solvency and Insurance.

None of the transactions contemplated by this Agreement will be or have been made with an actual intent to hinder, delay, or defraud any present or future creditors of such Recipient. Such Recipient is solvent and will not be rendered insolvent by the transactions contemplated by this Agreement. Such Recipient is able to pay its debts as they become due. Such Recipient maintains sufficient insurance coverage considering the scope of this Agreement, including, for example but not necessarily limited to, general liability, automobile liability, workers compensation and employer liability, professional liability.

C.1.7 Legal Status and Eligibility.

Such Recipient is duly organized and existing and in good standing under the laws of the State of California. Such Recipient must at all times maintain its current legal existence and preserve and keep in full force and effect its legal rights and authority. Such Recipient acknowledges that changes to its legal or financial status may affect its eligibility for funding under this Agreement and commits to maintaining its eligibility. Within the preceding ten years, such Recipient has not failed to demonstrate compliance with state or federal audit disallowances.

C.1.8 Financial Statements and Continuing Disclosure.

The financial statements of such Recipient previously delivered to the State Water Board as of the date(s) set forth in such financial statements: (a) are materially complete and correct; (b) present fairly the financial condition of such Recipient; and (c) have been prepared in accordance with Generally Accepted Accounting Principles. Since the date(s) of such financial statements, there has been no material adverse change in the financial condition of such Recipient, nor have any assets or properties reflected on such financial statements been sold, transferred, assigned, mortgaged, pledged or encumbered, except as previously disclosed in writing by such Recipient and approved in writing by the State Water Board.

Such Recipient is current in its continuing disclosure obligations associated with its material debt, if any.

C.1.9 Obligations

Such Recipient has no outstanding Obligations other than [such Recipient's Installment Payments payable under Joint Acquisition Agreement and loan payments under WIFIA loan – *will depend on when the various agreements are entered into.*].

C.1.10 No Other Material Debt.

Such Recipient has no Material Obligations other than the Obligations described in Section C.1.9:

C.1.11 Compliance with State Water Board Funding Agreements.

Such Recipient represents that it is in compliance with all State Water Board funding agreements to which it is a party.

C.2 DEFAULTS AND REMEDIES

In addition to any other remedy set forth in this Agreement, the following remedies are available under this Agreement.

C.2.1 Return of Funds; Acceleration; and Additional Payments.

Notwithstanding any other provision of this Agreement, if the Division determines that an Event of Default with respect to a Recipient has occurred, such Recipient may be required, upon demand, immediately to do each of the following:

- i. return to the State Water Board any grant or principal forgiveness amounts received pursuant to this Agreement;
- ii. accelerate the payment of the principal and accrued interest of such Recipient's Payments, all of which shall be immediately due and payable;
- iii. pay interest at the highest legal rate on all of the foregoing; and
- iv. pay any Additional Payments payable by such Recipient.

C.2.2 [Reserved].

C.2.3 Judicial remedies.

Whenever the State Water Board determines that an Event of Default with respect to a Recipient shall have occurred, the State Water Board, subject to the provisions of the MOA, may enforce its rights under this Agreement by any judicial proceeding, whether at law or in equity. Without limiting the generality of the foregoing, the State Water Board may:

- i. by suit in equity, require such Recipient to account for amounts relating to this Agreement as if such Recipient were the trustee of an express trust;
- ii. by mandamus or other proceeding, compel the performance by such Recipient and any of its officers, agents, and employees of any duty under the law or of any obligation or covenant under this Agreement, including but not limited to the imposition and collection of rates for the services of such Recipient's Sewerage System sufficient to meet all requirements of this Agreement with respect to such Recipient; and
- iii. take whatever action at law or in equity as may appear necessary or desirable to the State Water Board to collect such Recipient's Payments then due or thereafter to become due, or to enforce performance of any obligation or covenant of such Recipient under this Agreement.

C.2.4 Termination.

Upon an Event of Default by a Recipient, the State Water Board may terminate this Agreement. Interest shall accrue on all amounts due at the highest legal rate of interest from the date that the State Water Board delivers notice of termination to such Recipient.

C.2.5 [Reserved.]

C.2.6 Damages for Breach of Federal Conditions.

In the event that any breach of any of the provisions of this Agreement by a Recipient results in the failure of Project Funds to be used pursuant to the provisions of this Agreement, or if such breach results in an obligation on the part of the State or any subdivision or agency thereof to reimburse the federal government, such Recipient must immediately reimburse the State or any subdivision or agency thereof in an amount equal to any damages paid by or loss incurred by the State or any subdivision or agency thereof due to such breach.

C.2.7 Remedies and Limitations.

None of the remedies available to the State Water Board shall be exclusive of any other remedy, and each such remedy shall be cumulative and in addition to every other remedy given hereunder or now or hereafter existing at law or in equity. The State Water Board may exercise any remedy, now or hereafter existing, without exhausting and without regard to any other remedy.

Any claim of a Recipient is limited to the rights and remedies provided to such Recipient under this Agreement and the MOA and is subject to the claims procedures provided to such Recipient under this Agreement and the MOA.

C.2.8 Non-Waiver.

Nothing in this Agreement shall affect or impair a Recipient's obligation to pay its Payments as provided herein or shall affect or impair the right of the State Water Board to bring suit to enforce such payment. No delay or omission of the State Water Board in the exercise of any right arising upon an Event of Default with respect to a Recipient shall impair any such right or be construed to be a waiver of any such Event of Default. The State Water Board may exercise from time to time and as often as shall be deemed expedient by the State Water Board, any remedy or right with respect to such Event of Default provided by law or pursuant to this Agreement and the MOA.

C.2.9 Status Quo.

If any action to enforce any right or exercise any remedy shall be brought and either discontinued or determined adversely to the State Water Board, then the State Water Board shall be restored to its former position, rights and remedies as if no such action had been brought.

C.3 STANDARD CONDITIONS

C.3.1 Access, Inspection, and Public Records.

The Recipients must ensure that the State Water Board, the Governor of the State, the United States Environmental Protection Agency, the Office of Inspector General, any member of Congress, or any authorized representative of the foregoing, will have safe and suitable access to the Project site at all reasonable times during Project construction and thereafter for the term of the Agreement. The Recipients acknowledge that, except for a subset of information regarding archaeological records, the Project records and locations are public records, including but not limited to all of the submissions accompanying the application, all of the documents incorporated into this Agreement by reference, and all reports, disbursement requests, and supporting documentation submitted hereunder.

C.3.2 Accounting and Auditing Standards; Financial Management Systems; Records Retention.

(a) The Recipients must maintain project accounts according to Generally Accepted Accounting Principles as issued by the Governmental Accounting Standards Board (GASB) or its successor. The Recipients must maintain Generally Accepted Accounting Principles-compliant project accounts, including Generally Accepted Accounting Principles requirements relating to the reporting of infrastructure assets.

(b) The Recipients must comply with federal standards for financial management systems. Each Recipient agrees that, at a minimum, its fiscal control and accounting procedures will be sufficient to permit preparation of reports required by the federal government and tracking of Project funds to a level of expenditure adequate to establish that such funds have not been used in violation of federal or state law or the terms of this Agreement. To the extent applicable, each Recipient is bound by, and must comply with, the provisions and requirements of the federal Single Audit Act of 1984 and 2 CFR Part 200, subpart F, and updates or revisions, thereto.

(c) Without limitation of the requirement to maintain Project accounts in accordance with Generally Accepted Accounting Principles, the Recipients must:

- i. Establish an official file for the Project which adequately documents all significant actions relative to the Project;

- ii. Establish separate accounts which will adequately and accurately depict all amounts received and expended on the Project, including all assistance funds received under this Agreement;
- iii. Establish separate accounts which will adequately depict all income received which is attributable to the Project, specifically including any income attributable to assistance funds disbursed under this Agreement;
- iv. Establish an accounting system which will accurately depict final total costs of the Project, including both direct and indirect costs;
- v. Establish such accounts and maintain such records as may be necessary for the State to fulfill federal reporting requirements, including any and all reporting requirements under federal tax statutes or regulations; and
- vi. If a force account is used by the Recipients for any phase of the Project, other than for planning, design, and construction engineering and administration provided for by allowance, accounts will be established which reasonably document all employee hours charged to the Project and the associated tasks performed by each employee.

(d) The Recipients must maintain separate books, records and other material relative to the Project. The Recipients must also retain such books, records, and other material for themselves and for each contractor or subcontractor who performed or performs work on this project for a minimum of thirty-six (36) years after Completion of Construction. The Recipients must require that such books, records, and other material are subject at all reasonable times (at a minimum during normal business hours) to inspection, copying, and audit by the State Water Board, the California State Auditor, the Bureau of State Audits, the United States Environmental Protection Agency (USEPA), the Office of Inspector General, the Internal Revenue Service, the Governor, or any authorized representatives of the aforementioned. The Recipients must allow and must require its contractors to allow interviews during normal business hours of any employees who might reasonably have information related to such records. The Recipients agree to include a similar duty regarding audit, interviews, and records retention in any contract or subcontract related to the performance of this Agreement. The provisions of this section survive the term of this Agreement.

C.3.3 Amendment.

No amendment or variation of the terms of this Agreement shall be valid unless made in writing and signed by all Recipients and the Deputy Director or designee.

Requests for amendments must be in writing and directed to the contact listed in Section 4 and to the Division's Chief of Loans and Grants Administration Section.

C.3.4 Assignability.

This Agreement is not assignable by a Recipient, either in whole or in part, without the consent of the State Water Board in the form of a formal written amendment to this Agreement.

C.3.5 Audit.

(a) The Division may call for an audit of financial information relative to the Project if the Division determines that an audit is desirable to assure program integrity or if an audit becomes necessary because of state or federal requirements. If an audit is called for, the audit must be performed by a certified public accountant independent of the Recipients and at the cost of the Recipients. The audit must be in the form required by the Division.

(b) Audit disallowances must be returned to the State Water Board.

C.3.6 Bonding.

Where contractors are used, the Recipients must not authorize construction to begin until each contractor has furnished a performance bond in favor of the Recipients in the following amounts: faithful performance (100%) of contract value; labor and materials (100%) of contract value. This requirement shall not apply to any contract for less than \$25,000.00.

C.3.7 Competitive Bidding

Recipients must adhere to any applicable state law or local ordinance for competitive bidding and applicable labor laws.

C.3.8 Compliance with Applicable Laws, Rules, and Requirements.

The Recipients must, at all times, comply with and require their contractors and subcontractors to comply with all applicable federal and state laws, rules, guidelines, regulations, and requirements. Without limitation of the foregoing, to the extent applicable, the Recipients must:

- (a) Comply with the provisions of the adopted environmental mitigation plan, if any, for the term of this Agreement;
- (b) Comply with the Policy; and
- (c) Comply with and require compliance with the state and federal requirements set forth elsewhere in this Agreement.

C.3.9 Computer Software.

Each Recipient certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

C.3.10 Conflict of Interest.

Each Recipient certifies that its owners, officers, directors, agents, representatives, and employees are in compliance with applicable state and federal conflict of interest laws.

C.3.11 Continuous Use of Project; No Lease, Sale, Transfer of Ownership, or Disposal of Project.

The Recipients agree that, except as provided in this Agreement, they will not abandon, substantially discontinue use of, lease, sell, transfer ownership of, or dispose of all or a significant part or portion of the Project during the Useful Life of the Project without prior written approval of the Division. Such approval may be conditioned as determined to be appropriate by the Division, including a condition requiring repayment of all disbursed Project Funds or all or any portion of all remaining funds covered by this Agreement together with accrued interest and any penalty assessments that may be due.

C.3.12 Data Management.

The Recipients will undertake appropriate data management activities so that Project data can be incorporated into statewide data systems.

C.3.13 Disputes.

- (a) Each Recipient may appeal a staff decision within 30 days to the Deputy Director of the Division or designee, for a final Division decision. Such Recipient may appeal a final Division decision to the State Water Board within 30 days. The Office of the Chief Counsel of the State Water Board will prepare a summary of the dispute and make recommendations relative to its final resolution, which will be provided to the State Water Board's Executive Director and each State Water Board Member. Upon the motion of

any State Water Board Member, the State Water Board will review and resolve the dispute in the manner determined by the State Water Board. Should the State Water Board determine not to review the final Division decision, this decision will represent a final agency action on the dispute.

(b) This clause does not preclude consideration of legal questions, provided that nothing herein shall be construed to make final the decision of the State Water Board, or any official or representative thereof, on any question of law.

(c) A Recipient must continue with its responsibilities under this Agreement during any dispute.

(d) This section relating to disputes does not establish an exclusive procedure for resolving claims within the meaning of Government Code sections 930 and 930.4.

C.3.14 [Reserved].

C.3.15 Environmental Clearance.

(a) No work that is subject to CEQA or NEPA may proceed under this Agreement unless the State Water Board has provided environmental clearance. The State Water Board may require changes in the scope of work or additional mitigation as a condition to providing construction or implementation funding under this Agreement. Recipients shall not perform any work subject to CEQA and/or NEPA before the State Water Board completes its environmental review and specifies any changes in scope or additional mitigation that may be required. Proceeding with work subject to CEQA and/or NEPA without approval by the State Water Board shall constitute a breach of a material provision of this Agreement.

(b) If the Project includes modification of a river or stream channel, the Recipients must fully mitigate environmental impacts resulting from the modification. The Recipients must provide documentation that the environmental impacts resulting from such modification will be fully mitigated considering all of the impacts of the modification and any mitigation, environmental enhancement, and environmental benefit resulting from the Project, and whether, on balance, any environmental enhancement or benefit equals or exceeds any negative environmental impacts of the Project.

C.3.16 Governing Law.

This Agreement is governed by and shall be interpreted in accordance with the laws of the State of California.

C.3.17 Income Restrictions.

The Recipients agree that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Recipients under this Agreement must be paid by the Recipients to the State Water Board, to the extent that they are properly allocable to costs for which the Recipients have been reimbursed by the State Water Board under this Agreement.

C.3.18 Indemnification and State Reviews.

The parties agree that review or approval of Project plans and specifications by the State Water Board is for administrative purposes only, including conformity with application and eligibility criteria, and expressly not for the purposes of design defect review or construction feasibility, and does not relieve the Recipients of their responsibility to properly plan, design, construct, operate, and maintain the Project. To the extent permitted by law, each Recipient agrees to indemnify, defend, and hold harmless the State Water Board, the bank, and any trustee, and their officers, employees, and agents for the Bonds, if any (collectively, "Indemnified Persons"), against any loss or liability arising out of any claim or action brought against any Indemnified Persons from and against any and all losses, claims, damages, liabilities, or expenses, of every conceivable kind, character, and nature whatsoever arising out of, resulting from, or in

any way connected with (1) such Recipient's Sewerage System or the Project or the conditions, occupancy, use, possession, conduct, or management of, work done in or about, or the planning, design, acquisition, installation, or construction, of such Recipient's Sewerage System or the Project or any part thereof; (2) the carrying out of any of the transactions contemplated by this Agreement or any related document; (3) any violation of any applicable law, rule or regulation, any environmental law (including, without limitation, the Federal Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act, the California Hazardous Substance Account Act, the Federal Water Pollution Control Act, the Clean Air Act, the Toxic Substances Control Act, the Occupational Safety and Health Act, the Safe Drinking Water Act, the California Hazardous Waste Control Law, and California Water Code Section 13304, and any successors to said laws), rule or regulation or the release of any toxic substance on or near such Recipient's Sewerage System or the Project; or (4) any untrue statement or alleged untrue statement of any material fact of such Recipient or omission or alleged omission by such Recipient to state a material fact necessary to make the statements required to be stated therein, in light of the circumstances under which they were made, not misleading with respect to any information provided by such Recipient for use in any disclosure document utilized in connection with any of the transactions contemplated by this Agreement, except those arising from the gross negligence or willful misconduct of the Indemnified Persons. Such Recipient must also provide for the defense and indemnification of the Indemnified Persons in any contractual provision extending indemnity to such Recipient in any contract let for the performance of any work under this Agreement, and must cause the Indemnified Persons to be included within the scope of any provision for the indemnification and defense of such Recipient in any contract or subcontract. To the fullest extent permitted by law, such Recipient agrees to pay and discharge any judgment or award entered or made against Indemnified Persons with respect to any such claim or action, and any settlement, compromise or other voluntary resolution. The provisions of this section survive the term of this Agreement.

C.3.19 Independent Actor.

Each Recipient, and its agents and employees, if any, in the performance of this Agreement, shall act in an independent capacity and not as officers, employees, or agents of the State Water Board.

C.3.20 Integration.

This Agreement, together with the applicable provisions of the MOA, constitutes the complete and final agreement among the parties. No oral or written understanding or agreement not incorporated in this Agreement shall be binding on any party hereto.

C.3.21 [Reserved.]

C.3.22 No Discrimination.

(a) Each Recipient must comply with Government Code section 11135 and the implementing regulations (Cal. Code Regs, tit. 2, § 11140 et seq.), including, but not limited to, ensuring that no person is unlawfully denied full and equal access to the benefits of, or unlawfully subjected to discrimination in the operation of, the Project or such Recipient's Sewerage System on the basis of sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation as such terms are defined under California law, for as long as such Recipient retains an ownership interest in or possession of the Project or any portion thereof.

(b) If Project Funds are used to acquire or improve real property, the Recipients must include a covenant of nondiscrimination running with the land in the instrument effecting or recording the transfer of such real property.

(c) Each Recipient must comply with the federal American with Disabilities Act of 1990 and implementing regulations as required by Government Code section 11135(b).

(d) Each Recipient's obligations under this section shall survive the term of this Agreement.

(e) During the performance of this Agreement, each Recipient and its contractors and subcontractors must not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, sexual orientation, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, denial of family care leave, or genetic information, gender, gender identity, gender expression, or military and veteran status.

(f) Each Recipient, its contractors, and subcontractors must ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.

(g) Each Recipient, its contractors, and subcontractors must comply with the provisions of the Fair Employment and Housing Act and the applicable regulations promulgated thereunder. (Gov. Code, §12990, subds. (a)-(f) et seq.; Cal. Code Regs., tit. 2, § 7285 et seq.) Such regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full.

(h) Each Recipient, its contractors, and subcontractors must comply with all applicable federal civil rights regulations, including statutory and national policy requirements. (2 CFR § 200.300). This includes, to the greatest extent practicable and to the extent permitted by law, the requirement to respect and protect the freedom of persons and organizations to engage in political and religious speech. (Executive Order 13798).

(i) Each Recipient, its contractors, and subcontractors must give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

(j) Each Recipient must include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Agreement.

C.3.23 No Third Party Rights.

The parties to this Agreement do not create rights in, or grant remedies to, any third party as a beneficiary of this Agreement, or of any duty, covenant, obligation, or undertaking established herein.

C.3.24 No Obligation of the State.

Any obligation of the State Water Board herein contained shall not be an obligation, debt, or liability of the State and any such obligation shall be payable solely out of the moneys encumbered pursuant to this Agreement.

C.3.25 Notice.

Upon the occurrence of any of the following events, a Recipient must provide notice as set forth below.

- (a) Within 24 hours of the following, such Recipient must notify the Division by phone at (916) 327-9978 and by email to [PM email address and senior email address] and CleanWaterSRF@waterboards.ca.gov:
 - i. The seizure of, or levy on, any of such Recipient's Revenues securing this Agreement;
 - ii. Any discovery of any potential tribal cultural resource and/or archaeological or historical resource. Should a potential tribal cultural resource and/or archaeological or historical resource be discovered during construction or Project implementation, such Recipient must ensure that all work in the area of the find will cease until a qualified archaeologist has evaluated the situation and made recommendations regarding preservation of the resource, and the Division has

determined what actions should be taken to protect and preserve the resource. The Recipient must implement appropriate actions as directed by the Division.

(b) [Reserved].

(c) Within five (5) business days, such Recipient must notify the Division by phone at (916) 327-9978; by email to Lance.Reese@waterboards.ca.gov [PM email address and senior email address] and CleanWaterSRF@waterboards.ca.gov; and by mail to the contact address set forth in Section 4 of this Agreement of the occurrence of any of the following events:

- i. Bankruptcy, insolvency, receivership or similar event of such Recipient, or actions taken in anticipation of any of the foregoing;
- ii. Change of ownership of the Project or such Recipient's Sewerage System or change of management or service contracts, if any, for operation of such Recipient's Sewerage System;
- iii. Loss, theft, damage, or impairment to the Project, such Recipient's Revenues or such Recipient's Sewerage System;
- iv. Failure of such Recipient to meet any debt service coverage test in Exhibit D of this Agreement;
- v. Draws on the Reserve Fund; [*Delete if no Reserve Fund*]
- vi. Events of Default with respect to such Recipient, except as otherwise set forth in this section;
- vii. Failure of such Recipient to observe or perform any covenant or comply with any condition in this Agreement;
- viii. An offer from a public entity to purchase the Project or such Recipient's Sewerage System or any portion thereof, or any of the real or personal property related to or necessary for the Project;
- ix. A proceeding or action by a public entity to acquire the Project or such Recipient's Sewerage System by power of eminent domain;
- x. Incurrence of Obligations or other Material Obligation by such Recipient; or
- xi. A default, event of acceleration, termination event, modification of terms, or other similar event under the terms of Obligations or other Material Obligation of such Recipient, any of which reflect financial difficulties.

(d) Within ten (10) business days, a Recipient must notify the Division by phone at (916) 327-9978, by email to [PM email address and senior email address] and CleanWaterSRF@waterboards.ca.gov, and by mail to the contact address set forth in Section 4 of this Agreement of the following events:

- i. Material defaults on Material Obligations of such Recipient, other than under this Agreement;
- ii. Unscheduled draws on material debt service reserves or credit enhancements of such Recipient, reflecting financial difficulties;
- iii. Substitution of credit or liquidity providers with respect to such Recipient, if any or their failure to perform;
- iv. Any litigation pending or threatened with respect to the Project or such Recipient's technical, managerial or financial capacity to operate such Recipient's Sewerage System or such Recipient's continued existence;
- v. Circulation of a petition to repeal, reduce, or otherwise challenge such Recipient's rates for services of such Recipient's Sewerage System;
- vi. Consideration of dissolution, or disincorporation of such Recipient, or any other event that could materially impair the Revenues of such Recipient;
- vii. Adverse tax opinions, the issuance by the Internal Revenue Service or proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-

- TEB) or other material notices of determinations with respect to the tax status of any tax-exempt bonds of such Recipient;
- viii. Rating changes on outstanding Senior Obligations of such Recipient, if any;
 - ix. Incurrence of additional Senior Obligations of such Recipient;
 - x. Enforcement actions against such Recipient by or brought on behalf of the State Water Board or Regional Water Board; or
 - xi. Any investigation by the District Attorney, California State Auditor, Bureau of State Audits, United States Environmental Protection Agency's Office of Inspector General, the Internal Revenue Service, Securities and Exchange Commission, a grand jury, or any other state or federal agency, relating to such Recipient's financial management, accounting procedures, or internal fiscal controls;
- (e) The Recipients must notify the Division promptly by phone at (916) 327-9978, by email to [PM email address and senior email address] and CleanWaterSRF@waterboards.ca.gov, and by mail to the contact address set forth in Section 4 of this Agreement of any of the following events:
- i. The discovery of a false statement of fact or representation made in this Agreement or in the application to the Division for this financial assistance, or in any certification, report, or request for disbursement made pursuant to this Agreement, by the Recipients, their employees, agents, or contractors;
 - ii. Any substantial change in scope of the Project. The Recipients must undertake no substantial change in the scope of the Project until prompt written notice of the proposed change has been provided to the Division and the Division has given written approval for the change;
 - iii. Cessation of all major construction work on the Project where such cessation of work is expected to or does extend for a period of thirty (30) days or more;
 - iv. Any circumstance, combination of circumstances, or condition, which is expected to or does delay Completion of Construction for a period of ninety (90) days or more;
 - v. Discovery of any unexpected endangered or threatened species, as defined in the federal Endangered Species Act. Should a federally protected species be unexpectedly encountered during construction of the Project, the Recipients agree to promptly notify the Division. This notification is in addition to the Recipients' obligations under the federal Endangered Species Act;
 - vi. Any Project monitoring, demonstration, or other implementation activities required in Exhibit A or Exhibit D of this Agreement, if any;
 - vii. Any public or media event publicizing the accomplishments and/or results of this Agreement and provide the opportunity for attendance and participation by state representatives with at least ten (10) working days' notice to the Division;
 - viii. Any allegation of research misconduct involving research activities that are supported in whole or in part with EPA funds under the Project, as required by Exhibit C.4.3(xxvii);
 - ix. Any events requiring notice to the Division pursuant to the provisions of this Agreement;
 - x. Completion of Construction of the Project, and actual Project Completion;
 - xi. The award of the prime construction contract for the Project;
 - xii. Initiation of construction of the Project.

C.3.26 Operation and Maintenance; Insurance.

Each Recipient agrees to sufficiently and properly staff, operate and maintain all portions of such Recipient's Sewerage System during the Useful Life of the Project in accordance with all applicable state and federal laws, rules, and regulations.

Each Recipient will procure and maintain or cause to be maintained insurance on such Recipient's Sewerage System with responsible insurers, or as part of a reasonable system of self-insurance, in such amounts and against such risks (including damage to or destruction of the Sewerage System) as are usually covered in connection with systems similar to the Sewerage System. Such insurance may be maintained by a self-insurance plan so long as such plan provides for (i) the establishment by such Recipient of a separate segregated self-insurance fund in an amount determined (initially and on at least an annual basis) by an independent insurance consultant experienced in the field of risk management employing accepted actuarial techniques and (ii) the establishment and maintenance of a claims processing and risk management program.

In the event of any damage to or destruction of the Sewerage System of a Recipient 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 Sewerage System. Such Recipient must begin such reconstruction, repair or replacement as expeditiously as possible, and must pay out of such net proceeds all costs and expenses in connection with such reconstruction, repair or replacement so that the same must be completed and the Sewerage System must be free and clear of all claims and liens. If such net proceeds are insufficient to reconstruct, repair, or restore the Sewerage System to the extent necessary to enable such Recipient to pay all remaining unpaid principal portions of the Payments, if any, in accordance with the terms of this Agreement, such Recipient must provide additional funds to restore or replace the damaged portions of the Sewerage System.

The Recipients agree that for any policy of insurance concerning or covering the construction of the Project, they will cause, and will require their contractors and subcontractors to cause, a certificate of insurance to be issued showing the State Water Board, its officers, agents, employees, and servants as additional insured; and must provide the Division with a copy of all such certificates prior to the commencement of construction of the Project.

C.3.27 Permits, Subcontracting, and Remedies.

The Recipients must procure all permits, licenses and other authorizations necessary to accomplish the work contemplated in this Agreement, pay all charges and fees, and give all notices necessary and incidental to the due and lawful prosecution of the work. Signed copies of any such permits or licenses must be submitted to the Division before any construction begins.

The Recipients must not contract or allow subcontracting with excluded parties. The Recipients must not contract with any party who is debarred or suspended or otherwise excluded from or ineligible for participation in any work overseen, directed, funded, or administered by the State Water Board program for which this funding is authorized. For any work related to this Agreement, the Recipients must not contract with any individual or organization on the State Water Board's List of Disqualified Businesses and Persons that is identified as debarred or suspended or otherwise excluded from or ineligible for participation in any work overseen, directed, funded, or administered by the State Water Board program for which funding under this Agreement is authorized. The State Water Board's List of Disqualified Businesses and Persons is located at

http://www.waterboards.ca.gov/water_issues/programs/enforcement/fwa/dbp.shtml

C.3.28 Professionals.

The Recipients agree that only licensed professionals will be used to perform services under this Agreement where such services are called for. All technical reports required pursuant to this Agreement that involve planning, investigation, evaluation, design, or other work requiring interpretation and proper application of engineering, architectural, or geologic sciences, shall be prepared by or under the direction of persons registered to practice in California pursuant to Business and Professions Code, sections 5536.1, 6735, 7835, and 7835.1. To demonstrate compliance with California Code of Regulations, title 16, sections 415 and 3065, all technical reports must contain a statement of the qualifications of the responsible registered professional(s). As required by these laws, completed technical reports must bear

the signature(s) and seal(s) of the registered professional(s) in a manner such that all work can be clearly attributed to the professional responsible for the work.

C.3.29 Prevailing Wages.

The Recipients agree to be bound by all applicable provisions of State Labor Code regarding prevailing wages. The Recipients must monitor all agreements subject to reimbursement from this Agreement to ensure that the prevailing wage provisions of the State Labor Code are being met.

In addition, the Recipients agree to comply with the Davis-Bacon provisions incorporated by reference in Section 3 of this Agreement.

C.3.30 Public Funding.

This Project is publicly funded. Any service provider or contractor with which the Recipients contract must not have any role or relationship with the Recipients, that, in effect, substantially limits the Recipients' ability to exercise their rights, including cancellation rights, under the contract, based on all the facts and circumstances.

C.3.31 Recipient's Responsibility for Work.

The Recipients shall be responsible for all work and for persons or entities engaged in work performed pursuant to this Agreement, including, but not limited to, contractors, subcontractors, suppliers, and providers of services. The Recipients shall be responsible for responding to any and all disputes arising out of its contracts for work on the Project. The State Water Board will not mediate disputes between the Recipients and any other entity concerning responsibility for performance of work.

C.3.32 Related Litigation.

Under no circumstances may the Recipients use funds from any disbursement under this Agreement to pay costs associated with any litigation the Recipients pursue against the State Water Board or any Regional Water Quality Control Board. Regardless of the outcome of any such litigation, and notwithstanding any conflicting language in this Agreement, the Recipients agree to repay all of the disbursed funds plus interest in the event that Recipients do not complete the Project.

C.3.33 Rights in Data.

The Recipients agree that all data, plans, drawings, specifications, reports, computer programs, operating manuals, notes, and other written or graphic work produced in the performance of this Agreement are subject to the rights of the State as set forth in this section. The State shall have the right to reproduce, publish, and use all such work, or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so. If any such work is copyrightable, the Recipients may copyright the same, except that, as to any work which is copyrighted by the Recipients, the State reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, and use such work, or any part thereof, and to authorize others to do so, and to receive electronic copies from the Recipient upon request.

C.3.34 State Water Board Action; Costs and Attorney Fees.

Any remedy provided in this Agreement is in addition to and not in derogation of any other legal or equitable remedy available to the State Water Board as a result of breach of this Agreement by the Recipients, whether such breach occurs before or after completion of the Project, and exercise of any remedy provided by this Agreement by the State Water Board shall not preclude the State Water Board from pursuing any legal remedy or right which would otherwise be available. In the event of litigation between the parties hereto arising from this Agreement, it is agreed that each party shall bear its own costs and attorney fees.

C.3.35 Timeliness.

Time is of the essence in this Agreement.

C.3.36 Unenforceable Provision.

In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

C.3.37 Venue.

Any action arising out of this Agreement shall be filed and maintained in the Superior Court in and for the County of Sacramento, California.

C.3.38 Waiver and Rights of the State Water Board.

Any waiver of rights by the State Water Board with respect to a default or other matter arising under this Agreement at any time shall not be considered a waiver of rights with respect to any other default or matter. Any rights and remedies of the State Water Board provided for in this Agreement are in addition to any other rights and remedies provided by law.

C.4 MISCELLANEOUS STATE AND FEDERAL REQUIREMENTS

C.4.1 [Reserved].

C.4.2 State Cross-Cutters.

Each Recipient represents that, as applicable, it complies and covenants to maintain compliance with the following for the term of the Agreement:

- i. The California Environmental Quality Act (CEQA), as set forth in Public Resources Code 21000 et seq. and in the CEQA Guidelines at Title 14, Division 6, Chapter 3, Section 15000 et seq.
- ii. Water Conservation requirements, including regulations in Division 3 of Title 23 of the California Code of Regulations.
- iii. Monthly Water Diversion Reporting requirements, including requirements set forth in Water Code section 5103.
- iv. Public Works Contractor Registration with Department of Industrial Relations requirements, including requirements set forth in Sections 1725.5 and 1771.1 of the Labor Code.
- v. Volumetric Pricing & Water Meters requirements, including the requirements of Water Code sections 526 and 527.
- vi. Urban Water Management Plan requirements, including the Urban Water Management Planning Act (Water Code, § 10610 et seq.).
- vii. Urban Water Demand Management requirements, including the requirements of Section 10608.56 of the Water Code.
- viii. Delta Plan Consistency Findings requirements, including the requirements of Water Code section 85225 and California Code of Regulations, title 23, section 5002.

- ix. Agricultural Water Management Plan Consistency requirements, including the requirements of Water Code section 10852.
- x. Charter City Project Labor Requirements, including the requirements of Labor Code section 1782 and Public Contract Code section 2503.

C.4.3 Federal Requirements and Cross-Cutters for SRF Funding.

The Recipients acknowledge, warrant compliance with, and covenant to continuing compliance with the following federal terms and conditions for the Useful Life of the Project:

- i. Unless the Recipients have obtained a waiver from USEPA on file with the State Water Board or unless the Project is not a project for the construction, alteration, maintenance or repair of a public water system or treatment work, the Recipients shall not purchase "iron and steel products" produced outside of the United States on the Project. Unless the Recipients have obtained a waiver from USEPA on file with the State Water Board or unless the Project is not a project for the construction, alteration, maintenance or repair of a public water system or treatment work, the Recipients hereby certify that all "iron and steel products" used in the Project were or will be produced in the United States. For purposes of this section, the term "iron and steel products" means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. "Steel" means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.
- ii. The Recipients must include in full the Wage Rate Requirements (Davis-Bacon) language incorporated by reference in Section 3 of this Agreement in all construction contracts and subcontracts.
- iii. The Recipients must comply with the signage requirements set forth in Exhibit A.
- iv. The Recipients shall notify the State Water Board and the USEPA contact of public or media events publicizing the accomplishment of significant events related to the Project and provide the opportunity for attendance and participation by federal representatives with at least ten (10) working days' notice.
- v. The Recipients shall comply with applicable EPA general terms and conditions found at <http://www.epa.gov/ogd>.
- vi. The Recipients may not receive funding under this Agreement unless they have provided their DUNS number to the State Water Board.
- vii. [Reserved].
- viii. The Recipients represent and warrant that they and their principals are not excluded or disqualified from participating in this transaction as such terms are defined in Parts 180 and 1532 of Title 2 of the Code of Federal Regulations (2 CFR). If any Recipient is excluded after execution of this Agreement, such Recipient shall notify the Division within ten (10) days and shall inform the Division of such Recipient's exclusion in any request for amendment of this Agreement. The Recipients shall comply with Subpart C of Part 180 of 2 CFR, as supplemented by Subpart C of Part 1532 of 2 CFR. Such compliance is a condition precedent to the State Water Board's performance of its obligations under this Agreement. When entering into a covered transaction as defined in Parts 180 and 1532 of 2 CFR, the Recipients shall require the other party to the covered transaction to comply with Subpart C of Part 180 of 2 CFR, as supplemented by Subpart C of Part 1532 of 2 CFR.

- ix. To the extent applicable, the Recipients shall disclose to the State Water Board any potential conflict of interest consistent with USEPA's Final Financial Assistance Conflict of Interest Policy at <https://www.epa.gov/grants/epas-final-financial-assistance-conflict-interest-policy>. A conflict of interest may result in disallowance of costs.
- x. USEPA and the State Water Board have the right to reproduce, publish, use and authorize others to reproduce, publish and use copyrighted works or other data developed under this assistance agreement.
- xi. Where an invention is made with Project Funds, USEPA and the State Water Board retain the right to a worldwide, nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention owned by the Recipients. The Recipients must utilize the Interagency Edison extramural invention reporting system at <http://iEdison.gov> and shall notify the Division when an invention report, patent report, or utilization report is filed.
- xii. The Recipients agree that any reports, documents, publications or other materials developed for public distribution supported by this Agreement shall contain the Disclosure statement set forth in Exhibit A.
- xiii. The Recipients acknowledge that they are encouraged to follow guidelines established under Section 508 of the Rehabilitation Act, codified at 36 CFR Part 1194, with respect to enabling individuals with disabilities to participate in its programs supported by the Project.
- xiv. Each Recipient, its employees, contractors and subcontractors and their employees warrant that it will not engage in severe forms of trafficking in persons, procure a commercial sex act during the term of this Agreement, or use forced labor in the performance of this Agreement. The Recipients must include this provision in their contracts and subcontracts under this Agreement. Each Recipient must inform the State Water Board immediately of any information regarding a violation of the foregoing. Each Recipient understands that failure to comply with this provision may subject the State Water Board to loss of federal funds. Each Recipient agrees to compensate the State Water Board for any such funds lost due to its failure to comply with this condition, or the failure of its contractors or subcontractors to comply with this condition.
- xv. Each Recipient certifies to the best of its knowledge and belief that:
 - a. No federal appropriated funds have been paid or will be paid, by or on behalf of such Recipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 - b. 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 of Congress in connection with this Agreement, the Recipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions, and notify the State Water Board.

The Recipients shall require this certification from all parties to any contract or agreement that the Recipients enter into and under which the Recipients incur costs for which they seek disbursements under this Agreement.

- xvi. Each Recipient must comply with the following federal non-discrimination requirements:
 - a. Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, and national origin, including limited English proficiency (LEP).

- b. Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities.
 - c. The Age Discrimination Act of 1975, which prohibits age discrimination.
 - d. Section 13 of the Federal Water Pollution Control Act Amendments of 1972, which prohibits discrimination on the basis of sex.
 - e. 40 CFR Part 7, as it relates to the foregoing.
- xvii. If the Project relates to construction of a publicly owned treatment works, where the Recipients contract for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or architectural related services, the Recipients shall ensure that any such contract is negotiated in the same manner as a contract for architectural and engineering services is negotiated under chapter 11 of title 40, United States Code, or an equivalent State qualifications-based requirement as determined by the State Water Board.
- xviii. If the Project relates to construction of a publicly owned treatment works, the Recipient certifies that it has developed and is implementing a fiscal sustainability plan for the Project that includes an inventory of critical assets that are a part of the Project, an evaluation of the condition and performance of inventoried assets or asset groupings, a certification that the Recipient has evaluated and will be implementing water and energy conservation efforts as part of the plan, and a plan for maintaining, repairing, and, as necessary, replacing the Project and a plan for funding such activities.
- xix. Executive Order No. 11246. The Recipients shall include in the contracts and subcontracts related to the Project the following provisions:

"During the performance of this contract, the contractor agrees as follows:"(a) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

"(b) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

"(c) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

"(d) The contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

"(e) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting

agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

"(f) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

"(g) The contractor will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of Sept. 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, That in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States."

- xx. The Recipients agree to comply with the requirements of USEPA's Program for Utilization of Small, Minority and Women's Business Enterprises.
- xxi. Procurement Prohibitions under Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans; 42 USC § 7606; 33 USC § 1368. Except where the purpose of this Agreement is to remedy the cause of the violation, the Recipients may not procure goods, services, or materials from suppliers excluded under the federal System for Award Management: <http://www.sam.gov/>.
- xxii. Uniform Relocation and Real Property Acquisition Policies Act, Pub. L. 91-646, as amended; 42 USC §§4601-4655. The Recipients must comply with the Act's implementing regulations at 49 CFR 24.101 through 24.105.
- xxiii. Each Recipient agrees that if its network or information system is connected to USEPA networks to transfer data using systems other than the Environmental Information Exchange Network or USEPA's Central Data Exchange, it will ensure that any connections are secure.
- xxiv. All geospatial data created pursuant to this Agreement that is submitted to the State Water Board for use by USEPA or that is submitted directly to USEPA must be consistent with Federal Geographic Data Committee endorsed standards. Information on these standards may be found at www.fgdc.gov.
- xxv. If the Recipient is a water system that serves 500 or fewer persons, the Recipient represents that it has considered publicly-owned wells as an alternative drinking water supply.
- xxvi. The Recipient represents that it is not a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and it is not a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

xxvii. The Recipients agree to immediately notify the Project Manager in writing about any allegation of research misconduct involving research activities that are supported in whole or in part with EPA funds under the Project, including fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results, or ordering, advising, or suggesting that subordinates engage in research misconduct.

xxviii. The Recipients agree to comply with, and require all contractors and subcontractors to comply with, EPA's Scientific Integrity Policy, available at <https://www.epa.gov/osa/policy-epa-scientific-integrity>, when conducting, supervising, and communicating science and when using or applying the results of science. For purposes of this condition scientific activities include, but are not limited to, computer modelling, economic analysis, field sampling, laboratory experimentation, demonstrating new technology, statistical analysis, and writing a review article on a scientific issue.

The Recipients shall not suppress, alter, or otherwise impede the timely release of scientific findings or conclusions; intimidate or coerce scientists to alter scientific data, findings, or professional opinions or exert non-scientific influence on scientific advisory boards; knowingly misrepresent, exaggerate, or downplay areas of scientific uncertainty; or otherwise violate the EPA's Scientific Integrity Policy. The Recipients must refrain from acts of research misconduct, including publication or reporting, as described in EPA's Policy and Procedures for Addressing Research Misconduct, Section 9.C, and must ensure scientific findings are generated and disseminated in a timely and transparent manner, including scientific research performed by contractors and subcontractors.

xxix. The Recipients agree to comply with the Animal Welfare Act of 1966 (7 USC 2131-2156). Recipient also agrees to abide by the "U.S. Government Principles for the Utilization and Care of Vertebrate Animals used in Testing, Research, and Training," available at <http://grants.nih.gov/grants/olaw/references/phspol.htm#USGovPrinciples>.

xxx. The Recipients certify that no Project Funds will be used on:

- a. Video surveillance or telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities), telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
- b. Telecommunications or video surveillance services produced by such entities;
- c. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country; or
- d. Other telecommunications or video surveillance services or equipment in violation of [2 CFR 200.216](#).

EXHIBIT D – SPECIAL CONDITIONS

[environmental]

Legal Special Conditions:

1. Definitions. Unless otherwise specified, each capitalized term used in this Agreement shall have the meaning ascribed to it in this Section. For the purposes of this Section, capitalized terms not otherwise defined in Section 5.1 or Exhibit D of this Agreement shall have the meaning ascribed thereto in the MOA.

“Administrative Costs” means the ordinary and necessary administrative costs and incidental expenses related to this Master Obligation Agreement and the Obligations, including (a) fees and expenses of the Master Trustee (including fees and expenses of its counsel) and indemnification of the Master Trustee pursuant hereto, (b) fees and expenses of each Obligation Trustee (including fees and expenses of its counsel) and indemnification of such Obligation Trustee pursuant to the Obligation Instrument to which such Obligation Trustee is a party or pursuant to which it is engaged, (c) with respect to Obligations that are loan payments, installment payments, lease payments, rental payments or similar payments payable under and pursuant to a Contract, which Obligations are not Trustee Assigned Obligations, the fees and expenses of the Obligee with respect to such Contract (including fees and expenses of its counsel) and indemnification of such Obligee pursuant to the Obligation Instrument to which such Obligations are incurred, and (d) fees and expenses of a loan servicer or other Person performing similar services with respect to Obligations.

“Fiscal Year” means, with respect to a District, the period beginning on July 1 of each year and ending on the next succeeding June 30, or any other twelve-month period selected and designated as the official Fiscal Year of such District.

“Generally Accepted Accounting Principles” means those principles of accounting set forth in pronouncements of the Governmental Accounting Standards Board and any successor thereto, pronouncements of the Financial Accounting Standards Board and any successor thereto or pronouncements of the American Institute of Certified Public Accountants, as such principles are from time to time supplemented, amended or otherwise modified.

“Net Revenues” means, with respect to a District, for any period (a) the Revenues of such District for such period, less (b) the Operation and Maintenance Costs of such District for such period.

“Obligations” means, with respect to a District, its Senior Obligations and Subordinate Obligations.

“Operation and Maintenance Costs” means, with respect to a District, for any period (a) the reasonable and necessary costs expended or incurred by such District for maintaining and operating its Sewerage System, calculated in accordance with Generally Accepted Accounting Principles, including the reasonable expenses of management and repair and other expenses necessary to maintain and preserve its Sewerage System in good repair and working order, and including salaries and wages of employees, payments to its employee retirement systems (to the extent paid from Revenues of such District), overhead, insurance, taxes if any, fees of auditors, accountants, attorneys or engineers and insurance premiums, and (b) Administrative Costs and scheduled periodic fees, but not Debt Service, Reimbursement Obligations or reimbursements payable pursuant to any Reserve Guaranty, payable to an Obligee pursuant to an Obligation Instrument to which such District is a party in consideration of such Obligee’s making, or standing ready to make, advances or draws thereunder available to such District pursuant to the provisions of such Obligation Instrument or, with respect to an Obligee that is a Credit Support Provider, such Obligee’s standing ready to provide moneys necessary for payment to the Owners of the Credit Enhanced Obligations, the Debt Service payments on which are secured by a Credit Support Instrument between such District and such Credit Support Provider, but excluding in all cases (i) depreciation, replacement and obsolescence charges or reserves therefor, (ii) amortization of intangibles or other bookkeeping entries of

a similar nature, (iii) costs of capital additions, replacements, betterments, extensions or improvements to its Sewerage System that, under Generally Accepted Accounting Principles, are chargeable to a capital account or to a reserve for depreciation, and (iv) charges for the payment of any Debt Service on Obligations of such District.

“Revenues” means, with respect to a District, for any period, all income and revenue received by such District from the operation or ownership of such District’s Sewerage System, determined in accordance with Generally Accepted Accounting Principles, including all rates and charges received by such District for the services of its Sewerage System, investment income (to the extent generally available to pay costs with respect to its Sewerage System) and all other money howsoever derived by such District from the operation or ownership of its Sewerage System or arising from its Sewerage System, including the ad valorem property taxes received by such District during such period pursuant to Article XIII A of the Constitution of the State of California and Section 95 et seq. of the California Revenue and Taxation Code, but excluding (a) payments received under Qualified Swap Agreements, (b) refundable deposits made to establish credit, (c) advances or contributions in aid of construction, and (d) ad valorem property taxes levied to pay any voter approved general obligation indebtedness of such District.

“Senior Obligations” means, with respect to a District (a) the loan payments, installment payments, lease payments, rental payments or similar payments of interest and principal or, if there are no separate payments of interest and principal, the loan payments, installment payments, lease payments, rental payments or similar payments payable by such District under and pursuant to Senior Contracts of such District, (b) Senior Bonds of such District and the interest and principal payments payable by such District under and pursuant to such Senior Bonds, (c) Reimbursement Obligations of such District payable by such District under and pursuant to Credit Support Agreements of such District entered into with respect to Credit Enhanced Obligations of such District that are Senior Obligations, and (d) Net Payments, but not Termination Payments, payable by such District under and pursuant to Qualified Swap Agreements of such District entered into with respect to Senior Obligations of such District.

“Sewerage System” means, with respect to a District, the whole and each and every part of the wastewater collection, conveyance, treatment, disposal and administrative facilities of such District, including such District’s ownership interest, if any, pursuant to the Joint Administration Agreement, such District’s ownership interest, if any, pursuant to the Joint Outfall Agreement, such District’s ownership interest, if any, pursuant to a City of Los Angeles Agreement, all real and personal property, or any interest therein, constituting a part thereof and all additions, improvements, betterments and extensions thereto whether presently existing or hereafter acquired, constructed or installed.

“Shared Project” means, collectively, the Projects of Districts that are members of a Shared Project Group, the costs of which are, or are to be, financed or refinanced by Shared Project Obligations with respect to which such Districts are the Shared Project Group; provided, however, that if such Shared Project is a Supported Project, such Shared Project shall consist only of capital additions, replacements, betterments, extensions or improvements to the Sewerage Systems of the Districts that are members of such Shared Project Group.

“Shared Project Group” means, with respect to any Shared Project Obligations, the Districts that are party to the Obligation Instrument pursuant to which such Shared Project Obligations are incurred.

“Subordinate Obligations” means, with respect to a District (a) the loan payments, installment payments, lease payments, rental payments or similar payments of interest and principal or, if there are no separate payments of interest and principal, the loan payments, installment payments, lease payments, rental payments or similar payments payable by such District under and pursuant to Subordinate Contracts of such District, (b) Subordinate Bonds of such District and the interest and principal payments payable by such District under and pursuant to such Subordinate Bonds, (c) Reimbursement Obligations of such District payable by such District under and pursuant to Credit Support Agreements of such District entered into with respect to Credit Enhanced Obligations of such District that are Subordinate Obligations, and (d) Net Payments, but not Termination Payments, payable by such District under and pursuant to Qualified Swap Agreements of such District entered into with respect to Subordinate Obligations of such District.

“Support Group” means, with respect to any Supported Obligations, the Districts that are party to the Obligation Instrument pursuant to which such Supported Obligations are incurred.

“Supported Obligations” means, with respect to any Obligations (a) if such Obligations are Senior Obligations (i) such Senior Obligations are Shared Project Obligations, and (ii) pursuant the provisions of Section 3.04(a), each District party to the Obligation Instrument pursuant to which such Shared Project Obligations are incurred agrees to make Support Payments to each other District party thereto, if and as required pursuant to the provisions of said Section, and (b) if such Obligations are Subordinate Obligations (i) such Subordinate Obligations are Shared Project Obligations, and (ii) pursuant the provisions of Section 3.04(b), each District party to the Obligation Instrument pursuant to which such Shared Project Obligations are incurred agrees to make Support Payments to each other District party thereto, if and as required pursuant to the provisions of said Section.

2. Rates, Fees and Charges. Any reference to Section 5.07 of the MOA or a debt service coverage test shall have the following meaning:

Section 5.07. Amounts of Rates and Charges. (a) Each District shall, to the extent permitted by applicable law, fix, prescribe and collect rates and charges for the services of its Sewerage System that will be at least sufficient to yield during each Fiscal Year (i) Revenues of such District for such Fiscal Year sufficient to make all deposits, transfers and payments required pursuant to this Master Obligation Agreement to be made in such Fiscal Year, including (A) payments of Operation and Maintenance Costs, and (B) all deposits, transfers and payments required by paragraphs (i) through (xiv) of Section 3.03(c), and (ii) a Senior Debt Service Coverage Ratio of such District for such Fiscal Year of not less than 1.25:1. A 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 its Revenues and Senior Debt Service Coverage Ratio from such reduced rates and charges will at all times be sufficient to meet the requirements of this Section.

(b) District shall not be in default under this Section if it fails to satisfy the requirements set forth in subsection (a) of this Section for a Fiscal Year, so long as (i) such District has satisfied the requirements of clause (i) of subsection (a) of this Section for such Fiscal Year, and (ii) such District has delivered to each Obligee, no later than 90 days after the end of such Fiscal Year, a written report describing the cause or causes of such failure and describing the measures that such District has taken or is in the process of taking in order to prevent such a failure in the Fiscal Year next succeeding such Fiscal Year; provided, however, that such District shall be in default under this Section if it fails to satisfy the requirements set forth in subsection (a) of this Section for two consecutive Fiscal Years.

EXHIBIT E – PAYMENT SCHEDULE

See the attached preliminary Payment Schedule. The final Payment Schedule will be forwarded to the Recipient after all disbursements have been paid and construction of the Project has been completed.

The amount of the Payment payable by each Recipient on each payment date shall be equal to the product of such Recipient's Shared Project Percentage times the aggregate amount of the Payment payable by all of the Recipients on such payment date, as set forth in the attached Payment Schedule.

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EXHIBIT F – [Reserved.]

[Insert table setting forth fixed Shared Project Percentage for each District, if applicable]

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EXHIBIT G – MASTER OBLIGATION AGREEMENT

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