

May 2, 2023

C-20

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Adopt a Resolution approving an extension of the current Revolving Line of Credit with JP Morgan Chase Bank, N.A. by the Board of Utilities Commissioners (successor to the Board of Water Commissioners), on behalf of the City of Long Beach (City), for an additional one-year term and authorize the execution of all necessary documents and amendments in connection therewith before the existing Credit Agreement expires on May 21, 2023. (Citywide)

DISCUSSION

JP Morgan Chase Bank, N.A. currently provides the Utilities Department with a \$60 million line of credit that was originally approved by the City Council on April 21, 2020. The current line of credit is scheduled to expire on May 21, 2023. The short-term borrowing program was established to allow the Utilities Department (then the Water Department) to periodically borrow on a low cost, short-term basis and/or reimburse the Utilities Department allowing the Department to better match the long-term asset life of the capital projects with its debt repayment schedule. When a sufficient size of principal is accumulated to efficiently convert the outstanding principal to long term bonds, the Utilities Department will initiate a bond transaction. The benefits of such a strategy are to delay the incurrence of higher cost, fixed rate debt service and avoid substantial amounts of idle cash invested at low rates.

Given the approaching expiration of the current line of credit, Utilities Department and Treasury Bureau staff, working with one of the Utilities Department's municipal advisors, KNN Public Finance, initiated discussions with JP Morgan Chase to determine the bank's interest in extending the existing credit agreement for one year. JP Morgan Chase agreed to provide an extension of this credit agreement for a one-year term with an amendment to the interest rate. Under the current line of credit, the tax-exempt borrowings paid by the Utilities Department were based on a percentage of the one-month London Interbank Offered Rate (LIBOR). With the pending end of the publication of LIBOR on June 30, 2023, future tax-exempt borrowings on this line of credit will be based on a percentage of the Secured Overnight Financing Rate (SOFR), plus an adjustment of 10 basis points (the current basis point spread adjustment as established by federal regulation, under the LIBOR Act, which is a reflection of the historical credit spread difference between SOFR and LIBOR interest rates). The revolving line of credit's legal security pledge remains the subordinate net revenues of the Water Enterprise. The Borrowing Limit under the Line of Credit will remain at the existing Principal Amount of Not to Exceed \$60 million. The Line of Credit will continue to be secured solely by Water Revenues on its Subordinate Lien.

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This matter was reviewed by Principal Deputy City Attorney Richard Anthony on April 11, 2023, and by Director of Finance for the Utilities Department Brandon Walker and Revenue Management Officer Geraldine Alejo on April 14, 2023.

TIMING CONSIDERATIONS

The Board of Utilities Commissioners approved this item for extension on April 13, 2023. City Council action is requested on May 2, 2023, to ensure that the JP Morgan Chase line of credit is extended for a one-year period before the May 21, 2023 expiration date.

FISCAL IMPACT

The total cost of the extension of the JP Morgan Chase line of credit, including consultant and counsel fees, is estimated at \$34,000, to be paid for by the Water Group Fund. The annual commitment fee to maintain the Line of Credit will remain at 0.275 percent. If the \$60 million Line of Credit were fully drawn today, the annual interest cost is estimated to be approximately \$3 million (holding the SOFR constant at its current level of just under 5 percent). However, the annual cost will vary based on the amount drawn on the line of credit and the changes in interest rates over time. To date, there has only been one \$14 million draw on this line of credit, which occurred on August 4, 2022, for various capital improvements to the water system. Only water revenues are pledged for the repayment of this debt including the cost of maintaining this line of credit. This recommendation has no staffing impact beyond the normal budgeted scope of duties and is consistent with existing City Council priorities, including the City's financial and debt policies, and the Utility Commission's priorities. There is no local job impact associated with this recommendation.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



KEVIN RIPER
DIRECTOR OF FINANCIAL MANAGEMENT



CHRISTOPHER J. GARNER
GENERAL MANAGER OF
PUBLIC UTILITIES

ATTACHMENT: RESOLUTION

APPROVED:



THOMAS B. MODICA
CITY MANAGER

1 RESOLUTION NO.
2

3 RESOLUTION OF THE CITY COUNCIL OF THE
4 CITY OF LONG BEACH APPROVING THE ISSUANCE
5 FROM TIME TO TIME BY THE BOARD OF UTILITIES
6 COMMISSIONERS, ON BEHALF OF THE CITY OF LONG
7 BEACH, SECOND LIEN WATER REVENUE SHORT-TERM
8 OBLIGATIONS ISSUED PURSUANT TO THE TERMS OF A
9 SUBORDINATE INDENTURE AND AN AMENDED AND
10 RESTATED CREDIT AGREEMENT AND RELATED
11 DOCUMENTS WHICH PROVIDE FOR A REVOLVING LINE
12 OF CREDIT IN AN AMOUNT NOT TO EXCEED
13 \$60,000,000 OUTSTANDING AT ANY TIME
14

15 WHEREAS, the City Charter (the "Charter") of the City of Long Beach (the
16 "City") and Sections 3.52.110 through 3.52.150 of the Long Beach Municipal Code of the
17 City (the "Municipal Code") provide a procedure for the issuance of revenue bonds by the
18 City or by a Board of Commissioners, acting for and on behalf of the City; and

19 WHEREAS, Section 1725 of Article XVII of the Charter provides a
20 procedure for the issuance of short-term revenue certificate obligations by the City or by
21 a Board of Commissioners, acting for and on behalf of the City; and

22 WHEREAS, pursuant to Resolution No. RES-20-0054, adopted by the City
23 Council of the City on April 21, 2020 (the "2020 Resolution"), the City Council approved
24 and authorized the Board of Public Utilities Commissioners of the City, successor to the
25 Board of Water Commissioners of the City (the "Board"), on behalf of the City, to issue
26 and/or incur short-term revenue certificate obligations pursuant to (i) Section 1725 of
27 Article XVII of the Charter, (ii) the Master Subordinate Trust Indenture, dated as of
28 October 1, 2002, as amended (the "Master Subordinate Indenture"), by and between the

1 Board, acting on its own behalf and on behalf of the City, and U.S. Bank Trust Company,
2 National Association, successor in interest to U.S. Bank National Association, as trustee
3 (the “Subordinate Trustee”), as supplemented by the Fourth Supplemental Subordinate
4 Trust Indenture, dated as of May 21, 2020 (the “Fourth Supplemental Subordinate
5 Indenture,” and together with the Master Subordinate Indenture, the “Subordinate
6 Indenture”), by and between the Board, acting on its own behalf and on behalf of the City,
7 and the Subordinate Trustee, and (iii) the Revolving Credit Agreement, dated as of May
8 21, 2020 (the “Original Credit Agreement”), by and between the Board and JPMorgan
9 Chase Bank, National Association (the “Bank”), to be outstanding, from time to time, in an
10 amount not to exceed \$60,000,000; and

11 WHEREAS, pursuant to the provisions of the Original Credit Agreement,
12 the Bank’s commitment to make advances under the Original Credit Agreement
13 terminates on May 19, 2023; and

14 WHEREAS, the Bank has offered to extend the termination date of the
15 Original Credit Agreement to a date no later than May 13, 2024, if certain conditions
16 precedent are met by the Board, including, among others, the execution and delivery of
17 an Amended and Restated Revolving Credit Agreement (the “Amended Credit
18 Agreement”), between the Board and the Bank; and

19 WHEREAS, the Board has adopted a resolution that approved the
20 extension of the termination date of the Original Credit Agreement and the execution and
21 delivery of the Amended Credit Agreement;

22 NOW, THEREFORE, the City Council of the City of Long Beach resolves as
23 follows:

24 Section 1. That the City Council, acting pursuant to Section 1725 of
25 Article XVII of the Charter and Sections 3.52.110 through 3.52.150, inclusive, of the
26 Code, does hereby affirm its adoption of the 2020 Resolution and approves the issuance
27 and incurrence of short-term revenue certificate obligations (the “Short-Term
28 Obligations”) pursuant to the terms of the Subordinate Indenture and the Amended Credit

1 Agreement, which shall provide for a Revolving Line of Credit in an amount not to exceed
2 \$60,000,000 at any one time outstanding.

3 The Short-Term Obligations and the repayment obligations under the
4 Amended Credit Agreement will be special, limited obligations of the City, payable solely
5 from and secured by a pledge of Subordinate Net Revenues (as defined in the Master
6 Subordinate Indenture) derived by the Board from the operations of the Enterprise (as
7 defined in the Master Subordinate Indenture and hereinafter referred to as the “Water
8 Enterprise”) and certain funds and accounts. None of the properties of the Water
9 Enterprise will be subject to any mortgage or other lien for the benefit of the owners of the
10 Short-Term Obligations or the Bank, and neither the full faith and credit nor the taxing
11 power of the City, the State of California (the “State”) or any political subdivision or
12 agency of the State will be pledged to the payment of the principal of, premium, if any, or
13 interest on the Short-Term Obligations or the repayment obligations under the Amended
14 Credit Agreement. Neither the Short-Term Obligations or the repayment obligations
15 under the Amended Credit Agreement will constitute a debt of the City, the State or any
16 of its political subdivisions within the meaning of any Constitutional limitation on
17 indebtedness. The general fund of the City shall not be liable for the payment of the
18 Short-Term Obligations or the repayment obligations under the Amended Credit
19 Agreement or interest thereon, nor shall the credit or the taxing power of the City be
20 pledged therefor.

21 Section 2. That the City Manager, the City Treasurer, the City Clerk and
22 all other proper officers and officials of the City are hereby authorized and directed to
23 execute such other agreements, documents and certificates, and to perform such other
24 acts and deeds as may be necessary or convenient to effect the purposes of this
25 resolution.

26 Section 3. That the City Clerk is hereby authorized and directed to
27 forward to the Board, without delay, a certified copy of this resolution.

28 Section 4. This resolution shall take effect immediately upon its adoption

1 by the City Council, and the City Clerk shall certify the vote adopting this resolution.

2 I hereby certify that the foregoing resolution was adopted by the City
3 Council of the City of Long Beach at its meeting of _____, 2023

4 by the following vote:

5

6 Ayes: Councilmembers: _____

7 _____

8 _____

9 _____

10 Noes: Councilmembers: _____

11 _____

12 Absent: Councilmembers: _____

13 _____

14 Recusal(s): Councilmembers: _____

15 _____

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17 _____

City Clerk

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OFFICE OF THE CITY ATTORNEY
DAWN MCINTOSH, City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach, CA 90802-4664

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EXHIBIT A
AMENDED AND RESTATED REVOLVING CREDIT AGREEMENT

AMENDED AND RESTATED REVOLVING CREDIT AGREEMENT

dated as of May [], 2023

between

BOARD OF PUBLIC UTILITIES COMMISSIONERS OF THE CITY OF LONG BEACH

and

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION

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SCHEDULE 8.02 — Bank’s Office, Certain Addresses for Notices

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EXHIBIT D	—	Form of Compliance Certificate

AMENDED AND RESTATED REVOLVING CREDIT AGREEMENT

This AMENDED AND RESTATED REVOLVING CREDIT AGREEMENT (as amended, modified or supplemented from time to time, this “*Agreement*”) is entered into as of May [], 2023, between the BOARD OF PUBLIC UTILITIES COMMISSIONERS OF THE CITY OF LONG BEACH, successor to the Board of Water Commissioners of the City of Long Beach, a commission existing under the charter of the City of Long Beach (the “*Board*”), acting on its own behalf and on behalf of the City of Long Beach, a charter city and municipal corporation duly organized and existing under its charter and the Constitution and laws of the State of California (the “*Issuer*”), and JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, a national banking association (together with its successors and assigns, the “*Bank*”).

PRELIMINARY STATEMENTS

WHEREAS, the Issuer wishes to obtain loans from the Bank hereunder and the Bank is willing, upon the terms and subject to the conditions set forth below, to provide such loans to the Issuer for use to finance or refinance Costs of a Project, to pay costs in connection with this Agreement or for any other purpose permitted under the Master Subordinate Lien Indenture (as defined herein) and the Fourth Supplemental Subordinate Lien Indenture (as defined herein);

WHEREAS, all obligations of the Issuer to repay the Bank for Borrowings (as defined herein) made by the Bank under the Revolving Commitment (as defined herein) and to pay all other amounts payable to the Bank arising under or pursuant to this Agreement and the Note to be issued to the Bank hereunder are created under and will be evidenced by this Agreement and the Note and will be secured by a pledge of and lien on Subordinate Net Revenues (as defined herein) all in accordance with the terms and conditions hereof;

WHEREAS, the Issuer and the Bank are currently parties to that certain Revolving Credit Agreement dated as of May 21, 2020 (as amended, restated, or otherwise modified to date, the “*Existing Agreement*”); and

WHEREAS, the Issuer and the Bank have agreed to amend the Existing Agreement in connection with certain amendments thereto, and, for the sake of clarity and convenience, have agreed that the Existing Agreement be restated in its entirety in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing recitals and other consideration, the receipt and sufficiency of which is hereby acknowledged, and in order to mutually induce the Bank and the Issuer to enter into this Agreement on the Closing Date, the Bank and the Issuer hereby agree as follows:

ARTICLE 1

DEFINITIONS AND ACCOUNTING TERMS

Section 1.01. Defined Terms. As used in this Agreement, the following terms shall have the meanings set forth below:

“*Additional Revenues*” has the meaning set forth in the Master Subordinate Lien Indenture.

“*Adjusted Daily Simple SOFR*” means an interest rate per annum equal to (a) Daily Simple SOFR, plus (b) ten basis points (0.10%). Notwithstanding the foregoing, if Adjusted Daily Simple SOFR would be less than the Floor, such rate shall be deemed to be the Floor for purposes of this Agreement.

“*Aggregate Annual Debt Service*” means:

(a) with respect to the Senior Lien Bonds, in determining the principal due in each Fiscal Year, payment shall be assumed to be made on the Senior Lien Bonds in accordance with the amortization schedule set forth in the Senior Lien Indenture; and in determining the interest due in each Fiscal Year, interest shall be assumed to be made at such fixed rates and on the interest payment dates as set forth in the Senior Lien Indenture; and

(b) with respect to Subordinate Obligations, “*Aggregate Annual Debt Service*” as such term is defined in the Master Subordinate Lien Indenture.

“*Affiliate*” means, with respect to any Person, any Person that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such first Person. A Person shall be deemed to control another Person for the purposes of this definition if such first Person possesses, directly or indirectly, the power to direct, or cause the direction of, the management and of the second Person, whether through the ownership of voting securities, common directors, trustees or officers, by contract or otherwise.

“*Agreement*” has the meaning set forth in the introductory paragraph hereto.

“*Anti-Corruption Laws*” means all laws, rules and regulations of any jurisdiction applicable to the Issuer or any of its Affiliates or any of their respective subsidiaries or affiliates from time to time concerning or relating to bribery or corruption.

“*Applicable Factor*” means eighty percent (80%).

“*Applicable Law*” means all applicable provisions of all constitutions, statutes, rules, regulations and all binding orders, judgments and decrees of any Governmental Authority.

“*Applicable Spread*” has the meaning set forth in the Fee Letter.

“*Approving Opinion*” means, with respect to any action or matter that may affect a Loan, an opinion delivered by Bond Counsel to the effect that such action (i) is permitted by this Agreement and the other Related Documents and (ii) will not adversely affect the exclusion of interest on any Loan from gross income of the Bank or any Participant for purposes of federal income taxation.

“*Audited Financial Statements*” means the audited consolidated balance sheet of the Enterprise for the most recently completed Fiscal Year, which includes the complete financial information on the Enterprise, and the related consolidated statements of income or operations and cash flows for such Fiscal Year of the Enterprise, including the notes thereto.

“*Authorized Board Representative*” has the meaning set forth in the Master Subordinate Lien Indenture.

“*Availability Period*” means the period from and including the Original Closing Date to the Commitment Termination Date.

“*Available Commitment*” means, on any date, an initial amount equal to \$60,000,000 and thereafter such initial amount adjusted from time to time as follows: (a) downward in an amount equal to any Loan made to the Issuer under the Revolving Commitment; (b) upward in an amount equal to the principal amount of any Loan made to the Issuer under the Revolving Commitment, that is repaid or prepaid, as applicable, in the manner provided herein; (c) downward in an amount equal to any reduction thereof effected pursuant to Section 2.04 hereof; and (d) downward to zero upon the expiration or termination of the Available Commitment in accordance with the terms hereof; *provided*, that, after giving effect to any of the foregoing adjustments the Available Commitment shall never exceed \$60,000,000 at any one time.

“*Bank*” has the meaning specified in the introductory paragraph hereto.

“*Bank Agreement*” means any credit agreement, liquidity agreement, standby bond purchase agreement, reimbursement agreement, direct purchase agreement (such as a continuing covenant agreement or supplemental bondholder’s agreement), bond purchase agreement, indenture, supplemental indenture or other agreement or instrument (or any amendment, supplement or other modification thereof) relating to Debt, or under which the Issuer issues or incurs Debt or under which, directly or indirectly, any Person or Persons undertake(s) to make loans or make payment of or provide funds to make payment of, or to purchase or provide credit enhancement or liquidity for Debt, bonds, notes or other obligations of the Issuer or payable from or secured by the Subordinate Net Revenues (or for purposes of Section 6.02(c)(iii), Net Revenues).

“*Benchmark*” means, initially, Daily Simple SOFR; *provided* that if a Benchmark Transition Event and the related Benchmark Replacement Date have occurred with respect to Daily Simple SOFR, or the then-current Benchmark, then “*Benchmark*” means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to Section 3.05(b) hereof.

“*Benchmark Replacement*” means, for the applicable Benchmark Replacement Date, the sum of: (a) the alternate benchmark rate that has been selected by the Bank and the Issuer as the replacement for the then-current Benchmark giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement for the then-current Benchmark for dollar-denominated credit facilities at such time in the United States and (b) the related Benchmark Replacement Adjustment. If the Benchmark Replacement would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Related Documents.

“*Benchmark Replacement Adjustment*” means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement for any setting of such Unadjusted Benchmark Replacement, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Bank and the Issuer giving due consideration to (i) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body on the applicable Benchmark Replacement Date and/or (ii) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for dollar-denominated credit facilities at such time.

“*Benchmark Replacement Conforming Changes*” means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of “Business Day,” the definition of “U.S. Government Securities Business Day,” timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, length of lookback periods, the applicability of breakage provisions, and other technical, administrative or operational matters) that the Bank decides may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by the Bank in a manner substantially consistent with market practice (or, if the Bank decides that adoption of any portion of such market practice is not administratively feasible or if the Bank determines that no market practice for the administration of such Benchmark Replacement exists, in such other manner of administration as the Bank decides is reasonably necessary in connection with the administration of this Agreement and the other Related Documents).

“*Benchmark Replacement Date*” means, with respect to any Benchmark, the earliest to occur of the following events with respect to such then-current Benchmark:

(1) in the case of clause (1) or (2) of the definition of “Benchmark Transition Event,” the later of (a) the date of the public statement or publication of information referenced therein and (b) the date on which the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide such Benchmark (or such component thereof); or

(2) in the case of clause (3) of the definition of “Benchmark Transition Event,” the first date on which such Benchmark (or the published component used in the calculation thereof) has been determined and announced by the regulatory supervisor for the administrator of such Benchmark (or such component thereof) to be no longer representative; provided, that such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (3).

For the avoidance of doubt, (i) if the event giving rise to the Benchmark Replacement Date occurs on the same day as, but earlier than, the Reference Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Reference Time for such determination and (ii) the “Benchmark Replacement Date” will be deemed to have occurred in the case of clause (1) or (2) with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to such Benchmark (or the published component used in the calculation thereof).

“*Benchmark Transition Event*” means, with respect to any Benchmark, the occurrence of one or more of the following events with respect to such then-current Benchmark:

(1) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide such Benchmark (or such component thereof), permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide such Benchmark (or such component thereof);

(2) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the Federal Reserve Board, the NYFRB, the SOFR Administrator, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), in each case, which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide such Benchmark (or such component thereof) permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide such Benchmark (or such component thereof); or

(3) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such Benchmark (or such component thereof) is no longer, or as of a specified future date will no longer be, representative.

For the avoidance of doubt, a “Benchmark Transition Event” will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set

forth above has occurred with respect to such Benchmark (or the published component used in the calculation thereof).

“*Benchmark Unavailability Period*” means, with respect to any Benchmark, the period (if any) (x) beginning at the time that a Benchmark Replacement Date pursuant to clauses (1) or (2) of that definition has occurred if, at such time, no Benchmark Replacement has replaced such then-current Benchmark for all purposes hereunder and under any Related Document in accordance with Section 3.05 hereof and (y) ending at the time that a Benchmark Replacement has replaced such then-current Benchmark for all purposes hereunder and under any Related Document in accordance with Section 3.05 hereof.

“*Board*” has the meaning provided in the introductory paragraph hereto.

“*Bond Counsel*” means Kutak Rock LLP, or any other firm of attorneys nationally recognized on the subject of tax-exempt municipal finance selected by the Issuer.

“*Borrowing*” means a borrowing of Loans from the Bank pursuant to Section 2.01 hereof.

“*Business Day*” means a day which is not (a) a Saturday, Sunday or legal holiday on which banking institutions in New York, New York or the State are authorized by law to close, (b) a day on which the New York Stock Exchange or the Federal Reserve Bank is closed or (c) a day on which either (i) the principal office of the Bank is closed or (ii) the office of the Bank in which it advances Loans hereunder is closed; *provided* that, when used in connection with a Loan, the term “Business Day” shall also exclude any day that is not a U.S. Government Securities Business Day.

“*Change in Law*” means the occurrence, after the Original Closing Date, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; *provided* that notwithstanding anything herein to the contrary, (i) the Dodd Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law,” regardless of the date enacted, adopted or issued (other than any rule thereunder that has been adopted and fully implemented prior to the Original Closing Date).

“*Charter*” means the Charter of the City of Long Beach as from time to time amended under which the City is organized and operates.

“*City*” means the City of Long Beach, California, a charter city and municipal corporation organized and existing under its Charter and the Constitution and laws of the State.

“*City Attorney*” means the Office of the City Attorney of the City, including the City Attorney, any Assistant City Attorney, or any Deputy City Attorney.

“*City Auditor*” means the Auditor of the City.

“*Closing Date*” means May [], 2023, subject to the satisfaction or waiver by the Bank of the conditions precedent set forth in Section 4.01 hereof.

“*Code*” means the Internal Revenue Code of 1986, as amended, and when appropriate, any statutory predecessor or successor thereto, and all applicable regulations (whether proposed, temporary or final) thereunder and any applicable official rulings, announcements, notices, procedures and judicial determinations relating to the foregoing.

“*Commercial Paper*” has the meaning set forth in the Master Subordinate Lien Indenture.

“*Commitment Fee*” has the meaning set forth in the Fee Letter.

“*Commitment Fee Rate*” has the meaning set forth in the Fee Letter.

“*Commitment Termination Date*” shall mean the earlier of:

(a) May [], 2024, or such later date as may be established pursuant to Section 2.11 hereof; and

(b) the date the Revolving Commitment is reduced to zero pursuant to Section 2.04 or Section 7.02 hereof.

“*Compliance Certificate*” means a certificate substantially in form of Exhibit D hereto.

“*Consultant*” has the meaning set forth in the Master Subordinate Lien Indenture.

“*Costs of a Project*” has the meaning set forth in the Master Subordinate Lien Indenture.

“*Credit Provider*” has the meaning set forth in the Master Subordinate Lien Indenture.

“*Daily Simple SOFR*” means, for any day (a “*SOFR Rate Day*”), a rate per annum equal to SOFR for the day (such day “*SOFR Determination Date*”) that is five (5) U.S. Government Securities Business Days prior to (i) if such SOFR Rate Day is a U.S. Government Securities Business Day, such SOFR Rate Day or (ii) if such SOFR Rate Day is not a U.S. Government Securities Business Day, the U.S. Government Securities Business Day immediately preceding such SOFR Rate Day, in each case, as such SOFR is published by the SOFR Administrator on the SOFR Administrator’s Website. Any change in Daily Simple SOFR due to a change in SOFR shall be effective from and including the effective date of such change in SOFR without notice to the Issuer.

“*Debt*” of any Person means at any date, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (c) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business, (d) all obligations of such Person as lessee under capital leases, (e) all Bank Agreements or interest rate protection or other derivative instruments or agreements, (f) all debt of others secured by a lien on any asset of such Person, whether or not such Debt is assumed by such Person, and (g) all guarantees by such Person of debt of other Persons; *provided, however*, in each case, such debt shall be payable from or secured by the Subordinate Net Revenues (or for purposes of Section 6.15, Section 6.34 and Section 7.01(j), Net Revenues).

“*Debt Service Reserve Fund Surety Policy*” shall mean an insurance policy or surety bond, or a letter of credit, deposited with the applicable trustee or such other fiduciary for the credit of the applicable debt service reserve fund created for one or more series of Outstanding Senior Lien Bonds or Subordinate Obligations in lieu of or partial substitution for cash or securities on deposit therein. Except as otherwise provided in a Supplemental Indenture or a Supplemental Subordinate Lien Indenture, the entity providing such Debt Service Reserve Fund Surety Policy shall be rated, at the time of delivery thereof, in one of the two highest long-term rating categories by one or more of the Rating Agencies.

“*Debtor Relief Laws*” means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect.

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

“*Default Rate*” means, for any day and for any Loan, a rate of interest per annum equal to the sum of the applicable rate then in effect for such Loan on such day plus four percent (4.00%).

“*Designated Jurisdiction*” means any country or territory to the extent that such country or territory itself is the subject of any Sanction.

“*Designated Representative*” has the meaning set forth in the Fourth Supplemental Subordinate Lien Indenture.

“*Determination of Taxability*” means and shall be deemed to have occurred on the first to occur of the following:

- (i) on the date when the Issuer files any statement, supplemental statement or other tax schedule, return or document which discloses that interest paid or payable on any Loan is includable, in whole or in part, in the gross income of the recipient thereof for federal income tax purposes;

(ii) on the date when the Bank notifies the Issuer that it has received a written opinion (which shall not be a reasoned opinion and shall be subject only to customary assumptions and exclusions) by a nationally recognized firm of attorneys of substantial expertise on the subject of tax exempt municipal finance to the effect that interest paid or payable on any Loan is includable, in whole or in part, in the gross income of the Bank or any Participant for federal income tax purposes unless, within two hundred seventy (270) days after receipt by the Issuer of such notification from the Bank, the Issuer shall deliver to the Bank, a ruling or determination letter issued to or on behalf of the Issuer by the Commissioner of the Internal Revenue Service or the Director of Tax-Exempt Bonds of the Tax-Exempt and Government Entities Division of the Internal Revenue Service (or any other government official exercising the same or a substantially similar function from time to time) to the effect that, after taking into consideration such facts as form the basis for the opinion that interest paid and payable all Loans is not includable, in whole or in part, in the gross income of the recipient thereof for federal income tax purposes;

(iii) on the date when the Issuer shall be advised in writing by the Commissioner of the Internal Revenue Service or the Director of Tax-Exempt Bonds of the Tax-Exempt and Government Entities Division of the Internal Revenue Service (or any other government official exercising the same or a substantially similar function from time to time, including an employee subordinate to one of these officers who has been authorized to provide such advice) that, based upon filings of the Issuer, or upon any review or audit of the Issuer or upon any other ground whatsoever, that interest paid or payable on any Loan is includable, in whole or in part, in the gross income of the recipient thereof for federal income tax purposes; or

(iv) on the date when the Issuer shall receive notice from the Bank that the Internal Revenue Service (or any other government official or agency exercising the same or a substantially similar function from time to time) has assessed the interest paid or payable on any Loan as being includable, in whole or in part, in the gross income of the recipient thereof for federal income tax purposes;

provided, however, no Determination of Taxability shall occur under subparagraph (iii) or (iv) hereunder unless the Issuer has been afforded the reasonable opportunity, at its expense, to contest any such assessment, and, further, no Determination of Taxability shall occur until such contest, if made, has been finally determined; *provided further, however*, that upon demand from the Bank, the Issuer shall promptly reimburse the Bank for any payments, including any taxes, interest, penalties or other charges, the Bank shall be obligated to make as a result of the Determination of Taxability.

“Dollar” and “\$” mean lawful money of the United States.

“Electronic System” means any electronic system, including e-mail, e-fax, web portal access for the Issuer, and any other Internet or extranet-based site, whether such electronic system is owned, operated or hosted by the Bank and any of its respective Related Parties or any other Person, providing for access to data protected by passcodes or other security system.

“*Enterprise*” has the meaning set forth in the Master Subordinate Lien Indenture.

“*Environmental Laws*” means any and all federal, state, local and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or other governmental restrictions relating to the environment or to emissions, discharges or releases of pollutants, contaminants, petroleum or petroleum products, chemicals or industrial, toxic or hazardous substances or wastes into the environment, including, without limitation, ambient air, surface water, ground water, or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants, petroleum or petroleum products, chemicals or industrial, toxic or hazardous substances or wastes or the clean up or other remediation thereof.

“*Event of Default*” with respect to this Agreement has the meaning set forth in Section 7.01 hereof and, with respect to any other Related Document, has the meaning assigned therein.

“*Fallback Rate*” means an interest rate per annum equal to the sum of the Federal Funds Effective Rate *plus* the Applicable Spread. The Fallback Rate may include an additional mathematical adjustment made by the Bank in order to account for the delta that may exist between: (a) the Federal Funds Effective Rate *plus* the Applicable Spread; and (b) the interest that would have otherwise been payable to the Bank using the Floating Rate on the day before SOFR is illegal or unavailable, as the case may be, or SOFR is no longer available in accordance with a Benchmark Transition Event; *provided that* for purposes of Section 3.05(a)(ii) hereof, to the extent the Floating Rate fails to adequately reflect the Bank’s cost of funds *plus* the Applicable Spread, the Fallback Rate shall equal a market conventional rate that is mutually agreeable to the Bank and the Issuer.

“*Federal Funds Effective Rate*” means, for any day, the rate calculated by the NYFRB based on such day’s federal funds transactions by depository institutions, as determined in such manner as shall be set forth on the Federal Reserve Bank of New York’s Website from time to time, and published on the next succeeding Business Day by the NYFRB as the effective federal funds rate; *provided that* if the Federal Funds Effective Rate as so determined would be less than zero percent (0.0%), such rate shall be deemed to be zero percent (0.0%) for the purposes of this Agreement.

“*Fee Letter*” means the Fee and Interest Rate Agreement, dated as of the Original Closing Date, providing for payment of the Commitment Fee and other fees to be payable to the Bank related to the Loans and this Agreement and for the determination of the Applicable Spread.

“*Fiscal Year*” means the period commencing on October 1 of each year and terminating on the next succeeding September 30.

“*Fitch*” means Fitch Ratings and any successor rating agency.

“*Floating Rate*” means a fully floating rate per annum that is equal to the sum of (a) the product of (i) Adjusted Daily Simple SOFR and (ii) the Applicable Factor plus (b) the Applicable Spread; *provided, however*, that immediately and upon the occurrence of an Event of Default (and

without any notice given with respect thereto) and during the continuation of such Event of Default, “*Floating Rate*” shall mean the Default Rate.

“*Floor*” means the benchmark rate floor, if any, provided in this Agreement (as of the execution of this Agreement, the modification, amendment or renewal of this Agreement or otherwise) with respect to Adjusted Daily Simple SOFR. For the avoidance of doubt, the initial Floor for Adjusted Daily Simple SOFR shall be zero percent (0.0%).

“*Fourth Supplemental Subordinate Lien Indenture*” means that certain Fourth Supplemental Subordinate Trust Indenture, dated as of May 21, 2020, by and between the Board and the Subordinate Lien Trustee, and as the same may be further amended or supplemented from time to time.

“*Generally Accepted Accounting Principles*” or “*GAAP*” means generally accepted accounting principles consistently applied and maintained throughout the period indicated, except for changes permitted by the Governmental Accounting Standards Board or any similar accounting authority of comparable standing.

“*Governmental Approval*” means an authorization, consent, approval, license, or exemption of, registration or filing with, or report to any Governmental Authority.

“*Governmental Authority*” means any national, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, tribunal, agency, bureau, court or entity (including the Federal Reserve Board, any central bank or any comparable authority), or any arbitrator with authority to bind a party at law.

“*Gross Revenues*” has the meaning set forth in the Senior Lien Indenture.

“*Highest Lawful Rate*” means the maximum interest rate permitted by applicable law.

“*Indemnitees*” has meaning specified in Section 8.04(b) hereof.

“*Interest Payment Date*” means the first Business Day of each calendar month and the Commitment Termination Date, provided that if a Loan is funded on the Closing Date, the initial Interest Payment Date with respect thereto shall be June 1, 2023.

“*IRS*” means the United States Internal Revenue Service.

“*Issuer*” has the meaning provided in introductory paragraph hereto.

“*Laws*” means, collectively, all international, foreign, federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and

agreements with, any Governmental Authority, in each case whether or not having the force of law.

“Lending Office” means, the office or offices of the Bank described as such in Schedule 8.02, or such other office or offices as the Bank may from time to time notify the Issuer.

“Liquidity Provider” has the meaning set forth in the Master Subordinate Lien Indenture.

“Loan” has the meaning specified in Section 2.01 hereof.

“Loan Notice” means a notice of a Borrowing, which, if in writing, shall be substantially in the form of Exhibit A or such other form as may be approved by the Bank (including any form on an electronic platform or electronic transmission system as be approved the Bank), appropriately completed and signed by a Designated Representative.

“Margin Stock” has the meaning ascribed to such term in Regulation U promulgated by the Board of Governors of the Federal Reserve System of the United States, together with any successors thereof.

“Master Subordinate Lien Indenture” means the Master Subordinate Trust Indenture, dated as of October 1, 2002, by and between the Issuer and the Subordinate Lien Trustee, as amended by the Second Supplemental Subordinate Lien Indenture, and as the same may be further amended from time to time.

“Material Adverse Effect” means (a) a material adverse change in, or a material adverse effect upon, the operations, business, properties, liabilities (actual or contingent), condition (financial or otherwise) or prospects of the Issuer, the Enterprise or Net Revenues; (b) a material impairment of the ability of the Issuer to perform its obligations under any Related Document to which it is a party; or (c) a material adverse effect upon the legality, validity, binding effect or enforceability against the Issuer of any Related Document to which it is a party.

“Maximum Aggregate Annual Debt Service” means the maximum amount of Aggregate Annual Debt Service with respect to all Senior Lien Bonds and Subordinate Obligations in the then current or any future Fiscal Year.

“Maximum Federal Corporate Tax Rate” means the maximum rate of income taxation imposed on corporations pursuant to Section 11(b) of the Code, as in effect from time to time (or, if as a result of a change in the Code, the rate of income taxation imposed on corporations generally shall not be applicable to the Bank, the maximum statutory rate of federal income taxation which could apply to the Bank). As of the Closing Date, the Maximum Federal Corporate Tax Rate is 21%.

“Moody’s” means Moody’s Investors Service, Inc. and any successor rating agency.

“Net Revenues” has the meaning set forth in the Senior Lien Indenture.

“*Note*” means the Note, dated the Original Closing Date, of the Issuer in favor of the Bank evidencing the outstanding Loans made by the Bank and substantially in the form of Exhibit B hereto.

“*Notice of Loan Prepayment*” means a notice of prepayment with respect to a Loan, which shall be substantially in the form of Exhibit C or such other form as may be approved by the Bank (including any form on an electronic platform or electronic transmission system as shall be approved by the Bank), appropriately completed and signed by a Designated Representative.

“*NYFRB*” means the Federal Reserve Bank of New York.

“*Obligations*” means the obligations of the Issuer under this Agreement to repay (i) all Loans, the Note and the obligations due under the Fee Letter, together with interest thereon, pursuant to and in accordance with this Agreement, the Fee Letter and the Note, (ii) all fees, and (iii) all expenses and charges payable or reimbursable hereunder to the Bank (including, without limitation, any amounts to reimburse the Bank for any advances or expenditures by it under any of such documents) and all other payment obligations of the Issuer to the Bank arising under or in relation to this Agreement, the Fee Letter or the other Related Documents, in each, case whether now existing or hereafter arising, due or to become due, direct or indirect, absolute or contingent, and howsoever evidenced, held or acquired.

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

“*Operation and Maintenance Costs*” has the meaning set forth in the Senior Lien Indenture.

“*Original Closing Date*” means May 21, 2020.

“*Other Taxes*” has the meaning assigned to that term in Section 3.01 hereof.

“*Outstanding*” (a) with respect to the Senior Lien Bonds, has the meaning set forth in the Senior Lien Indenture, and (b) with respect to the Subordinate Obligations, has the meaning set forth in the Master Subordinate Lien Indenture.

“*Outstanding Amount*” means (a) with respect to Loans on any date, the aggregate outstanding principal amount thereof after giving effect to any Borrowings and prepayments or repayments of Loans occurring on such date.

“*Participant*” means any person to whom the Bank has assigned its rights under this Agreement or to which the Bank or any Participant has sold a participation in rights under this Agreement.

“*Person*” means an individual, partnership, corporation (including a business trust), trust, unincorporated association, joint venture or other entity, including a government or political subdivision or any agency or instrumentality thereof.

“*Rating*” means the lowest long-term unenhanced debt rating assigned by any of Fitch, Moody’s or S&P to any Subordinate Obligations (without regard to bond insurance or any other form of credit enhancement).

“*Rating Agencies*” means Fitch, Moody’s and S&P.

“*Reference Time*” with respect to any setting of the then-current Benchmark means (1) if such Benchmark is Daily Simple SOFR, then four Business Days prior to such setting or (2) if such Benchmark is not Daily Simple SOFR, the time determined by the Bank in its reasonable discretion.

“*Related Documents*” means this Agreement, the Fee Letter, the Note, the Senior Lien Indenture, the Master Subordinate Lien Indenture, the Fourth Supplemental Subordinate Lien Indenture, the Tax Compliance Certificate and any other documents related to any of the foregoing or executed in connection therewith, and any and all future renewals and extensions or restatements of, or amendments or supplements to, any of the foregoing permitted hereunder and thereunder.

“*Related Parties*” means, with respect to any Person, such Person’s Affiliates and the partners, directors, officers, employees, agents and advisors of such Person and of such Person’s Affiliates.

“*Relevant Governmental Body*” means the Federal Reserve Board and/or the NYFRB, or a committee officially endorsed or convened by the Federal Reserve Board and/or the NYFRB or, in each case, any successor thereto.

“*Resolution*” means, collectively (a) Resolution No. WD-1427 adopted by the Board on April 16, 2020, (b) Resolution No. RES-20-0054 adopted by City Council on April 21, 2020, (c) Resolution No. _____ adopted by the Board on _____, 2023, and (d) Resolution No. _____ adopted by City Council on _____, 2023.

“*Revolving Commitment*” means the Bank’s obligation to make Loans to the Issuer pursuant to Section 2.01 hereof. The Revolving Commitment on the Closing Date shall initially be \$60,000,000.

“*S&P*” means S&P Global Ratings, a division of Standard & Poor’s Financial Services LLC, and any successor rating agency.

“*Sanction(s)*” means any sanction administered or enforced by the United States Government (including, without limitation, OFAC), the United Nations Security Council, the European Union, His Majesty’s Treasury or other relevant sanctions authority.

“*Second Supplemental Subordinate Lien Indenture*” means that certain Second Supplemental Subordinate Trust Indenture, dated as of August 1, 2012, by and between the Board and the Subordinate Lien Trustee.

“*Senior Lien Bonds*” means the City of Long Beach, California Water Revenue Refunding Bonds, Series 2010A.

“*Senior Lien Indenture*” means, collectively (a) the Indenture of Trust, dated as of August 1, 1997, by and between the Issuer, and the Senior Lien Trustee, together with all amendments and supplements thereto, and (b) the Indenture of Trust, dated as of September 1, 2010, by and between the Issuer and the Senior Lien Trustee, together with all amendments and supplements thereto.

“*Senior Lien Trustee*” means The Bank of New York Mellon Trust Company, N.A., and any successors thereto.

“*SOFR*” means a rate equal to the secured overnight financing rate as administered by the SOFR Administrator.

“*SOFR Administrator*” means the NYFRB (or a successor administrator of the secured overnight financing rate).

“*SOFR Administrator’s Website*” means the NYFRB’s website, currently at <http://www.newyorkfed.org>, or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time.

“*SOFR Determination Date*” has the meaning specified in the definition of “Daily Simple SOFR”.

“*SOFR Rate Day*” has the meaning specified in the definition of “Daily Simple SOFR”.

“*State*” means the State of California.

“*Subordinate Lien Trustee*” means U.S. Bank Trust Company, National Association, and any successor thereto.

“*Subordinate Net Revenues*” has the meaning set forth in the Master Subordinate Lien Indenture.

“*Subordinate Obligation*” has the meaning set forth in the Master Subordinate Lien Indenture.

“*Supplemental Subordinate Lien Indenture*” means a “Supplemental Subordinate Indenture” as defined in the Master Subordinate Lien Indenture.

“*Swap Contract*” means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions,

collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a “*Master Agreement*”), including any such obligations or liabilities under any Master Agreement.

“*Taxable Date*” means the date on which interest paid or payable on any Loan is first includable, in whole or in part, in the gross income of any recipient thereof as such a date is established pursuant to a Determination of Taxability (which Taxable Date may be earlier than the date of such Determination of Taxability).

“*Taxable Period*” has meaning specified in Section 2.13 hereof.

“*Taxable Rate*” means, with respect to a Taxable Period, the product of (i) the interest rate on the Loan for each day during such period and (ii) the applicable Taxable Rate Factor.

“*Taxable Rate Factor*” means for each day that the Taxable Rate is determined, the quotient of (i) one *divided by* (ii) one minus the Maximum Federal Corporate Tax Rate in effect as of such day, rounded upward to the second decimal place.

“*Tax Certificate*” means that certain Tax Compliance Certificate, dated the Closing Date, by the Issuer, relating to the Loans, as the same may be amended or supplemented from time to time.

“*Taxes*” has the meaning assigned to that term in Section 3.01 hereof.

“*Total Outstandings*” means the aggregate Outstanding Amount of all Loans.

“*United States*” and “*U.S.*” mean the United States of America.

“*USA Patriot Act*” has the meaning set forth in Section 8.13 hereof.

“*U.S. Government Securities Business Day*” means any day except for (i) a Saturday, (ii) a Sunday or (iii) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

“*Written*” or “*in writing*” means any form of written communication or a communication by means of telex, telecopier device or electronic mail.

Section 1.02. Other Interpretive Provisions. With reference to this Agreement, the Fee Letter, the Note, the Senior Lien Indenture, the Master Subordinate Lien Indenture and the Fourth

Supplemental Subordinate Lien Indenture, unless otherwise specified herein or in the Note, the Fee Letter, the Senior Lien Indenture, the Master Subordinate Lien Indenture or the Fourth Supplemental Subordinate Lien Indenture:

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in the Note, the Fee Letter, the Senior Lien Indenture, the Master Subordinate Lien Indenture or the Fourth Supplemental Subordinate Lien Indenture), (ii) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (iii) the words “hereto,” “herein,” “hereof” and “hereunder,” and words of similar import when used herein or in the Note, the Fee Letter, the Senior Lien Indenture, the Master Subordinate Lien Indenture or the Fourth Supplemental Subordinate Lien Indenture, shall be construed to refer to such document in its entirety and not to any particular provision thereof, (iv) all references herein or in the Note, the Fee Letter, the Senior Lien Indenture, the Master Subordinate Lien Indenture or the Fourth Supplemental Subordinate Lien Indenture to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement, the Note, the Fee Letter, the Senior Lien Indenture, the Master Subordinate Lien Indenture or the Fourth Supplemental Subordinate Lien Indenture in which such references appear, (v) any reference to any law shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time, and (vi) the words “asset” and “property” shall be construed to have the meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(b) In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including”; the words “to” and “until” each mean “to but excluding”; and the word “through” means “to and including.”

(c) Section headings herein and in the Note, the Fee Letter, the Senior Lien Indenture, the Master Subordinate Lien Indenture and or the Fourth Supplemental Subordinate Lien Indenture are included for convenience of reference only and shall not affect the interpretation of this Agreement, the Note, the Fee Letter, the Senior Lien Indenture, the Master Subordinate Lien Indenture or the Fourth Supplemental Subordinate Lien Indenture.

Section 1.03. Accounting Terms.

(a) *Generally.* All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the Audited Financial Statements, except as otherwise specifically prescribed herein.

(b) *Changes in GAAP.* If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Related Document, and either the Issuer or the Bank shall so request, the Bank and the Issuer shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP; *provided* that, until so amended, (A) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (B) the Issuer shall provide to the Bank financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP.

Section 1.04. Times of Day. Unless otherwise specified, all references herein to times of day shall be references to Eastern Time (daylight or standard, as applicable).

Section 1.05. Interest Rates; Benchmark Notifications. The interest rate on a Loan denominated in dollars may be derived from an interest rate benchmark that may be discontinued or is, or may in the future become, the subject of regulatory reform. Upon the occurrence of a Benchmark Transition Event, Section 3.05(b) hereof provides a mechanism for determining an alternative rate of interest. The Bank does not warrant or accept any responsibility for, and shall not have any liability with respect to, the administration, submission, performance or any other matter related to any interest rate used in this Agreement, or with respect to any alternative or successor rate thereto, or replacement rate thereof, including without limitation, whether the composition or characteristics of any such alternative, successor or replacement reference rate will be similar to, or produce the same value or economic equivalence of, the existing interest rate being replaced or have the same volume or liquidity as did any existing interest rate prior to its discontinuance or unavailability. The Bank and its affiliates and/or other related entities may engage in transactions that affect the calculation of any interest rate used in this Agreement or any alternative, successor or alternative rate (including any Benchmark Replacement) and/or any relevant adjustments thereto, in each case, in a manner adverse to the Issuer. The Bank may select information sources or services in its reasonable discretion to ascertain any interest rate used in this Agreement, any component thereof, or rates referenced in the definition thereof, in each case pursuant to the terms of this Agreement, and shall have no liability to the Issuer or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

ARTICLE 2

THE REVOLVING COMMITMENT

Section 2.01. Loans. Subject to the terms and conditions set forth herein, the Bank agrees to make loans (individually, a “Loan” and collectively, the “Loans”) to the Issuer from time to time, on any Business Day during the Availability Period, in an aggregate amount not to exceed at any time the Available Commitment; *provided, however*, that after giving effect to any Borrowing, the Total Outstandings shall not exceed the Revolving Commitment, subject to any reductions thereof pursuant to the terms hereof. Subject to the other terms and conditions hereof, the Issuer may borrow under this Section 2.01, prepay Loans under Section 2.03 hereof, and reborrow under this Section 2.01. Each Loan will bear interest at the Floating Rate. In the event the Bank shall specify a Benchmark Replacement described in Section 3.05 hereof, the Issuer shall use its best efforts to provide an Approving Opinion. If the Issuer shall be unable to do so, the Taxable Rate shall apply to the Loans as of the effective date of such Benchmark Replacement.

Section 2.02. Borrowings. (a) Each Borrowing shall be made upon the Issuer’s irrevocable notice to the Bank, which may be given by a Loan Notice. Each such notice must be received by the Bank not later than 11:00 a.m. on the requested date of any Borrowing. Each Borrowing shall be in a principal amount of \$250,000 or a whole multiple of \$50,000 in excess thereof. Each Loan Notice (whether telephonic or written) shall specify (i) that the Issuer is requesting a Borrowing, (ii) the requested date of the Borrowing (which shall be a Business Day) and (iii) the principal amount of the proposed Loan to be borrowed.

(b) Following receipt of a Loan Notice, upon satisfaction of the applicable conditions set forth in Section 4.02 (and, if such Borrowing is the initial Borrowing, Section 4.01), the Bank shall make the requested funds available to the Issuer either by (i) crediting the account of the Issuer on the books of the Bank with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided (and reasonably acceptable to) to the Bank by the Issuer.

(c) During the existence of a Default or an Event of Default, no Loans may be requested.

Section 2.03. Prepayments.

(a) *Optional.* The Issuer may, upon notice to the Bank pursuant to delivery to the Bank of a Notice of Loan Prepayment, at any time or from time to time voluntarily prepay Loans in whole or in part; *provided* that, unless otherwise agreed by the Bank (A) such notice must be received by Bank not later than 11:00 a.m. on the date of prepayment of Loans and (B) any prepayment of Loans shall be in a principal amount of \$100,000 or a whole multiple of \$100,000 in excess thereof, *provided* that if the Total Outstandings is less than \$100,000 such prepayment shall be in a principal amount equal to the Total Outstandings. Each such notice shall specify the date and amount of such prepayment. If such notice is given by the Issuer, the Issuer shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment of principal shall be accompanied by all accrued interest on the amount prepaid.

(b) *Mandatory.*

(i) *Revolving Outstandings.* If for any reason the Total Outstandings at any time exceed the Revolving Commitment at such time, the Issuer shall immediately prepay Loans (together with all accrued but unpaid interest thereon) such that the Total Outstandings does not exceed the Revolving Commitment.

(ii) *Application of Other Payments.* Prepayments under the Revolving Commitment made pursuant to this Section 2.03(b), shall be applied to the outstanding Loans. All prepayments under this Section 2.03(b) shall be accompanied by interest on the principal amount prepaid through the date of prepayment.

Section 2.04. Termination or Permanent Reduction of Revolving Commitment.

(a) *Optional.* The Issuer may, upon notice to the Bank, terminate the Revolving Commitment, or from time to time permanently reduce the Revolving Commitment; *provided that* (i) any such notice shall be received by the Bank not later than 11:00 a.m. five (5) Business Days prior to the date of termination or permanent reduction, (ii) any such partial reduction shall be in an aggregate amount of \$5,000,000 or any whole multiple of \$1,000,000 in excess thereof, and (iii) the Issuer shall not terminate or permanently reduce the Revolving Commitment if, after giving effect thereto and to any concurrent prepayments hereunder, the Total Outstandings would exceed the Revolving Commitment.

(b) *Payment of Fees.* All fees in respect of the Revolving Commitment accrued until the effective date of any termination of the Revolving Commitment shall be paid on the effective date of such termination.

Section 2.05. Repayment of Loans. The Issuer shall repay to the Bank on the Commitment Termination Date the aggregate principal amount of Loans outstanding on such date. Any Loan not paid on the Commitment Termination Date shall bear interest at the Default Rate as set forth in Section 2.06(b).

Section 2.06. Interest and Default Rate.

(a) *Interest.* Subject to the provisions of subsection (b) below, each Loan shall bear interest on the outstanding principal amount thereof from the applicable Borrowing date at a rate per annum equal to the Floating Rate.

(b) *Default Rate.* (i) While any Event of Default exists, the Issuer shall pay interest on all outstanding Obligations hereunder (including, without limitation, all Loans) at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by Applicable Law.

(ii) Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand. Any such amounts which constitute interest

remaining unpaid when due shall be added to principal, and such interest shall, in turn, bear interest at the Default Rate until repaid and shall be payable upon demand.

(c) *Interest Payments.* Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

Section 2.07. Fees. The Issuer shall pay to the Bank a Commitment Fee and other amounts as required under the Fee Letter. The terms and provisions of the Fee Letter are incorporated herein by reference as if fully set forth herein. Any reference herein or in the Fee Letter to fees and/or other amounts or obligations payable hereunder shall include, without limitation, all fees and other amounts or obligations (including without limitation fees and expenses) payable pursuant to the Fee Letter, and any reference to this Agreement shall be deemed to include a reference to the Fee Letter. The Fee Letter and this Agreement shall be construed as one agreement between the Issuer and the Bank and all obligations under the Fee Letter shall be construed as obligations hereunder. All fees payable pursuant to this Agreement shall be deemed to be fully earned when due and non-refundable when paid.

Section 2.08. Computation of Interest and Fees. All computations of interest shall be made on the basis of a year of three hundred sixty (360) days, and actual days elapsed. Interest shall accrue on each Loan for the day on which such Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid, *provided* that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.10(a), bear interest for one day. Each determination by the Bank of an interest rate hereunder shall be conclusive and binding for all purposes, absent manifest error.

Section 2.09. Evidence of Debt. The Borrowings made by the Bank shall be evidenced by one or more accounts or records maintained by the Bank in the ordinary course of business. The accounts or records maintained by the Bank shall be conclusive absent manifest error of the amount of the Borrowings made by the Bank to the Issuer and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Issuer hereunder to pay any amount owing with respect to the Obligations. The Loans shall be evidenced by the Note issued on the Original Closing Date, initially registered in the name of, and payable to, the Bank and otherwise duly completed. The Bank may attach schedules to the Note and endorse thereon the date, amount and maturity of Loans and payments with respect thereto.

Section 2.10. Payments.

(a) *General.* All payments to be made by the Issuer shall be made in Dollars and immediately available funds by debit to a deposit account, as described in this Agreement or as authorized by the Issuer and without condition or deduction for any counterclaim, defense, recoupment or setoff. If any payment to be made by the Issuer shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension

of time shall be reflected in computing interest or fees, as the case may be. For payments not made by direct debit, payments will be made to the Bank at the Lending Office not later than 4:30 p.m. on the date specified herein. All payments received by the Bank after 4:30 p.m. shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue.

(b) *Payments by the Issuer.* For any payment under this Agreement made by debit to a deposit account, the Issuer will maintain sufficient immediately available funds in the deposit account to cover each debit. If there are insufficient immediately available funds in the deposit account on the date the Bank enters any such debit authorized by this Agreement, the Bank may reverse the debit.

Section 2.11. Extension of Commitment Termination Date. At least sixty (60) days and no more than two hundred ten (210) days prior to the Commitment Termination Date, the Issuer may make a request to the Bank, upon written notice, to extend the Commitment Termination Date. Not more than thirty (30) days from the date on which the Bank shall have received any such notice from the Issuer pursuant to the preceding sentence, the Bank shall notify the Issuer of the initial consent or nonconsent of the Bank to such extension request, which consent shall be given at the sole and absolute discretion of the Bank. The consent of the Bank, if granted, shall be conditioned upon the preparation, execution and delivery of documentation in form and substance satisfactory to the Bank which shall include, but not be limited to, the delivery of an Approving Opinion. Failure of the Bank to respond to a request for extension of the Commitment Termination Date shall constitute denial of such extension.

Section 2.12. Highest Lawful Rate. Any interest payable pursuant to this Agreement, the Fee Letter or the Note shall not exceed the Highest Lawful Rate, and for such purpose all interest and other charges, fees, goods, things in action or any other sums, things of value and reimbursable costs that the Issuer are or may become obligated to pay or reimburse in connection with this Agreement, the Fee Letter or the Note, and which may be deemed to constitute "interest" pursuant to the laws of the State, shall be deemed to constitute items of interest in addition to the rate(s) of interest specified herein, which the Issuer hereby contracts in writing to pay. In the event any interest required to be paid hereunder at any time exceeds the Highest Lawful Rate, the portion of such interest required to be paid on a current basis shall equal such Highest Lawful Rate; *provided, however,* that the differential between the amount of interest payable assuming no Highest Lawful Rate was then in effect and the amount paid on a current basis after giving effect to the Highest Lawful Rate shall be carried forward and shall be payable on any subsequent date of calculation so as to result in a recovery of interest previously unrealized (because of the limitation dictated by such Highest Lawful Rate) at a rate of interest, and as part of the interest payable, that, after giving effect to the recovery of such excess and all other interest paid and accrued hereunder to the date of calculation, does not exceed such Highest Lawful Rate. Notwithstanding the foregoing, on the date on which no Obligation remains unpaid, to the extent permitted by law, the Issuer shall pay to the Bank a fee equal to any accrued and unpaid excess interest.

Section 2.13. Taxability. (a) In the event a Determination of Taxability occurs, (i) the Issuer hereby agrees to pay to the Bank or any Participant on demand therefor (A) an amount equal to the difference between (x) the amount of interest that would have been paid to the Bank or such

Participant, as applicable, on any Loans during the period for which interest on such Loans is includable in the gross income of the Bank or such Participant (the “*Taxable Period*”) if such Loans had borne interest at the Taxable Rate, beginning on the Taxable Date, and (y) the amount of interest actually paid to the Bank or such Participant, as applicable, during the Taxable Period, and (B) any interest, penalties or charges owed by the Bank or the Participant, as applicable, as a result of interest on the Loans becoming includable in the gross income of the Bank or such Participant, as applicable, together with any and all reasonable attorneys’ fees, court costs, or other out of pocket costs incurred by the Bank or such Participant, as applicable, in connection therewith and (ii) any Loans affected thereby shall automatically convert to bear interest at the Taxable Rate.

(b) The obligations of the Issuer under this Section 2.13 shall survive the termination of the Revolving Commitment and this Agreement.

Section 2.14. Security and Pledge. To secure the payment of all Obligations, the Issuer hereby pledges, places a first lien upon and assigns to the Bank (i) the proceeds of Loans and (ii) subject to the parity pledge granted to the holders of the other Subordinate Obligations, the Subordinate Net Revenues. The Issuer has also pledged and assigned the Subordinate Net Revenues and granted a first lien upon the Subordinate Net Revenues to secure the payment of all Subordinate Obligations pursuant to the Master Subordinate Lien Indenture. The Issuer has pledged and assigned the Net Revenues and granted a lien upon the Net Revenues to secure the Senior Lien Bonds. The Net Revenues, including the earnings on such Net Revenues, shall be used first to pay the Senior Lien Bonds as the same become due and make current deposits into the funds held pursuant to the Senior Lien Indenture before any remaining Net Revenues will be available to pay the Obligations and other Subordinate Obligations. This pledge of and lien upon the Subordinate Net Revenues shall be for the equal and proportionate benefit and security of the Obligations and other Subordinate Obligations issued under the terms of the Master Subordinate Lien Indenture, all of which, regardless of the time or times of their authentication and delivery or maturity, shall be of equal rank without preference, priority or distinction as to lien or otherwise. The pledge and lien hereby granted and granted in the Master Subordinate Lien Indenture and the Fourth Supplemental Subordinate Lien Indenture shall remain effective for so long as any Obligations remain unpaid.

ARTICLE 3

TAXES, YIELD PROTECTION AND ILLEGALITY

Section 3.01. Taxes. (a) Any and all payments to the Bank by the Issuer hereunder shall be made, free and clear of and without deduction for any and all taxes, levies, imposts, deductions, charges, withholdings or liabilities imposed as a result of a Change of Law, excluding, however, taxes imposed on or measured by the net income or capital or liquidity of the Bank by any jurisdiction or any political subdivision or taxing authority thereof or therein solely as a result of a connection between the Bank and such jurisdiction or political or political subdivision (all such non-excluded taxes, levies, imposts, deductions, charges, withholdings and liabilities being hereinafter referred to as “*Taxes*”). If as a result of a Change of Law, the Issuer shall be required by law to withhold or deduct any Taxes imposed by the United States or any political subdivision

thereof from in respect of any sum payable hereunder to the Bank, (i) the sum payable shall be increased as may be necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 3.01), the Bank receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Issuer shall make such deductions and (iii) the Issuer shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with Applicable Law. If the Issuer shall take any payment under this Section 3.01 to or for the benefit of the Bank with respect to Taxes and if the Bank shall claim any credit or deduction for such Taxes against any other taxes payable by the Bank to any taxing jurisdiction in the United States, then the Bank shall pay to the Issuer an amount equal to the amount by which such other taxes are actually reduced; *provided*, that the aggregate amount payable by the Bank pursuant to this sentence shall not exceed the aggregate amount previously paid by the Issuer with respect to such Taxes. In addition, the Issuer agrees to pay any present or future stamp, recording or documentary taxes and, if as a result of a Change of Law, any other excise or property taxes, charges or similar levies that arise under the laws of the United States of America, the State of California or the State of New York from any payment made hereunder or from the execution or delivery or otherwise with respect to this Agreement (hereinafter referred to as “*Other Taxes*”). The Bank shall provide to the Issuer within a reasonable time a copy of any written notification it receives with respect to Other Taxes owing by the Issuer to the Bank hereunder, *provided* that the Bank’s failure to send such notice shall not relieve the Issuer of its obligation to pay such amounts hereunder.

(b) The Issuer shall, to the extent permitted by law, compensate the Bank for the full amount of Taxes and Other Taxes including any Taxes or Other Taxes imposed by any jurisdiction on amounts payable under this Section 3.01 paid by the Bank or any liability (including penalties, interest and expenses) arising therefrom or with respect thereto, whether or not such Taxes or Other Taxes were correctly or legally asserted. The Bank agrees to give notice to the Issuer of the assertion of any claim against the Bank relating to such Taxes or Other Taxes as promptly as is practicable after being notified of such assertion; *provided*, that the Bank’s failure to notify the Issuer promptly of such assertion shall not relieve the Issuer of its obligation under this Section 3.01. Payments by the Issuer pursuant to this section shall be made within thirty (30) days from the date the Bank makes written demand therefor, which demand shall be accompanied by a certificate describing in reasonable detail the basis thereof. The Bank agrees to repay to the Issuer any refund (including that portion of any interest that was included as part of such refund) with respect to Taxes or Other Taxes paid by the Issuer pursuant to this Section 3.01 and to contest, with the cooperation and at the expense of the Issuer, any such Taxes or Other Taxes which the Bank or the Issuer reasonably believes not to have been properly assessed. The Issuer shall not be liable for any Taxes or Other Taxes resulting from a Change in Law prior to the date of such Change in Law, unless the Change in Law purports to have retroactive provisions.

(c) Within thirty (30) days after the date of any payment of Taxes by the Issuer, the Issuer shall furnish to the Bank the original or a certified copy of a receipt evidencing payment thereof. The Issuer shall compensate the Bank for all reasonable losses and expenses sustained by the Bank as a result of any failure by the Issuer to so furnish such copy of such receipt.

(d) All payments to the Bank under this Agreement, the Fee Letter and the Note shall be made in U.S. Dollars and in immediately available and freely transferable funds at the place of

payment without counterclaim, set off, condition or qualification, and free and clear of and without deduction or withholding for or by reason of any present or future taxes, levies, imposts, deductions or charges of any nature whatsoever. In the event that the Issuer is compelled by law to make any such deduction or withholding, Issuer shall nevertheless pay to the Bank such amounts as will result in the receipt by the Bank of the sum it would have received had no such deduction or withholding been required to be made. If requested, the Bank shall from time to time provide the Issuer, the United States Internal Revenue Service (to the extent such information and forms may lawfully be provided by the Bank) with such information and forms as may be required by Treasury Regulations Section 1.411 or any other such information and forms as may be necessary to establish that the Issuer is not subject to any withholding obligation under Section 1442 or other comparable provisions of the Code and Treasury Regulations promulgated thereunder.

(e) As used in this Section, the term “Bank” shall include each Participant; *provided, however,* that no Participant shall be entitled to recover amounts under this Section greater than those that the Bank would be entitled to recover. The obligations of the Issuer under this Section 3.01 shall survive the termination of this Agreement.

Section 3.02. Increased Costs. If, after the Original Closing Date, any Change in Law shall:

- (a) subject the Bank to any tax, duty, deduction, withholding or other charge with respect to the Loans, the Note or any other Obligation, or shall change the basis of taxation of payments to the Bank with respect to the Note or any Obligation, other than changes in the rate of tax on the overall net income of the Bank; or
- (b) impose, modify or deem applicable any reserve, capital or liquidity ratio, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or advances, loans or other credit extended or participated in by, or other acquisitions of funds by, the Bank;
- (c) change the basis of taxation of payments due the Bank under this Agreement or the Note (other than a change in taxation of the overall net income of the Bank); or
- (d) impose on the Bank any other condition with respect to such amount paid or payable to or by the Bank or with respect to this Agreement or any Loan;

and the result of any event referred to in subsection (a), (b), (c) or (d) above shall be to increase the cost to the Bank of maintaining the Loans or any other credit facilities hereunder (such increase in cost to be reasonably allocated to the Issuer hereunder on the basis of the amount of the Revolving Commitment and the nature of this facility) or to reduce the amount of any payment received by the Bank, or to require the Bank to make any payment on or calculated by reference to the gross amount of any sum received by it, then, upon demand by the Bank, the Issuer shall pay, or cause to be paid, to the Bank, from time to time as specified by the Bank, additional amounts which shall be sufficient to compensate the Bank for such increased cost. A certificate setting forth such increased cost incurred by the Bank as a result of any event mentioned in subsection (a), (b) (c) or (d) above, and giving a reasonable explanation of the basis and

computation thereof, shall constitute such demand and shall, in the absence of manifest error, be conclusive and binding for purposes of payment of such amount. In making the determinations contemplated by such certificate, the Bank may make such reasonable estimates, assumptions, allocations and the like as the Bank in good faith determines to be appropriate. Payment shall be made by the Issuer within 30 days of the Issuer's receipt of the above-mentioned certificate, and, to the extent that continuing payments are required under this Section, payments shall be made quarterly on the dates that the Commitment Fee is due. In determining the amount or amounts payable under this Section, the Bank may use any reasonable averaging and attribution methods. The initial payment will include payment for the period from the date the Bank was first affected to the date of such payment.

In addition to the foregoing, if after the Original Closing Date the Bank shall have determined that a Change in Law has or would have the effect of reducing the rate of return on the capital or liquidity of the Bank, as applicable, to a level below that which the Bank could have achieved but for such adoption, change or compliance (taking into consideration the policies of the Bank with respect to capital adequacy or liquidity) by an amount deemed by the Bank to be material, or affects or would affect the amount of capital or liquidity required or expected to be maintained by the Bank or any corporation controlling the Bank by an amount deemed by the Bank to be material, as a consequence of its obligations hereunder then, upon demand from the Bank, from time to time the Issuer shall be obligated to pay or cause to be paid to the Bank such additional amount or amounts as will compensate the Bank for such reduction or capital or liquidity increase, as incurred in a manner consistent with that in which such increased costs are passed along to other borrowers of the Bank in general. A certificate setting forth in reasonable detail such reduction in the rate of return on capital or liquidity, or such capital or liquidity increase, of the Bank as a result of any event mentioned in this paragraph and giving a reasonable explanation of the basis and computation thereof shall be submitted to the Issuer and such certificate shall, in the absence of manifest error, be conclusive as to the amount thereof. Payment shall be made by the Issuer within 30 days of the Issuer's receipt of the above mentioned certificate together with interest on such amount for each day from the 30th day after such demand is received by the Issuer until payment in full at the Default Rate.

The protections of this Section shall be available to the Bank regardless of any possible contention of invalidity or inapplicability of the law, regulation or condition which has been imposed; *provided, however*, that if it shall be later determined that any amount so paid by the Issuer pursuant to this Section is in excess of the amount payable under the provisions hereof, the Bank shall refund such excess amount to the Issuer. As used in this Section, the term "Bank" shall include each Participant and the Bank's or such Participant's parent or holding company; *provided, however*, that no Participant shall be entitled to recover amounts under this Section greater than those that the Bank would be entitled to recover; *provided, further, however*, that with respect to the Bank's or such Participant's parent or holding company shall be without duplication to the Bank or such Participant.

Failure or delay on the part of the Bank to demand compensation pursuant to the foregoing provisions of this Section 3.02 shall not constitute a waiver of the Bank's right to demand such compensation. Notwithstanding anything contained in this Section 3.02, the Issuer shall have no liability to the Bank or any Participant or the Bank's or such Participant's parent or holding

company for any increased costs, increased capital or reduction in rate of return to the extent incurred by or imposed on the Bank or any Participant or the Bank's or such Participant's parent or holding company more than one-hundred eighty (180) days prior to the date the above-described written demand is given to the Issuer with respect thereto (the "*Cut-Off Date*"), except where such increased costs, increased capital or reduction in rate of return applies to the Bank or Participant or the Bank's or such Participant's parent or holding company retroactively to a date prior to the Cut-Off Date.

Notwithstanding the foregoing, the Issuer shall not be responsible for increased costs as a result of changes resulting solely and directly from the Bank's credit downgrade, other financial deterioration of other actions within the Bank's control or directly related to the Bank's credit status.

Section 3.03. Obligations Absolute. The Obligations of the Issuer to pay money under this Agreement, the Fee Letter and the Note shall be unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement and the Note under all circumstances, including, without limitation, the following:

- (a) any lack of validity or enforceability of this Agreement, the Fee Letter, the Note or any of the other Related Documents;
- (b) any amendment or waiver of or any consent to departure from all or any of the Related Documents;
- (c) the existence of any claim, set off, defense or other right which the Issuer may have at any time against the Bank or any Participant, or any other Person, whether in connection with this Agreement, the Fee Letter, the Note, the other Related Documents, the transactions contemplated herein or therein or any unrelated transaction;
- (d) any statement or any other document presented under a Loan Notice proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect;
- (e) any other circumstances or happening whatsoever, whether or not similar to any of the foregoing.

Section 3.04. Illegality. If the Bank determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for the Bank or its Lending Office to make, maintain or fund any Loans whose interest is determined by reference to SOFR or the Floating Rate, or to determine or charge interest rates based upon SOFR or the Floating Rate, or any Governmental Authority has imposed material restrictions on the authority of the Bank to purchase or sell, or to take deposits of, Dollars in the interbank market, then, the Bank shall notify the Issuer, and upon notice thereof, any obligation of the Bank to make Loans shall be suspended, until the Bank notifies the Issuer that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, the Issuer shall, upon demand from the Bank, prepay or, if applicable, convert all Loans to bear interest at the Fallback Rate, immediately, if the Bank may

not lawfully continue to maintain such Loans bearing interest at a Floating Rate. Upon any such prepayment or conversion, the Issuer shall also pay accrued interest on the amount so prepaid or converted.

Section 3.05. Alternate Rate of Interest.

(a) Subject to clauses (b), (c), (d) and (e) of this Section 3.05, if:

(i) the Bank determines (which determination shall be conclusive and binding absent manifest error) at any time, that adequate and reasonable means do not exist for ascertaining Daily Simple SOFR; or

(ii) the Bank determines at any time, that Daily Simple SOFR will not adequately and fairly reflect the cost to the Bank of making or maintaining Loans;

then the Bank shall give notice thereof to the Issuer through any Electronic System as provided in Section 8.02 as promptly as practicable thereafter and, until (x) the Bank notifies the Issuer that the circumstances giving rise to such notice no longer exist with respect to the relevant Benchmark and (y) the Issuer delivers a new Loan Notice in accordance with the terms of Section 2.02, any Borrowing Request shall be deemed to be a Borrowing Request for a Borrowing at the Fallback Rate.

(b) Notwithstanding anything to the contrary herein or in any other Related Document (and any Swap Contract shall be deemed not to be a “Related Document” for purposes of this Section 3.05), if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current Benchmark, then (x) if a Benchmark Replacement is determined in accordance with clause (1) of the definition of “Benchmark Replacement” for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Related Document in respect of such Benchmark setting and subsequent Benchmark settings without any amendment to, or further action or consent of any other party to, this Agreement or any other Related Document and (y) if a Benchmark Replacement is determined in accordance with clause (2) of the definition of “Benchmark Replacement” for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Related Document in respect of any Benchmark setting at or after 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided to the Issuer without any amendment to, or further action or consent of any other party to, this Agreement or any other Related Document.

(c) Notwithstanding anything to the contrary herein or in any other Related Document, the Bank will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Related Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Related Document.

(d) The Bank will promptly notify the Issuer of (i) any occurrence of a Benchmark Transition Event, (ii) the implementation of any Benchmark Replacement, (iii) the effectiveness of any Benchmark Replacement Conforming Changes, and (iv) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Bank pursuant to this Section 3.05, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its sole discretion and without consent from any other party to this Agreement or any other Related Document, except, in each case, as expressly required pursuant to this Section 3.05.

(e) Upon the Issuer's receipt of notice of the commencement of a Benchmark Unavailability Period with respect to Daily Simple SOFR, the Issuer may revoke any Loan Notice for a Borrowing to be made during any Benchmark Unavailability Period and, failing that, the Issuer will be deemed to have converted any such Loan Notice into a request for a Borrowing at the Fallback Rate. Furthermore, if any Loan is outstanding on the date of the Issuer's receipt of notice of the commencement of a Benchmark Unavailability Period, then until such time as a Benchmark Replacement is implemented pursuant to this Section 3.05, each such Loan shall on and from such day be converted by the Bank to, and shall constitute, a Loan bearing interest at the Fallback Rate.

Section 3.06. Survival. All of the Issuer's obligations under this Article 3 shall survive termination of the Revolving Commitment and repayment of all other Obligations hereunder.

ARTICLE 4

CONDITIONS PRECEDENT TO EFFECTIVENESS AND BORROWINGS

Section 4.01. Conditions to Effectiveness; Authority; Enforceability. This Agreement shall become binding on the parties hereto upon the satisfaction of the following conditions precedent (all Related Documents and other documents to be delivered to the Bank pursuant to this Section 4.01 shall be subject to prior approval as to form and substance by the Bank, with delivery by the Bank of its signature page to this Agreement evidencing such Person's acknowledgement that the conditions set forth in this Section 4.01 have been satisfied, unless otherwise waived in writing):

(a) No law, regulation, ruling or other action of the United States, the State of New York or the State of California or any political subdivision or authority therein or thereof shall be in effect or shall have occurred, the effect of which would be to prevent the Bank and the Issuer from fulfilling their respective obligations under this Agreement or prevent the Issuer from fulfilling its obligations under the Note and the Fee Letter.

(b) All legal requirements provided herein incident to the execution, delivery and performance of this Agreement, and the transactions contemplated hereby, shall have been complied with to the reasonable satisfaction of the Bank and Bank's counsel.

(c) The Bank's receipt of the following, each of which shall be originals or copies (followed promptly by originals) unless otherwise specified, each properly executed by an Authorized Board Representative of the Issuer, each dated the Closing Date and each in form and substance satisfactory to the Bank:

(i) an executed original counterpart of this Agreement and the Tax Certificate, and certified copies of the resolutions authorizing the Issuer to enter into this Agreement;

(ii) the Bank shall have received the following opinions, dated the Closing Date and addressed to the Bank or on which the Bank is otherwise expressly authorized to rely;

(A) an Approving Opinion;

(B) an opinion from Bond Counsel to the Issuer as to the due authorization, execution, delivery and enforceability of this Agreement, and such other customary matters as the Bank may reasonably request; and

(C) from counsel to the Issuer as to the adoption of the Resolution, the execution and delivery of this Agreement and such other customary matters as the Bank may reasonably request;

(iii) a certificate signed by an Authorized Board Representative of the Issuer certifying that:

(A) the representations and warranties contained in Article 5 of this Agreement and the other Related Documents (except the Senior Lien Indenture) are true and correct on and as of the Closing Date as though made on such date;

(B) no petition by or against the Issuer has at any time been filed under the United States Bankruptcy Code or under any similar act;

(C) all conditions precedent to the execution and delivery of this Agreement have been satisfied and the Issuer has duly executed and delivered this Agreement;

(D) (x) no event that could reasonably be expected to have a Material Adverse Effect shall have occurred and (y) no material adverse change shall have occurred in the ability of the Issuer to perform its obligations under the Related Documents to which it is a party, in each case subsequent to the date of the most recent Audited Financial Statement (except as may otherwise have been disclosed in writing to the Bank prior to the Closing Date);

(E) no Default or Event of Default has occurred and is continuing, or would result from, the execution and delivery of this Agreement;

(F) the Master Subordinate Lien Indenture and the Fourth Supplemental Subordinate Lien Indenture are in full force and effect on and as of the Closing Date; and

(G) certifying compliance with the financial covenants set forth in Section 5.04 of the Master Subordinate Lien Indenture and Section 5.07 of the Senior Lien Indenture;

(iv) true and correct copies of all Governmental Approvals necessary for the Issuer to enter into this Agreement and the transactions contemplated by this Agreement;

(v) a certificate of the Executive Assistant to the Board certifying the name, title, office and true signatures of the officers of the Issuer authorized to sign this Agreement;

(vi) arrangements satisfactory to the Bank have been made for the payment of the fees and expenses and all other amounts (including the fees and expenses of Bank's special counsel) payable pursuant to this Agreement and the Fee Letter;

(vii) the Bank shall have received a copy of the audited financial statements for the Enterprise for Fiscal Year ending September 30, [2022], a copy of the Issuer's investment policy in effect on the Closing Date and a copy of the most recent budget of the Enterprise; and

(viii) such other documents, certificates and opinions as the Bank or its special counsel may reasonably request.

Section 4.02. Conditions to All Borrowings. The obligation of the Bank to honor any Loan Notice with respect to a Borrowing is subject to the following conditions precedent:

(a) The representations and warranties of the Issuer contained in Article 5 hereof and in each other Related Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, shall be true and correct on and as of the date of such Borrowing, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct as of such earlier date, and except that for purposes of this Section 4.02, the representations and warranties contained in Section 5.15 shall be deemed to refer to the most recent statements furnished pursuant to clause (a) of Section 6.02.

(b) No Default or Event of Default shall exist, or would result from such proposed Borrowing or from the application of the proceeds thereof.

(c) An opinion of Bond Counsel to the effect that interest with respect to the Loan will be excludable from gross income for federal income tax purposes and California personal income tax purposes. Such opinion may address future Loans issued within a specified time frame as part of a single issue for federal tax purposes.

(d) The Bank shall have received a copy of the IRS Form 8038-G, as filed in connection with the Loan, in form and substance satisfactory to the Bank.

(e) The Bank shall have received a Loan Notice in accordance with the requirements hereof.

(f) After giving effect to any Loan, the aggregate principal amount of all Loans outstanding hereunder shall not exceed the Commitment.

(g) Such Borrowing shall not violate any order, judgment or decree of any court or authority of competent jurisdiction or any provision of law as then in effect.

(h) The Bank shall not have received notice (either verbal or written) from the Issuer, or Bond Counsel that any opinion delivered pursuant to Section 4.01(c)(ii) hereof may no longer be relied upon.

(i) If not previously delivered, the Bank shall have received the executed Tax Compliance Certificate.

(j) The Bank shall have received, in form and substance satisfactory to it, such other assurances, certificates, documents or consents related to the foregoing as the Bank reasonably may require.

(k) For purposes of Section 3.05(a)(ii) hereof and the definition of Fallback Rate, to the extent the Floating Rate and/or SOFR fails to adequately reflect the Bank's cost of funds *plus* the Applicable Spread, the Bank and the Issuer shall have reached agreement on a market conventional rate that is mutually agreeable to the Bank and the Issuer to serve as the Fallback Rate.

(l) For purposes of Section 3.05(b), if a Benchmark Transition Event has occurred and the Benchmark Replacement has not yet been determined, either the Fallback Rate shall apply to the Loans or the Bank and the Issuer shall have reached agreement on a market conventional rate that is mutually agreeable to the Bank and the Issuer to serve as the Fallback Rate and to apply to the Loans.

Each Loan Notice submitted by the Issuer shall be deemed to be a representation and warranty that the conditions specified in Sections 4.02(a) and (b) have been satisfied on and as of the date of the applicable Borrowing.

ARTICLE 5

REPRESENTATIONS AND WARRANTIES

So long as the Revolving Commitment is outstanding and until all Obligations shall have been paid in full, the Issuer makes the following representations and warranties to the Bank:

Section 5.01. Organization Existence. The City is duly organized and validly existing as a charter city and municipal corporation under its Charter and the Constitution and laws of the State of California.

Section 5.02. Power and Authority. The Issuer has and had at the time of adoption, execution, delivery, issuance, sale or performance full power, right and authority to (i) execute, deliver and perform its obligations hereunder and under the Note and each of the other Related Documents, and any and all instruments and documents required to be executed, adopted or delivered pursuant to or in connection herewith or therewith, (ii) pay the Obligations at the times and in the manner set forth herein, (iii) own and operate the Enterprise, and (iv) perform each and all of the matters and things herein and therein provided for and the Issuer has complied with the laws of the State of California in, all matters relating to such execution, delivery and performance.

Section 5.03. Due Authorization. This Agreement, the Note and each of the other Related Documents have been duly authorized, executed, issued and delivered and constitute the legal, valid and binding obligations of the Issuer enforceable in accordance with their terms.

Section 5.04. Necessary Actions Taken. The Issuer has taken all actions necessary to be taken by it (i) for the adoption, execution, and delivery by the Issuer of any and all such other instruments and the taking of all such other actions on the part of the Issuer as may be necessary or appropriate for the effectuation and consummation of the transactions on the part of the Issuer contemplated by the Related Documents or in connection herewith or therewith and (ii) to authorize or approve, as appropriate, the execution or adoption, issuance and delivery of, and the performance of its obligations under and the transactions contemplated by, each of the Related Documents and the payment of the Obligations at the times and in the manner set forth herein.

Section 5.05. Binding Effect. Each of the Senior Lien Indenture, the Master Subordinate Lien Indenture and the Fourth Supplemental Subordinate Lien Indenture was duly executed and delivered by the Issuer and is in full force and effect. The Resolution has been duly adopted and is in full force and effect. This Agreement, the Note and each of the other Related Documents has been duly authorized, executed and delivered by the Issuer and each constitutes a legal, valid and legally binding obligation of the Issuer, which obligation is enforceable in accordance with its terms, and the payment of the Obligations is and shall continue to be a contractual obligation of the Issuer for which the Subordinate Net Revenues are and shall continue to be pledged as provided in the Related Documents, except to the extent that enforceability may be limited by applicable bankruptcy, insolvency, debt adjustment, reorganization, moratorium or similar laws or equitable principles relating to or limiting creditors' rights generally or as to the availability of any particular remedy. There is no consent, approval, authorization or other order of, filing with, registration with, or certification by, any regulatory authority having jurisdiction over the Issuer and no

election or referendum of or by any Person, organization or public body whatsoever required in connection with any of the foregoing actions or each of the performance by the Issuer of its obligations under the Related Documents. There are no provisions of State of California law which would allow, as of the Original Closing Date or any date subsequent thereto, any public vote or referendum, the results of which could invalidate this Agreement, the Note, the Resolution or any other Related Document or invalidate, limit or condition the obligation of the Issuer to pay the Obligations to the Bank or any other obligation or pledge undertaken hereunder or in connection with the transactions contemplated by the Related Documents.

Section 5.06. No Contravention. The adoption of the Resolution and the execution and delivery of this Agreement, the Note and each of the other Related Documents, and compliance with the provisions hereof and thereof, do not and will not conflict with or result in a violation of the Constitution of the State of California or the laws of the State of California, including any debt limitations or other restrictions or conditions on the debt-issuing power of the Issuer, and do not and will not conflict with or result in a violation of, or breach of, or constitute a default under, any law, judgment, order, decree or administrative regulation or any of the terms, conditions or provisions of the Charter or any ordinance, judgment, decree, contract, loan agreement, note, bond, resolution, indenture, mortgage, deed of trust or other agreement or instrument to which the Issuer is a party or by which it or any property of the Issuer is bound and do not and will not result in the imposition or creation of any lien, charge, or encumbrance upon or invalidate or adversely affect in any way the Subordinate Net Revenues or violate any existing applicable law (including, without limitation, any Anti-Corruption Laws and applicable Sanctions). The Issuer has not received any notice, not subsequently withdrawn, given in accordance with the remedy provisions of any bond resolution or ordinance, trust indenture, guarantee or agreement or state law pertaining to bonds or notes, of any default or event of default of the Issuer which has not been cured.

Section 5.07. Compliance with Law; Employee Benefit Plan Compliance. The current collection of the Gross Revenues and the management of the Enterprise and the accounting and recordkeeping therefor are in material compliance with all applicable state and federal laws and all applicable resolutions, ordinances and rules of the Issuer. The Issuer has no funding liability or obligation currently due and payable with respect to any employee benefit plan which could reasonably be expected to result in a Material Adverse Effect. The Issuer is in material compliance with the terms of the employee benefit plans in which the Issuer or any of its employees participate in. Neither the Issuer nor any employee benefit plan maintained by the Issuer is subject to the Employee Retirement Income Security Act of 1974, as amended or any successor statute of similar import, and regulations thereunder as in effect from time to time.

Section 5.08. Compliance; No Breach. The Issuer is in compliance with the terms and conditions of each of the Related Documents, and no breach of the terms hereof or thereof has occurred and is continuing, and no Default or Event of Default has occurred and is continuing.

Section 5.09. No Default. No default by the Issuer has occurred and is continuing in the payment of the principal of or premium, if any, or interest on any bond, note or other evidence of indebtedness issued by the Issuer with a lien on Net Revenues or Subordinate Net Revenues. No bankruptcy, insolvency or other similar proceedings pertaining to the Issuer or any agency or instrumentality of the Issuer are pending or contemplated. The Issuer is not in default under any

other contract, loan agreement, note, bond, resolution, indenture, mortgage, deed of trust or other agreement or instrument to which the Issuer is a party or by which it or any property of the Issuer is bound, which default could have a material adverse effect on the ability of the Issuer to receive any Subordinate Net Revenues or to comply with its obligations under or in respect of any of this Agreement, the Note or the other Related Documents or in connection with the transactions contemplated hereby or thereby.

Section 5.10. No Public Vote or Referendum; Pending Legislation and Decisions. To the best knowledge of the Issuer, there is no public vote or referendum pending, proposed or concluded, the results of which could in any way adversely affect the transactions contemplated by the Related Documents, or the validity or enforceability of the Resolution or the Related Documents. To the knowledge of the Issuer, there is no amendment, or proposed amendment to the Constitution of the State of California or any State of California law or any administrative interpretation of the Constitution of the State of California or any State of California law, or any legislation that has passed either house of the legislature of the State of California, or any judicial decision interpreting any of the foregoing, the effect of which could in any way adversely affect the transactions contemplated by the Resolution and the Related Documents, or the validity or enforceability of the Resolution and the Related Documents.

Section 5.11. No Immunity. The Issuer is not entitled to raise the defense of sovereign or governmental immunity in connection with any legal proceedings to enforce or collect upon this Agreement, the other Related Documents or the transactions contemplated thereby, including the payment of the Obligations.

Section 5.12. Litigation. There is no action, suit, inquiry, investigation or proceeding at law or in equity pending, or to the best knowledge of the Issuer, threatened, against or affecting the Issuer or the Enterprise before any court, governmental agency, authority, arbitrator or administrative or governmental body which (i) could result in any material adverse change in the condition (financial or otherwise), results of operations or projections of revenues of the Enterprise, (ii) which in any manner draws into question the validity or enforceability of this Agreement, the Note, the Resolution or any other Related Document, the pledge of the Subordinate Net Revenues or the priority of any lien in favor of the Bank, (iii) which in any way affects the existence, organization or powers of the Issuer or any elected official thereof to execute and deliver any of this Agreement, the Note or the other Related Documents or perform the obligations thereunder or contemplated thereby, (iv) affects the title of any official of the Issuer to such Person's office, (v) seeks to restrain or enjoin the collection or the pledge of the Subordinate Net Revenues to pay the Obligations at the times and in the manner set forth in the Related Documents, (vi) in any way contests or affects the validity or enforceability of any of this Agreement, the Note, the Resolution or the other Related Documents, (vii) contests in any way the powers or authority of the Issuer with respect to any of this Agreement, the Note or the other Related Documents, or (viii) which could materially adversely affect the ability of the Issuer to comply with its obligations under or in respect of any of this Agreement, the Note or the other Related Documents or in connection with the transactions contemplated hereby or thereby.

Section 5.13. Tax Status. The Issuer has not taken any action or omitted to take any action, and knows of no action taken or omitted to be taken by any other Person, which action, if taken or

omitted, would adversely affect the exclusion of interest on the Loans from gross income for federal income tax purposes of the Bank or the exemption of such interest from State of California personal income taxes.

Section 5.14. Disclosure. Neither the Related Documents nor any other document, certificate or statements (including the unaudited financial statements, budgets, projections and cash flows) of the Issuer and the Enterprise furnished to the Bank by or on behalf of the Issuer in connection with the transactions contemplated hereby, or thereby contains any untrue statement of any material fact or omits to state any material fact necessary so as to make the statements contained herein or therein, in light of the circumstances under which they were made, not misleading.

Section 5.15. Financial Information. The Issuer has delivered to the Bank a copy of the audited financial statements for the Issuer and the Enterprise for the most recently completed Fiscal Year. These together with related notes, fairly present the condition (financial or otherwise), results of operations or projections of revenues of the Enterprise as of the date and for the periods therein set forth. All such financial statements have been prepared in accordance with generally accepted accounting principles for government entities consistently applied. There has been no material adverse change in the condition (financial or otherwise), results of operations or projections of revenues of the Enterprise since the last day of the Fiscal Year set forth in such financial statements. The Issuer has no material contingent liabilities or other material contracts or commitments which are not reflected in such financial statements or in the notes thereto. The annual operating budget of the Issuer and any supplements thereto for the current Fiscal Year, a true and complete copy of which has been delivered to the Bank, fairly presents the anticipated income and expenses of the Issuer and the Subordinate Net Revenues for such Fiscal Year.

Section 5.16. Official Signatures. Each Authorized Board Representative and Designated Representative, on behalf of the Issuer, has full power and authority to execute, deliver and perform under each of the Related Documents. Any agreement, certificate or request signed by or on behalf of any Authorized Board Representative or Designated Representative and delivered to the Bank shall be deemed a representation and warranty by the Issuer to the Bank as to the truth, accuracy and completeness of the statements made by the Issuer therein.

Section 5.17. Incorporation of Representations and Warranties by Reference. The Issuer hereby makes to the Bank the same representations and warranties made by the Issuer in each Related Document, which representations and warranties, as well as the related defined terms contained therein, are hereby incorporated by reference for the benefit of the Bank with the same effect as if each and every such representation and warranty and defined term were set forth herein in its entirety. No amendment to such representations and warranties or defined terms made pursuant to any Related Document shall be effective to amend such representations and warranties and defined terms as incorporated by reference herein without the prior written consent of the Bank.

Section 5.18. Swap Contracts. The Issuer has not entered into any Swap Contract under which a termination payment would be required to be paid from the Subordinate Net Revenues on basis senior to or on a parity with the Subordinate Obligations or the Note.

Section 5.19. Insurance. The Issuer currently maintains insurance with respect to the Enterprise of such type and in such amounts or in excess of such amounts as are customarily carried by, and insures against such risks as are customarily insured against by, public agencies with similar public sanitary sewer collection systems. The Issuer maintains with responsible insurers all such insurance on the Enterprise required by Section 6.13 hereof.

Section 5.20. Usury. The terms of this Agreement, the Note and the other Related Documents regarding the calculation and payment of interest and fees do not violate any applicable usury laws.

Section 5.21. Security. The Obligations are payable from and secured by a first lien on the Subordinate Net Revenues as set forth herein and in the Master Subordinate Lien Indenture and the Fourth Supplemental Subordinate Lien Indenture on parity with the other Subordinate Obligations. There is no lien on the Subordinate Net Revenues other than the lien created by the Master Subordinate Lien Indenture. No filing, registering, recording or publication of this Agreement, the Master Subordinate Lien Indenture or the Fourth Supplemental Subordinate Lien Indenture is required to establish the pledge hereunder or under the Master Subordinate Lien Indenture and the Fourth Supplemental Subordinate Lien Indenture or to perfect, protect or maintain the liens created hereby or thereby on the Subordinate Net Revenues. The only obligations of the Issuer that are entitled to the benefit of the lien and charge on the Net Revenues are the Senior Lien Bonds.

Section 5.22. Investment Policy. The Issuer has delivered to the Bank a true and complete copy of its investment policy. All investments of the Issuer have been and are made substantially in accordance with such investment policy. Only the City Council of the City may amend, rescind or otherwise modify the Issuer's investment policy.

Section 5.23. Enterprise. The Issuer has maintained the Enterprise in good working order and repair, and there have been no changes to and no event has occurred which has had, or may result in, any material adverse change in the condition (financial or otherwise), results of operations or projections of revenues of the Enterprise.

Section 5.24. Environmental Matters. In the ordinary course of its business, the Issuer conducts an ongoing review of Environmental Laws on the business, operations and properties of the Issuer, in the course of which it identifies and evaluates associated liabilities and costs (including, without limitation, any capital or operating expenditures required for cleanup or closure of properties presently or previously owned or operated, any capital or operating expenditures required to achieve or maintain compliance with environmental protection standards imposed by law or as a condition of any license, permit or contract, any related constraints on operating activities, including any periodic or permanent shutdown of any facility or reduction in the level of or change in the nature of operations conducted thereat and any actual or potential liabilities to third parties, including employees, and any related costs and expenses). On the basis of such review the Issuer has reasonably concluded that Environmental Laws are unlikely to have a material adverse effect on the ability of the Issuer to receive any Subordinate Net Revenues, or on its ability to make any payments in respect of the Obligations or any of its obligations hereunder, under the Note or under any other Related Document.

Section 5.25. Federal Reserve Board Regulations. The Issuer will not use any part of the proceeds of the Loans and has not incurred any indebtedness to be reduced, retired or purchased by the Issuer out of such proceeds, for the purpose of purchasing or carrying any Margin Stock, and the Issuer does not own and will not acquire any such Margin Stock.

Section 5.26. Investment Company Act. The Issuer is not an “investment company” or a company “controlled” by an “investment company,” as such terms are defined in the Investment Company Act of 1940, as amended.

Section 5.27. Patriot Act Representation. (a) Neither the City, the Issuer, nor any of their respective Affiliates is in violation of any laws relating to terrorism or money laundering (“*Anti-Terrorism Laws*”), including Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (the “*Executive Order*”), and the USA Patriot Act.

(b) Neither the City, the Issuer, nor any of their respective Affiliates is any of the following:

(i) a Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;

(ii) a Person owned or controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;

(iii) a Person with which the Bank is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law;

(iv) a Person that commits, threatens or conspires to commit or supports “terrorism” as defined in the Executive Order; or

(v) a Person that is named as a “specially designated national and blocked person” on the most current list published by the Office of Foreign Asset Control (“*OFAC*”) or any list of Persons issued by OFAC pursuant to the Executive Order at its official website or any replacement website or other replacement official publication of such list.

(c) Neither the City, the Issuer, nor any of their respective Affiliates (i) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Person described in subsection (b)(ii) above, (ii) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order or (iii) engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law.

Section 5.28. OFAC. Neither the Issuer, nor, to the knowledge of the Issuer, any Related Party, (a) is currently the subject of any Sanctions, (b) is located, organized or residing in any

Designated Jurisdiction, or (c) is or has been (within the previous five (5) years) engaged in any transaction with any Person who is now or was then the subject of Sanctions or who is located, organized or residing in any Designated Jurisdiction. To the best knowledge of the Issuer, after due inquiry, the proceeds from the Loans or the transaction contemplated by this Agreement have not been used, directly or indirectly, to lend, contribute, provide or otherwise be made available to fund any activity or business in any Designated Jurisdiction or to fund any activity or business of any Person located, organized or residing in any Designated Jurisdiction or who is the subject of any Sanctions, or in any other manner that will result in any violation by any Person (including the Bank) of Sanctions.

Section 5.29. Swap Contracts. The Issuer has not entered into any Swap Contract relating to Subordinate Obligations wherein any termination payment thereunder is senior to or on a parity with the payment of the Loans or the other Obligations.

Section 5.30. Senior Lien. The only obligations secured by the Net Revenues are the Senior Lien Bonds. The Issuer is prohibited from issuing, incurring or entering into additional obligations pursuant to the Senior Lien Indenture or any other agreement secured by Net Revenues. The Issuer may not issue, incur or enter into any additional obligations that are secured by and payable from Subordinate Net Revenues on a basis senior to the Obligations or the other Subordinate Obligations.

Section 5.31. Right to Accelerate. The Issuer has not entered into any Bank Agreement, which Bank Agreement (or any amendment, supplement or modification thereto) includes the right to accelerate the payment of the principal of or interest on the Senior Lien Bonds or any Subordinate Obligations or other Debt upon the occurrence and continuation of an “event of default” or “event of termination” under such Bank Agreement or which includes the right to cause the redemption or mandatory tender of the Senior Lien Bonds or any Subordinate Obligation or other Debt prior to its maturity as a result of the occurrence of an “event of default” or “event of termination” under such Bank Agreement.

ARTICLE 6

COVENANTS

While the Revolving Commitment is outstanding and until all of the Obligations shall have been paid in full, the Issuer covenants and agrees, unless the Bank shall otherwise consent in writing, that:

Section 6.01. Maintenance of Existence. The Issuer shall maintain the City’s existence as a charter city and municipal corporation under its Charter and the Constitution and laws of the State of California and its rights, franchises and privileges material to the operation of the Enterprise.

Section 6.02. Reports, Certificates and Other Information. The Issuer shall furnish or cause to be furnished to the Bank copies of:

(a) *Annual Report.* As soon as available, and in any event within 240 days after the end of the Fiscal Year, the annual audited financial statements of the Enterprise, together with (1) the opinion of the Issuer's independent accountants and (2) a Compliance Certificate signed by a Designated Representative (x) stating that no Event of Default or Default has occurred, or if such Event of Default or Default has occurred, specifying the nature of such Event of Default or Default, the period of its existence, the nature and status thereof and any remedial steps taken or proposed to correct such Event of Default or Default and (y) demonstrating compliance with the rate covenant set forth in Section 6.15 hereof.

(b) As soon as available for each Fiscal Year, and in any event no later than 30 days following the beginning of each such Fiscal Year, a copy of all resolutions or proceedings taken by the Board adopting, and the City Council of the City approving, a balanced operating budget for the Enterprise for such Fiscal Year and a certificate of a Designated Representative to the effect that such operating budget includes all amounts reasonably anticipated to be necessary to make all payments in respect of the Obligations due in such Fiscal Year, and as soon as available for each such Fiscal Year, and in any event no later than 180 days following the beginning of each such Fiscal Year, a copy of such operating budget;

(c) Promptly upon obtaining knowledge of any Default or Event of Default, or notice thereof, and in any event within five (5) days thereafter, a certificate signed by a Designated Representative specifying in reasonable detail the nature and period of existence thereof and what action the Issuer has taken or proposes to take with respect thereto; (ii) promptly following a written request of the Bank, a certificate of a Designated Representative as to the existence or absence, as the case may be, of a Default or an Event of Default under this Agreement; and (iii) promptly upon obtaining knowledge of any "default" or "event of default" as defined under any Bank Agreement, notice specifying in reasonable detail the nature and period of existence thereof and what action the Issuer has taken or proposes to take with respect thereto;

(d) As soon as practicable, written notice to the Bank of all litigation, actions, suits or proceedings pending or threatened against the Issuer, the Enterprise or relating to Net Revenues or Subordinate Net Revenues in court or before any arbitrator of any kind or before any governmental authority and all proceedings before any court or governmental authority which, in each case, which could reasonably be expected to result in a Material Adverse Effect or directly or indirectly relates to the enforceability of this Agreement, the Note or any of the other Related Documents or could have a material adverse effect on the condition (financial or otherwise), results of operations or projections of Gross Revenues, Net Revenues or Subordinate Net Revenues and promptly upon obtaining knowledge thereof, written notice to the Bank of the occurrence of any other event which could have a material adverse effect on the condition (financial or otherwise), results of operations or

projections of Gross Revenues, Net Revenues or Subordinate Net Revenues or the enforceability of any of the Related Documents;

(e) As soon as available, written notice to the Bank of all changes to the Issuer's investment policy or any governing document that sets forth the terms of the Senior Lien Bonds or any Subordinate Obligations; and

(f) promptly after knowledge thereof shall have come to the attention of any responsible officer of the Issuer, written notice to the Bank of any change in a Rating or any ratings on the Senior Lien Bonds or the Subordinate Obligations;

(g) *Trustee Notices.* As soon as available all notices, certificates, instruments, letters and written commitments in connection with the Senior Lien Bonds or Subordinate Obligations provided to the Senior Lien Trustee or the Subordinate Lien Trustee, respectively, other than those notices, certificates, instruments, letters and written commitments that relate solely to the routine issuance and payment of the Senior Lien Bonds or Subordinate Obligations;

(h) *Notices of Resignation of the Subordinate Lien Trustee.* As promptly as practicable, written notice to the Bank of any resignation of the Subordinate Lien Trustee immediately upon receiving notice of the same;

(i) *Offering Memorandum and Material Event Notices.* (A) Within ten (10) days after the issuance of any securities by the Issuer with respect to which a final official statement or other offering or disclosure document has been prepared by the Issuer, (1) a copy of such official statement or offering circular or (2) notice that such information has been filed with EMMA and is publicly available; and (B) during any period of time the Issuer is subject to continuing disclosure requirements under Rule 15c2-12 promulgated pursuant to the Securities Exchange Act of 1934, as amended (17 C.F.R. Sec. 240-15c2-12), or any successor or similar legal requirement, immediately following any dissemination, distribution or provision thereof to any Person, (1) a copy of any reportable event notice (as described in b(5)(i)(C) of Rule 15c2-12) disseminated, distributed or provided in satisfaction of or as may be required pursuant to such requirements or (2) notice that such event notice has been filed with EMMA and is publicly available; and

(j) *Other Information.* Such other information regarding the business affairs, financial condition and/or operations of the Issuer or the Enterprise as the Bank may from time to time reasonably request.

Section 6.03. Maintenance of Books and Records. The Issuer shall keep proper books of record and account in which full, true and correct entries in accordance with the Issuer's budget basis accounting principles and reporting practices shall be made of all dealings or transactions in relation to its activities.

Section 6.04. Access to Books and Records. To the extent permitted by law, the Issuer shall permit any Person designated by the Bank to visit any of the offices of the Issuer to examine the

books and financial records, including minutes of meetings of any relevant governmental committees or agencies, and make copies thereof or extracts therefrom, and to discuss the affairs, finances and accounts of the Issuer with its principal officials, all at such reasonable times and as often as the Bank may reasonably request.

Section 6.05. Compliance with Documents. The Issuer shall perform and comply with each and every covenant and agreement required to be performed or observed by it herein and in the Note and in each of the other Related Documents, which provisions, as well as related defined terms contained therein, are hereby incorporated by reference herein with the same effect as if each and every such provision were set forth herein in its entirety all of which shall be deemed to be made for the benefit of the Bank and shall be enforceable against the Issuer. To the extent that any such incorporated provision permits the Issuer or any other party to waive compliance with such provision or requires that a document, opinion or other instrument or any event or condition be acceptable or satisfactory to the Issuer or any other party, for purposes of this Agreement, such provision shall be complied with only if it is specifically waived by the Bank in writing and such document, opinion or other instrument and such event or condition shall be acceptable or satisfactory only if it is acceptable or satisfactory to the Bank which shall only be evidenced by the Bank's written approval of the same. No termination or amendment to such covenants and agreements or defined terms or release of the Issuer with respect thereto made pursuant to the Related Documents shall be effective to terminate or amend such covenants and agreements and defined terms or release of the Issuer with respect thereto as incorporated by reference herein without the prior written consent of the Bank. Notwithstanding any termination or expiration of any such Related Document, the Issuer shall continue to observe the covenants therein contained for the benefit of the Bank until the termination of this Agreement. All such incorporated covenants shall be in addition to the express covenants contained herein and shall not be limited by the express covenants contained herein nor shall such incorporated covenants be a limitation on the express covenants contained herein.

Section 6.06. Environmental Compliance. The Issuer shall comply with all Environmental Laws applicable to the construction, ownership or use of the Enterprise and shall cause, to the extent possible, its tenants and other Persons occupying or using its facilities to comply with such Environmental Laws, shall timely pay or cause to be paid all costs and expenses incurred in such compliance, and shall keep or cause to be kept all of its facilities free and clear of any liens imposed pursuant to such Environmental Laws, unless the same are being contested in good faith and by appropriate legal proceedings and such contest shall operate to stay the material adverse effect of any such non-compliance. The Issuer shall also immediately notify the Bank of any actual or alleged material failure to so comply with or perform, or any material breach, violation or default under any Environmental Law.

Section 6.07. Further Assurances. From time to time hereafter, the Issuer shall execute and deliver such additional instruments, certificates or documents, and shall take all such actions as the Bank may reasonably request for the purposes of implementing or effectuating the provisions of the Related Documents or for the purpose of more fully perfecting or renewing the Bank's rights with respect to the rights, properties or assets subject to such documents (or with respect to any additions thereto or replacements or proceeds thereof or with respect to any other property or assets hereafter acquired by the Issuer which may be deemed to be a part thereof).

Upon the exercise by the Bank of any power, right, privilege or remedy pursuant to the Related Documents which requires any consent, approval, registration, qualification or authorization of any governmental authority or instrumentality, the Issuer shall, to the extent permitted by law, execute and deliver all necessary applications, certifications, instruments and other documents and papers that the Bank may be required to obtain for such governmental consent, approval, registration, qualification or authorization.

Section 6.08. Application of Proceeds of Loans. The Issuer shall cause the proceeds from Loans made hereunder to be applied only to pay Costs of a Project or costs of issuance in connection with this Agreement, and in any event, in compliance in all respects with the Tax Certificate.

Section 6.09. Payment of Obligations; Removal of Liens. The Issuer shall pay (a) all indebtedness and obligations of the Issuer in accordance with the terms thereof and (b) all assessments or other governmental charges as the same respectively become due, all taxes, assessments (general or special) and governmental charges of any kind whatsoever that may be at any time lawfully assessed or levied against or with respect to the Subordinate Net Revenues or any interest thereon and promptly discharge or cause to be discharged all liens, encumbrances and charges on such property and assets. The Issuer shall include in each of the annual budgets for the Enterprise all amounts reasonably anticipated to be necessary to make payments due to the Bank hereunder or under the Note or the other Related Documents.

Section 6.10. Compliance with Law; Employee Benefit Plan Compliance. The Issuer shall comply with and observe the obligations and requirements set forth in the Constitution of the State of California and in all statutes and regulations binding upon it relating to the Enterprise and the Related Documents. The Issuer shall in a timely fashion, comply, in all material respects with all requirements under any employee benefit plan in which the Issuer or any of its employees participate.

Section 6.11. Compliance with Obligations. The Issuer shall comply with and observe the obligations and requirements arising in connection with any obligation with a lien on the Subordinate Net Revenues (including the Subordinate Obligations).

Section 6.12. Reserved.

Section 6.13. Insurance; Eminent Domain. The Issuer shall at all times maintain with responsible insurers all such insurance on the Enterprise as required by Section 5.05 of the Senior Lien Indenture and Section 5.03 of the Master Subordinate Lien Indenture and as is customarily maintained with respect to works and properties of like character against accident to, loss of or damage to such works or properties. If any material useful part of the Enterprise is damaged or destroyed, such material part will be restored for use or will be replaced. The money collected from insurance against accident to or destruction of the Enterprise will be used for repairing or rebuilding or replacing the damaged or destroyed Enterprise, and to the extent not so applied, will be applied as set forth in Section 5.05 of the Senior Lien Indenture. The provisions of Section 5.05 of the Senior Lien Indenture and Section 5.03 of the Master Subordinate Lien Indenture, as well as the related defined terms contained therein, are hereby incorporated by reference for the benefit

of the Bank with the same effect as if each such provision and defined term were set forth herein in its entirety. No amendment to such provisions or defined terms made pursuant to any amendment or supplement to the Senior Lien Indenture or the Master Subordinate Lien Indenture shall be effective to amend such provisions and defined terms as incorporated by reference herein without the prior written consent of the Bank.

Section 6.14. Investment Policy. The Issuer shall comply with its investment policy in effect from time to time.

Section 6.15. Rate Covenant. (a) With the prior approval of the City Council, the Issuer shall (but subject to all existing contracts and legal obligations of the Issuer as of the Original Closing Date setting forth restrictions relating thereto), establish, fix, prescribe, revise and collect rates, fees and charges for the services and facilities furnished by the Enterprise, so that Net Revenues in each Fiscal Year will be at least equal to the following amounts: (i) the Aggregate Annual Debt Service on the Senior Lien Bonds and the Subordinate Obligations required to be funded by the Issuer in such Fiscal Year as required by the Senior Lien Indenture and the Master Subordinate Lien Indenture with respect to the outstanding Senior Lien Bonds and/or the Outstanding Subordinate Obligations; (ii) the required deposits to any debt service reserve fund which may be established with respect to the Senior Lien Bonds and the Subordinate Obligations; (iii) the reimbursement or repayment of other amounts owed to any provider of a Qualified Reserve Fund Credit Instrument as required by the Senior Lien Indenture; (iv) the reimbursement or repayment of other amounts owed to any Credit Provider or Liquidity Provider as required by the Master Subordinate Lien Indenture or a Supplemental Subordinate Lien Indenture or owed under any Bank Agreement; (v) the interest on and principal of any Debt required to be funded during such Fiscal Year other than for the Senior Lien Bonds or the Subordinate Obligations; and (vi) payments of any reserve requirement for debt service for any Debt other than the Senior Lien Bonds or the Subordinate Obligations.

(b) In addition, the Issuer covenants, with the approval of the City Council with respect to rates, to fix, prescribe, revise and collect rates, fees and charges for the services and facilities furnished by the Enterprise during each Fiscal Year which are sufficient to yield Net Revenues which are at least equal to 110% of the amount described in paragraph (a)(i)-(iv) above for such Fiscal Year.

(c) The Issuer covenants that if Net Revenues in any Fiscal Year are less than the amounts specified in paragraphs (a) or (b) of this Section, the Issuer will retain and direct a Consultant to make recommendations as to the revision of the operations of the Enterprise and its schedule of rates, fees and charges for the services and facilities furnished by the Enterprise, and after receiving such recommendations or giving reasonable opportunity for such recommendations to be made, the Issuer shall take all lawful measures to revise the schedule of rates, fees and charges as may be necessary to produce Net Revenues in the amounts specified in paragraph (a) and (b) of this Section in the next succeeding Fiscal Year.

Section 6.16. Other Bank Agreements. In the event the Issuer shall, directly or indirectly, enter into or otherwise consent to any Bank Agreement, which such Bank Agreement provides such Person with additional or more restrictive covenants (including, without limitation, financial

covenants) and/or additional or more restrictive events of default and/or events of default that are more favorable to the Bank than are provided in this Agreement (collectively, the “*Additional Rights*”) than are provided to the Bank in this Agreement, then, such Additional Rights shall automatically be deemed to be incorporated into this Agreement and the Bank shall have the benefits of such Additional Rights. The Issuer shall promptly, upon entering into or otherwise consenting to a Bank Agreement containing such Additional Rights, notify the Bank hereunder of such Bank Agreement and enter into an amendment to this Agreement to include such Additional Rights; provided that the Bank shall have the benefit of such Additional Rights even if the Issuer fails to provide such notice or enter into an amendment hereto to include said Additional Rights into this Agreement. If the Issuer shall amend the related Bank Agreement such that it no longer provides for such Additional Rights, then, without the consent of the Bank, this Agreement shall automatically no longer contain the related Additional Rights and the Bank shall no longer have the benefits of any of the related Additional Rights.

Section 6.17. Preservation of Lien. The Issuer shall take all necessary action to maintain and preserve the lien on and security interest in the Subordinate Net Revenues securing the Obligations and the payment and performance of the Issuer’s obligations hereunder and under the Note and the other Related Documents.

Section 6.18. Sovereign Immunity. The Issuer agrees not to assert any defense of sovereign immunity, if available, in any proceeding initiated by the Bank to enforce any of the obligations of the Issuer hereunder. To the extent that the Issuer has or hereafter may acquire under any applicable law any right to immunity from set off or legal proceedings, including but not limited to a writ of mandamus ordering a levy of taxes by the Issuer, on the grounds of sovereignty or otherwise, the Issuer, to the extent permitted by law, hereby irrevocably waives such rights to immunity for itself and agrees not to invoke any defense of immunity in respect of its obligations arising under or related to this Agreement, the Note or the other Related Documents.

Section 6.19. Maintenance of Enterprise. The Issuer shall at all times operate or cause to be operated the Enterprise properly and in an efficient and economical manner, and shall maintain, preserve, reconstruct and keep the same or cause the same to be so maintained, preserved, reconstructed and kept, with the appurtenances and every part and parcel thereof, in good repair, working order and condition, and shall from time to time make, or cause to be made, all necessary and proper repairs, replacements and renewals so that at all times the operation of the Enterprise may be properly and advantageously conducted. The Issuer shall pay (a) all indebtedness and obligations of the Issuer in accordance with the terms thereof and (b) all assessments or other governmental charges as the same respectively become due, all taxes, assessments (general or special) and governmental charges of any kind whatsoever that may be at any time lawfully assessed or levied against or with respect to the Enterprise or Subordinate Net Revenues or any interest thereon and promptly discharge or cause to be discharged all liens, encumbrances and charges on such property and assets.

Section 6.20. Changes in Obligations. The Issuer shall not waive, repeal, modify, amend or supplement any Related Document, except that the Issuer may supplement the Master Subordinate Lien Indenture to provide for the issuance of Subordinate Obligations in accordance with the terms thereof and hereof.

Section 6.21. Additional Debt. The Issuer shall not issue or incur any obligation with a lien on the Subordinate Net Revenues other than: (i) Subordinate Obligations so long as the Issuer delivers to the Bank a certificate, dated as of a date between the date of pricing of the Subordinate Obligations being issued or incurred and the date of issuance and delivery of such Subordinate Obligations (both dates inclusive), prepared by a Designated Representative showing that the Net Revenues, calculated in accordance with GAAP, for the most recent completed Fiscal Year or for a more recent 12-month period selected by the Issuer, in either case verified by a certificate or opinion of the Director of Financial Management, CFO of the City or the City Treasurer, plus (at the option of the Issuer) any Additional Revenues, were at least equal to 110% of Maximum Aggregate Annual Debt Service with respect to the Outstanding Senior Lien Bonds and the Outstanding Subordinate Obligations, Unissued Subordinate Program Obligations and the proposed Subordinate Obligations, calculated as if the proposed Subordinate Obligations and the full authorized amount of such proposed Subordinate Program Obligations (as applicable) were then Outstanding; or (ii) any obligation with a lien on Subordinate Net Revenues subordinate to the lien contemplated in Section 2.14 hereof so long as (x) any resolution or indenture of the Issuer authorizing the issuance of any such obligation shall specifically state that such lien on or security interest granted in the Subordinate Net Revenues is subordinate to the lien contemplated in Section 2.14 hereof; (y) payment of principal of and interest and other amounts due on such obligation shall be permitted; *provided* that all deposits and payments required to be made with respect to the Obligations have been made or satisfied; and (z) such obligation, if a default in payment, may not be accelerated so long as an Loans are outstanding and until all of the Obligations shall have been paid in full. The Issuer shall not issue, nor cause or permit the issuance of, any Commercial Paper.

Section 6.22. Swap Termination Payments. The Issuer shall not enter into any Swap Contract under which a termination payment would be required to be paid from Subordinate Net Revenues on basis senior to or on a parity with the Subordinate Obligations or the Note.

Section 6.23. No Impairment. The Issuer will neither take any action, nor cause or permit any other Person to take any action, under the Related Documents inconsistent with the rights of the Bank under this Agreement including, without limitation, the Obligations and pledge of the Subordinate Net Revenues. Except as provided in Section 6.20 hereof, the Issuer will neither agree to any amendment, modification or supplement to any Related Document to which it is a party without the prior written consent of the Bank, nor shall the Issuer waive or consent to any waiver of any condition under any Related Document.

Section 6.24. Tax Status. The Issuer shall take no action which could reasonably be expected to result in interest on the Loans becoming included in gross income of the Bank for purposes of federal income taxation or no longer exempt from State of California personal income taxes.

Section 6.25. Use of Bank's Name. Except as may be required by law (including, but not limited to, federal and state securities laws), the Issuer shall not use the Bank's name in any published materials (other than the Issuer's staff reports, annual statements, audited financial statements and rating agency presentations) without the prior written consent of the Bank (which consent shall not be unreasonably withheld); provided that, without the prior written consent of

the Bank, the Issuer may identify the Bank as a party to this Agreement, the stated amount of the Available Commitment, the Commitment Termination Date and that the Issuer's obligations under this Agreement are secured by Subordinate Net Revenues, in offering documents with respect to the Subordinate Obligations, so long as no other information relating to this Agreement or the Bank is disclosed in such offering documents without the prior written consent of the Bank.

Section 6.26. Reserved.

Section 6.27. No Sale, Assignment, Transfer or Pledge. The Issuer shall not sell, mortgage or otherwise dispose of the Enterprise or any portion thereof essential to the proper operation of the Enterprise or to the maintenance of Subordinate Net Revenues. The Issuer shall not enter into any lease or agreement which materially impairs the operation of the Enterprise or any part thereof necessary to secure adequate Subordinate Net Revenues for the payment of Obligations or payment and performance of the Issuer's obligations under this Agreement, the Note or the other Related Documents.

Section 6.28. Consolidation or Merger. The Issuer shall not consolidate with or merge into another Person or permit one or more other Persons to consolidate with or merge into it or acquire all or substantially all of the property and assets of any other Person.

Section 6.29. Accounting Methods and Fiscal Year. The Issuer shall not adopt, permit or consent to any change in accounting practices other than as required by GAAP and will not adopt, permit or consent to any change in its Fiscal Year.

Section 6.30. No Priority Claim. The Issuer shall not incur, assume or permit any pledge, lien, charge or encumbrance on the Subordinate Net Revenues with a claim to payment of higher priority than the claim of the Obligations or any of the Issuer's obligations under this Agreement, the Note or the other Related Documents, other than the Senior Lien Bonds.

Section 6.31. Incorporation of Covenants by Reference. The Issuer agrees that it will perform and comply with each and every covenant and agreement required to be performed or observed by it in the Related Documents, which provisions, as well as related defined terms contained therein, are hereby incorporated by reference herein with the same effect as if each and every such provision were set forth herein in its entirety all of which shall be deemed to be made for the benefit of the Bank and shall be enforceable by the Bank against the Issuer, which covenants, agreements, definitions and provisions shall continue in effect with regard to the Bank without regard or giving effect to any amendment or modification of such provisions or any waiver of compliance therewith unless consented to in writing by the Bank.

Section 6.32. Use of Proceeds. The Issuer shall not use any part of the Loans (a) for the purpose, whether immediate, incidental or ultimate, of purchasing or carrying any Margin Stock (within the meaning of Regulation U of the Board of Governors of the Federal Reserve System, as amended from time to time) or to extend credit for other purposes of purchasing or carrying any margin stock, (b) for the purpose of supporting commercial paper notes or for any other form of liquidity support, (c) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-

Corruption Laws or (d) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

Section 6.33. Ratings. The Issuer shall at all times maintain a Rating from at least one Rating Agency. The Issuer covenants and agrees that it shall not at any time withdraw any Rating from any of Fitch, Moody's or S&P if the effect of such withdrawal would be to cure a Default or an Event of Default under this Agreement or reduce the Applicable Spread or the Commitment Fee Rate.

Section 6.34. Setoff Provisions in Other Documents. The Issuer shall not, directly or indirectly, enter into or otherwise consent to any Bank Agreement, which such Bank Agreement (i) provides the counterparty thereto with any right of set-off or (ii) fails to restrict such counterparty's statutory or common law right of setoff, in each case, without the prior written consent of the Bank. Notwithstanding the foregoing sentence, in the event that the Issuer directly or indirectly, enters into or otherwise consents to any Bank Agreement which (x) includes the right of set-off or (y) fails to prohibit the exercise of the related provider's statutory or common law rights of setoff, then the Bank shall have, as a remedy under Section 7.02 hereof, the right to exercise any set-off with respect to any and all balances, credits, deposits (general or special, time or demand, provisional or final), accounts or monies at any time held and other Debt at any time owing by the Bank to or for the account of the Issuer and constituting Subordinate Net Revenues (irrespective of the currency in which such accounts, monies or Debt may be denominated and the Bank are authorized to convert such accounts, monies and Debt into U.S. dollars) against any and all of the obligations of the Issuer under this Agreement and the Note, whether or not the Bank shall have made any demand with respect thereto.

Section 6.35. Acceleration. In the event that the Issuer shall, directly or indirectly, enter into or otherwise consent to any Bank Agreement which includes the right to accelerate the payment of the principal of or interest on any Subordinate Obligation or other Debt of the Issuer or the right to cause the redemption or mandatory tender of any Subordinate Obligation or other Debt of the Issuer prior to its maturity as a result of the occurrence of an "event of default" or "event of termination" under such Bank Agreement (herein referred to as "*Acceleration Provisions*"), then such Acceleration Provisions shall automatically be deemed incorporated herein and the Bank shall automatically have the benefit of such Acceleration Provisions, and further the Bank shall have the right, upon the occurrence of an Event of Default, to declare all Obligations payable hereunder to be, and such amounts shall thereupon become, immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Issuer; provided that upon the occurrence of an Event of Default under Section 7.01(j) hereof, such prepayment obligation or acceleration shall automatically become due and payable or automatically occur, as applicable, and without any notice. The Issuer shall promptly, upon the occurrence of the Issuer entering into any Bank Agreement (or amendment thereto) which provides for Acceleration Provisions, enter into an amendment to this Agreement to include such Acceleration Provisions; *provided* that the Bank shall maintain the benefit of such Acceleration Provisions even if the Issuer fails to execute such amendment.

Section 6.36. Swap Contracts. Without the prior written consent of the Bank, the Issuer shall not enter into any Swap Contracts relating to Subordinate Obligations wherein any

termination payments thereunder are senior to or on parity with the payment of the Loans or the other Obligations.

Section 6.37. No Further Senior Lien. The Issuer shall not issue, nor shall it allow to be outstanding, any obligations under the Senior Lien Indenture, except for the Senior Lien Bonds.

ARTICLE 7

DEFAULTS

Section 7.01. Events of Default. The occurrence of any of the following events (whatever the reason for such event and whether voluntary, involuntary, or effected by operation of Law) shall be an “Event of Default” hereunder, unless waived in writing by Bank:

(a) The Issuer fails to pay, or cause to be paid, when due (i) any principal and interest due hereunder or under the Note, or (ii) any other amounts due hereunder or under the Note or any other amounts due to the Bank under any other Related Document; or

(b) (i) The Issuer fails to perform or observe any term, covenant or agreement contained in Section 6.01, 6.13, 6.15, 6.17, 6.18, 6.19, 6.20, 6.21, 6.22, 6.23, 6.24, 6.27, 6.28, 6.29, 6.30, 6.32, 6.33, 6.34 or 6.37 hereof or (ii) the Issuer fails to perform or observe any term, covenant or agreement contained in this Agreement (other than those referred to in Section 7.01(a) and (b)(i)) and any such failure is irremediable or, if remediable, remains unremedied for 45 days after notice thereof to the Issuer;

(c) The Issuer shall fail to make any payment in respect of any of its Senior Lien Bonds or Subordinate Obligations when due (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise) and such failure shall continue after the applicable grace period, if any, specified in the Senior Lien Indenture, the Master Subordinate Lien Indenture or any Supplemental Subordinate Lien Indenture or, if applicable, in any other resolution, agreement, contract, lease or other instrument relating to such Subordinate Obligation; or an “Event of Default” as defined in the Senior Lien Indenture, the Master Subordinate Lien Indenture or any Supplemental Subordinate Lien Indenture or any other “event of default” under any other Related Document shall have occurred and be continuing; or

(d) The Issuer has taken or permitted to be taken any action which would materially adversely affect the enforceability of this Agreement, the Note, the Senior Lien Indenture, the Master Subordinate Lien Indenture, the Fourth Supplemental Subordinate Lien Indenture or any Supplemental Subordinate Lien Indenture against the Issuer or the legal ability of the Issuer to pay Obligations, the Senior Lien Bonds or any other Subordinate Obligations when due; or

(e) A court of competent jurisdiction shall enter a final, nonappealable order or judgment to the effect that the Senior Lien Bonds or any Subordinate Obligations are illegal or unenforceable; or

(f) The issuance of any Subordinate Obligations shall result in a violation by the Issuer of any material law, rule or regulation, or any order of any court, governmental agency or regulatory body, or any indenture or loan or credit agreement (including this Agreement), or any other agreement or instrument, applicable to the Issuer or to such issuance; or

(g) Any representation or warranty on the part of the Issuer contained in any Related Document or in any certificate, letter or other writing or instrument furnished or delivered by the Issuer to the Bank pursuant hereto or thereto or in connection herewith or therewith, shall at any time prove to have been incorrect in any material respect when made or deemed made or when effective or when reaffirmed, as the case may be, whether by misstatement or omission; or

(h) Any material provision of this Agreement, the Note or the other Related Documents shall at any time for any reason cease to be valid and binding on the Issuer or shall be declared to be null and void by any court or governmental authority or agency having jurisdiction over the Issuer, or the validity or the enforceability of any material provision of this Agreement, the Note or the other Related Documents shall at any time be contested by the Issuer in a judicial or administrative proceeding or the Issuer shall deny that it has any or further liability or obligation under any material provision of this Agreement, the Note or the other Related Documents, or the validity or enforceability of any material provision of this Agreement, the Note or the other Related Documents shall be contested by any governmental agency or authority having jurisdiction over the Issuer; or

(i) The Issuer fails to pay when due a final, nonappealable judgment or order for the payment of money in excess of \$2,000,000 shall be rendered against the Issuer or the Enterprise that is payable from Net Revenues or Subordinate Net Revenues and such judgment or order shall continue unstayed, undischarged, unbonded or unsatisfied for a period of sixty (60) days; or

(j) (i) A debt moratorium, debt restructuring, debt adjustment or comparable restriction is imposed by the Issuer or any Governmental Authority on the repayment when due and payable of the principal of or interest on any Debt of the Issuer or Debt payable from or secured by Net Revenues or Subordinate Net Revenues or the Senior Lien Bond or any Subordinate Obligation, or (ii) under any existing or future law of any jurisdiction relating to bankruptcy, insolvency, reorganization or relief of debtors, the Issuer seeks to have an order for relief entered with respect to it or the Enterprise or seeking to adjudicate it or the Enterprise insolvent or bankrupt or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or the Enterprise or its debts or those of the Enterprise, or (iii) a custodian, receiver, trustee, examiner, liquidator or similar official shall be appointed for the Issuer or the Enterprise or for any substantial part of the Issuer's property, or the Issuer shall make a general assignment for the benefit of its creditors, or (iv) there shall be commenced against the Issuer or the Enterprise any case, proceeding or other action of a nature referred to in clause (ii) and the same shall remain undismissed, or (v) there shall be commenced against

the Issuer or the Enterprise any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its property which results in the entry of an order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal, within sixty (60) days from the entry thereof, or (vi) the Issuer takes action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii), (iii), (iv), (v) above, or (vii) the Issuer or the Enterprise shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due; or

(k) The Bank fails to have an enforceable lien on and security interest in the Subordinate Net Revenues with the priority as contemplated by Section 2.14 hereof; or

(l) Any funds or investments on deposit in, or otherwise to the credit of, any of the funds or accounts established hereunder or under the Master Subordinate Lien Indenture or the Fourth Supplemental Subordinate Lien Indenture shall become subject to any writ, judgment, warrant or attachment, execution or similar process; or

(m) Any change in the Code or any allegation by the Internal Revenue Service is made which results, or would result, in interest on the Loans being included in gross income for federal income tax purposes of the Bank or not being exempt from State of California personal income taxes; or

(n) The occurrence and continuation of an Event of Default under any of the Related Documents (other than as specified in another Event of Default under this Section 7.01); or

(o) (i) A default occurs with respect to the payment of (x) the Senior Lien Bonds or any Subordinate Obligations or any interest or premium thereon as and when the same shall become due (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise); or (y) any amount due in respect of any other obligation owed to the Bank as and when the same shall become due (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise); or (ii) a default occurs under any mortgage, agreement or other instrument relating to the Senior Lien Bonds, any Subordinate Obligations or any other obligation payable from or secured by a lien on any portion of the Net Revenues or Subordinate Net Revenues, and continuance of such default beyond the period of grace, if any, allowed with respect thereto, or the occurrence of any act or omission by the Issuer under any such mortgage, agreement or other instrument which results in the Senior Lien Bonds, any Subordinate Obligations or obligation becoming, or being capable of becoming, immediately due and payable or the Senior Lien Bonds, any Subordinate Obligations or other obligation is otherwise required to be prepaid (other than by a regularly scheduled required prepayment or an optional prepayment) prior to the stated maturity thereof; or

(p) Dissolution or termination of the existence of the Issuer or the Enterprise; or the Issuer's accountant delivers a qualified opinion with respect to the Enterprise's status as an on-going concern; or

(q) The occurrence of any event which has had, or may result in, any material adverse change in the condition (financial or otherwise), results of operations or projections of revenues of the Enterprise or the ability of the Issuer to receive any Subordinate Net Revenues or to comply with its obligations under or in respect of any of this Agreement, the Note or the other Related Documents or in connection with the transactions contemplated hereby or thereby; or

(r) Any of Fitch, Moody's or S&P shall have downgraded its Rating to below "BBB" (or its equivalent), "Baa2" (or its equivalent), or "BBB" (or its equivalent) respectively, or suspended or withdrawn its rating of the same.

Section 7.02. Consequences of an Event of Default. If an Event of Default specified in Section 7.01 hereof shall occur and be continuing, the Bank may take one or more of the following actions at any time and from time to time (regardless of whether the actions are taken at the same or different times):

(a) declare the Revolving Commitment of the Bank to make Loans to be terminated by written notice to the Issuer, whereupon such Revolving Commitment and obligation shall be terminated;

(b) petition a court of competent jurisdiction to issue a mandamus order to the Issuer to compel specific performance of the covenants of the Issuer contained in any of the Related Documents;

(c) either personally or by attorney or agent without bringing any action or proceeding, or by a receiver to be appointed by a court in any appropriate action or proceeding, may take whatever action at law or in equity may appear necessary or desirable to collect the amounts due and payable under this Agreement and the Note or to enforce performance or observance of any obligation, agreement or covenant of the Issuer under this Agreement and the Note, whether for specific performance of any agreement or covenant of the Issuer or in aid of the execution of any power granted to the Bank in this Agreement or the Note or the other Related Documents; and/or

(d) exercise, or cause to be exercised, any and all remedies as it may have under this Agreement, the Note and the other Related Documents.

Except as expressly provided in this Section 7.02, procurement, demand, protest and all other notices of every kind are hereby expressly waived.

In each case, the Obligations of the Issuer shall, from and after the occurrence of an Event of Default, bear interest at the Default Rate until such time as the Bank shall have waived same or said Event of Default shall have been cured.

Notwithstanding anything set forth herein to the contrary, upon the occurrence of an Event of Default under Section 7.01(j) hereof, the Revolving Commitment shall terminate immediately and automatically without notice or further action on the part of the Bank.

Section 7.03. Remedies Cumulative; Solely for the Benefit of the Bank. (a) To the extent permitted by, and subject to the mandatory requirements of, Applicable Law, each and every right, power and remedy herein specifically given to the Bank in this Agreement, the Note and the other Related Documents shall be cumulative, concurrent and nonexclusive and shall be in addition to every other right, power and remedy herein specifically given or now or hereafter existing at law, in equity or by statute, and each and every right, power and remedy (whether specifically herein given or otherwise existing) may be exercised from time to time and as often and in such order as may be deemed expedient by the Bank, and the exercise or the beginning of the exercise of any power or remedy shall not be construed to be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy.

(b) The rights and remedies of the Bank specified herein are for the sole and exclusive benefit, use and protection of the Bank, and the Bank is entitled, but shall have no duty or obligation to the Issuer or any other Person or otherwise, to exercise or to refrain from exercising any right or remedy reserved to the Bank hereunder or under any of the other Related Documents.

Section 7.04. Waivers or Omissions. No delay or omission by the Bank in the exercise of any right, remedy or power or in the pursuit of any remedy shall impair any such right, remedy or power or be construed to be a waiver of any default on the part of the Bank or to be acquiescence therein. No express or implied waiver by the Bank of any Event of Default shall in any way be, or be construed to be, a waiver of any future or subsequent Event of Default.

Section 7.05. Discontinuance of Proceedings. In case the Bank shall proceed to invoke any right, remedy or recourse permitted under this Agreement, the Note or the other Related Documents and shall thereafter elect to discontinue abandon the same for any reason, the Bank shall have the unqualified right so to do and, in such event, the Issuer and the Bank shall be restored to their former positions with respect to the Obligations, this Agreement, the Note and the other Related Documents and otherwise, and the rights, remedies, recourse and powers of the Bank hereunder shall continue as if the same had never been invoked.

Section 7.06. Injunctive Relief. The Issuer recognizes that in the event the Issuer fails to perform, observe or discharge any of its obligations or liabilities under this Agreement or the Note, any remedy of law may prove to be inadequate relief to the Bank; therefore, the Issuer agrees that the Bank, if the Bank so requests, shall be entitled to temporary and permanent injunctive relief in any such case.

ARTICLE 8

MISCELLANEOUS

Section 8.01. Amendments, Etc.; Amendments and Waivers. The Bank and the Issuer may from time to time enter into agreements amending, modifying or supplementing this Agreement, the Note or the other Related Documents or changing the rights of the Bank or the Issuer hereunder or thereunder, and the Bank may from time to time grant waivers or consents to a departure from the due performance of the obligations of the Issuer hereunder or thereunder. Any such agreement, waiver or consent must be in writing and shall be effective only to the extent specifically set forth

in such writing. In the case of any such waiver or consent relating to any provision hereof, any Default or Event of Default so waived or consented to shall be deemed to be cured and not continuing, but no such waiver or consent shall extend to any other or subsequent Default or Event of Default or impair any right consequent thereto; *provided* that no amendment to the terms “Applicable Factor,” “Adjusted Daily Simple SOFR,” “Applicable Spread,” “Commitment Termination Date,” “Daily Simple SOFR,” and “Floating Rate” shall be permitted without the delivery of an Approving Opinion to the Bank.

Section 8.02. Notices; Effectiveness; Electronic Communication.

(a) *Notices Generally.* Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by fax transmission or e-mail transmission as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, to the address, fax number, e-mail address or telephone number specified for the Issuer or the Bank on Schedule 8.02.

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by fax transmission shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below shall be effective as provided in such subsection (b).

(b) *Electronic Communications.* Notices and other communications to the Bank hereunder may be delivered or furnished by electronic communication (including e-mail, FPML messaging and Internet or intranet websites) pursuant to procedures approved by the Bank. The Bank or the Issuer may each, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, *provided* that approval of such procedures may be limited to particular notices or communications.

Unless the Bank otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender’s receipt of an acknowledgement from the intended recipient (such as by the “return receipt requested” function, as available, return e-mail or other written acknowledgement), and (ii) notices and other communications posted to an Internet or intranet website shall be deemed received by the intended recipient upon the sender’s receipt of an acknowledgement by the intended recipient (such as by the “return receipt requested” function, as available, return email address or other written acknowledgement) indicating that such notice or communication is available and identifying the website address therefor; *provided* that, for both clauses (i) and (ii), if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice, email or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient.

(c) *Change of Address, Etc.* Each of the Issuer and the Bank may change its address, fax number or telephone number or e-mail address for notices and other communications hereunder by notice to the other parties hereto.

(d) *Reliance by Bank.* The Bank shall be entitled to rely and act upon any notices (including, without limitation, telephonic or electronic notices, Loan Notices and Notice of Loan Prepayment) purportedly given by or on behalf of the Issuer even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as reasonably understood by the recipient, varied from any confirmation thereof. The Issuer shall, to the extent permitted by law, indemnify the Bank and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Issuer. All telephonic notices to and other telephonic communications with the Bank may be recorded by the Bank, and each of the parties hereto hereby consents to such recording.

Section 8.03. No Waiver; Cumulative Remedies; Enforcement. No failure by the Bank to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Related Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder or under any other Related Document preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Related Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

Section 8.04. Costs and Expenses; Damage Waiver.

(a) *Costs and Expenses.* The Issuer shall pay (i) all reasonable out-of-pocket expenses incurred by the Bank and its Affiliates (including the reasonable fees, charges and disbursements of counsel for the Bank), in connection with the preparation, negotiation, execution, delivery and administration of this Agreement and the other Related Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), including, without limitation, any fees payable to the California Debt and Investment Advisory Commission by the Bank with respect to this Agreement, and (ii) all out-of-pocket expenses incurred by the Bank (including the fees, charges and disbursements of any counsel for the Bank), and shall pay all fees and time charges for attorneys who may be employees of the Bank, in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Related Documents, including its rights under this Section, or (B) in connection with Loans made hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans.

(b) *Indemnification by the Issuer.* In addition to any and all rights of reimbursement, indemnification, subrogation or any other rights pursuant hereto or under law or equity, the Issuer hereby agrees, to the extent permitted by law, to indemnify and hold harmless the Bank and its officers, directors and agents and each Participant (the “*Indemnitees*”) from and against any and all claims, damages, losses, liabilities, costs or expenses whatsoever (including reasonable

attorneys' fees) which the Bank and each Participant may incur (or which may be claimed against the Bank and each Participant by any Person or entity whatsoever) by reason of or in connection with the transactions contemplated by this Agreement, including, without limitation (a) the execution and delivery or transfer of, or failure to pay the Note; (b) the use of the proceeds of the Loans; or (c) the use of the Enterprise by any Person; *provided, however*, that the Issuer shall not be required to indemnify any Indemnitee for any claims, damages, losses, liabilities, costs or expenses to the extent, but only to the extent, that any such claim, damage, loss, liability, cost or expense shall be caused by such Indemnitee's gross negligence or willful misconduct in connection with the Loans. If any proceeding shall be brought or threatened against an Indemnitee by reason of or in connection with the events described in clause (a), (b) or (c), the Bank shall promptly notify the Issuer in writing. The Bank shall have the right to employ its own counsel and to determine its own defense of such action in any such case, and the fees and expenses of such counsel shall be at the expense of the Issuer.

(c) *Waiver of Consequential Damages, Etc.* To the fullest extent permitted by Applicable Law, the Issuer shall not assert, and hereby waives, and acknowledges that no other Person shall have, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Related Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or the use of the proceeds thereof.

(d) *Payments.* All amounts due under this Section shall be payable not later than ten (10) Business Days after demand therefor.

(e) *Survival.* The agreements in this Section and the indemnity provisions of Section 8.02(d) shall survive the termination of the Revolving Commitment and the repayment, satisfaction or discharge of all the other Obligations.

Section 8.05. Payments. To the extent that any payment by or on behalf of the Issuer is made to the Bank and such payment or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Bank in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made.

Section 8.06. Successors and Assigns; Participations. (a) *Participations.* The Bank may grant participations herein or in any of its rights and security hereunder, provided that any such participation shall grant to the Issuer the right to continue dealing solely with the Bank. Any such participant is referred to in this agreement as a "*Participant*"; *provided, however*, that (i) no such participation by any such participant shall in any way affect the obligations of the Bank hereunder; (ii) the Bank shall provide the Issuer with written notice of such participation five (5) Business Days before the effectiveness thereof; and (iii) the Issuer shall be required to deal only with the Bank, with respect to any matters under this Agreement and the other Related Documents and no such Participant shall be entitled to enforce any provision hereunder against the Issuer. The Issuer

agrees that each Participant shall be entitled to the benefits of Sections 3.01, 3.02 and 8.04 hereof to the same extent as if it were a Bank hereunder; *provided, however*, that a Participant shall not be entitled to receive any greater payment under Sections 3.01 and 3.02 than the Bank would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Issuer's prior written consent. In connection with any proposed participation, the Bank may disclose to the proposed Participant any information that the Issuer is required to deliver to the Bank pursuant to this Agreement.

(b) *Successors and Assigns Generally.* This Agreement is a continuing obligation and shall be binding upon the Issuer, its successors, transferees and assigns and shall inure to the benefit of the holders of the Note and their respective permitted successors, transferees and assigns. The Issuer may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Bank. Each holder of a Note may, in its sole discretion and in accordance with applicable law, from time to time assign, sell or transfer in whole or in part, its interest in a Note in accordance with the provisions of paragraph (c) or (d) of this Section. Each holder of a Note may at any time and from time to time enter into participation agreements in accordance with the provisions of paragraph (a) of this Section. Each holder of a Note may at any time pledge or assign a security interest subject to the restrictions of paragraph (e) of this Section.

(c) *Sales and Transfers by Noteholder to a Bank Transferee.* Without limitation of the foregoing generality, the Bank may at any time sell or otherwise transfer to one or more transferees all or a portion of a Note to a Person that is (i) an Affiliate of the Bank or (ii) a trust or other custodial arrangement established by the Bank or an Affiliate of the Bank, the owners of any beneficial interest in which are limited to "qualified institutional buyers" as defined in Rule 144A promulgated under the 1933 Act (each, a "*Bank Transferee*"). From and after the date of such sale or transfer, JPMorgan Chase Bank, National Association (and its successors) shall continue to have all of the rights of the Bank hereunder and under the other Related Documents as if no such transfer or sale had occurred; *provided, however*, that (A) no such sale or transfer referred to in clause (c)(i) or (c)(ii) hereof shall in any way affect the obligations of the Bank hereunder, (B) any such sale or transfer referred to in clause (c)(i) or (c)(ii) hereof shall be in a minimum amount of \$250,000, (C) the Issuer shall be required to deal only with the Bank with respect to any matters under this Agreement and (D) in the case of a sale or transfer referred to in clause (c)(i) or (c)(ii) hereof, only the Bank shall be entitled to enforce the provisions of this Agreement against the Issuer. Upon the request of the Issuer, the Bank shall provide the addresses and related information with respect to the Bank Transferee to the Issuer.

Anything herein to the contrary notwithstanding, if any Bank Transferee shall incur increased costs or capital adequacy requirements as contemplated by Section 3.02 hereof, and such increased costs or capital adequacy requirements are greater than those that the Bank would have incurred had it not sold or otherwise transferred all or a portion of a Note to such Bank Transferee provided for in this Section 8.06(c), then the Issuer shall not be obligated to pay to such Bank Transferee any portion of the cost greater than that which the Issuer would have paid under the provisions of Section 3.02 hereof had the Bank not sold or otherwise transferred all or a portion of such Note to a Bank Transferee.

(d) *Sales and Transfers by Noteholder to a Non-Bank Transferee.* Without limitation of the foregoing generality, a holder of a Note may at any time sell or otherwise transfer all or a portion of a Note to one or more transferees which are not Bank Transferees but each of which constitutes (i) a “qualified institutional buyer” as defined in Rule 144A promulgated under the 1933 Act or (ii) a commercial bank organized under the laws of the United States, or any state thereof, or any other country which is a member of the Organization for Economic Cooperation and Development, or a political subdivision of any such country or an affiliate of such a commercial bank (each a “*Non-Bank Transferee*”), if written notice of such sale or transfer, including that such sale or transfer is to a Non-Bank Transferee, together with addresses and related information with respect to the Non-Bank Transferee, shall have been given to the Issuer and the Bank (if different than the Noteholder) by such selling holder of a Note and Non-Bank Transferee; *provided, however,* that any such sale or transfer shall be in a minimum amount of \$250,000.

From and after the date the Issuer has received written notice, (A) the Non-Bank Transferee thereunder shall be a party hereto and shall have the rights and obligations of a holder of the Note (other than its obligation to fund Loans) hereunder and under the other Related Documents, and this Agreement shall be deemed to be amended to the extent, but only to the extent, necessary to effect the addition of the Non-Bank Transferee, and any reference to the assigning holder of a Note hereunder and under the other Related Documents shall thereafter refer to such transferring holder of a Note and to the Non-Bank Transferee to the extent of their respective interests, and (B) if the transferring holder of a Note no longer owns any portion of the Note, then it shall relinquish its rights and be released from its obligations hereunder and under the other Related Documents (other than its obligation to fund Loans).

Anything herein to the contrary notwithstanding, if any Non-Bank Transferee shall incur increased costs or capital adequacy requirements as contemplated by Section 3.02 hereof, and such increased costs or capital adequacy requirements are greater than those that the Bank would have incurred had all or a portion of the Note not been sold or otherwise transferred to such Non-Bank Transferee provided for in this Section 8.06(d), then the Issuer shall not be obligated to pay to such Non-Bank Transferee any portion of the cost greater than that which the Issuer would have paid under the provisions of Section 3.02 hereof had all or a portion of the Note(s) not been sold or otherwise transferred to such Bank Transferee.

(e) *Certain Pledges.* The Bank may at any time pledge or grant a security interest in all or any portion of its rights under the Note, this Agreement and the other Related Documents to secure obligations of the Bank, including any pledge or assignment to secure obligations to a Federal Reserve Bank or any state or local governmental entity or with respect to public deposits; *provided* that no such pledge or assignment shall release the Bank from any of its obligations hereunder or substitute any such pledgee or assignee for the Bank as a party hereto.

Section 8.07. Counterparts; Integration; Effectiveness. This Agreement and each of the other Related Documents may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Related Documents, and any separate letter agreements with respect to fees payable to the Bank, constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous

agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Bank and when the Bank shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement or any other Related Document, or any certificate delivered thereunder, by fax transmission or e-mail transmission (e.g., “pdf” or “tif”) shall be effective as delivery of a manually executed counterpart of this Agreement or such other Related Document or certificate. Without limiting the foregoing, to the extent a manually executed counterpart is not specifically required to be delivered under the terms of any Related Document, upon the request of any party, such fax transmission or e-mail transmission shall be promptly followed by such manually executed counterpart.

Section 8.08. Survival of Representations and Warranties. All representations and warranties made hereunder and in any other Related Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Bank, regardless of any investigation made by the Bank or on its behalf and notwithstanding that the Bank may have had notice or knowledge of any Default or Event of Default at the time of the funding of any Loan, and shall continue in full force until the Commitment Termination Date.

Section 8.09. Severability. If any provision of this Agreement or the other Related Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Related Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 8.10. Governing Law; Jurisdiction Etc. (a) THIS AGREEMENT AND ANY OTHER DOCUMENTS TO WHICH THE BANK SHALL BECOME A PARTY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF CALIFORNIA.

(b) TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE ISSUER AND THE BANK AGREE TO WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY AND ALL CLAIM OR CAUSES OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT AND THE OTHER RELATED DOCUMENTS. IF AND TO THE EXTENT THAT THE FOREGOING WAIVER OF THE RIGHT TO A JURY TRIAL IS UNENFORCEABLE FOR ANY REASON IN SUCH FORUM, EACH OF THE PARTIES HERETO HEREBY CONSENTS TO THE ADJUDICATION OF ALL CLAIMS PURSUANT TO JUDICIAL REFERENCE AS PROVIDED IN CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638, AND THE JUDICIAL REFEREE SHALL BE EMPOWERED TO HEAR AND DETERMINE ALL ISSUES IN SUCH REFERENCE, WHETHER FACT OR LAW. EACH OF THE PARTIES HERETO REPRESENTS THAT EACH HAS REVIEWED THIS WAIVER AND CONSENT AND EACH KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS AND CONSENTS TO JUDICIAL REFERENCE FOLLOWING CONSULTATION WITH LEGAL COUNSEL ON SUCH MATTERS. IN THE EVENT OF LITIGATION, A COPY OF THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY

THE COURT OR TO JUDICIAL REFERENCE UNDER CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638 AS PROVIDED HEREIN.

(c) EACH PARTY HERETO CONSENTS TO AND SUBMITS TO IN PERSONAM JURISDICTION AND VENUE IN THE STATE OF CALIFORNIA AND IN THE FEDERAL DISTRICT COURTS WHICH ARE LOCATED IN THE STATE OF CALIFORNIA. EACH PARTY ASSERTS THAT IT HAS PURPOSEFULLY AVAILED ITSELF OF THE BENEFITS OF THE LAWS OF THE STATE OF CALIFORNIA AND WAIVES ANY OBJECTION TO IN PERSONAM JURISDICTION ON THE GROUNDS OF MINIMUM CONTACTS, WAIVES ANY OBJECTION TO VENUE, AND WAIVES ANY PLEA OF FORUM NON CONVENIENS. THIS CONSENT TO AND SUBMISSION TO JURISDICTION IS WITH REGARD TO ANY ACTION RELATED TO THIS AGREEMENT. REGARDLESS OF WHETHER THE PARTY'S ACTIONS TOOK PLACE IN THE STATE OF CALIFORNIA OR ELSEWHERE IN THE UNITED STATES, THIS SUBMISSION TO JURISDICTION IS NONEXCLUSIVE, AND DOES NOT PRECLUDE EITHER PARTY FROM OBTAINING JURISDICTION OVER THE OTHER IN ANY COURT OTHERWISE HAVING JURISDICTION.

Section 8.11. No Advisory or Fiduciary Relationship. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof, the Note or any other Related Document), the Issuer acknowledges and agrees, and acknowledges its Affiliates' understanding, that: (a) (i) the services regarding this Agreement provided by the Bank and any Affiliate thereof are arm's-length commercial transactions between the Issuer, on the one hand, and the Bank and its Affiliates, on the other hand, (ii) the Issuer has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) the Issuer is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the Note and the other Related Documents; (b) (i) the Bank and its Affiliates each is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor (municipal, financial or otherwise), agent or fiduciary, for the Issuer, or any other Person and (ii) neither the Bank nor any of its Affiliates has any obligation to the Issuer with respect to the transactions contemplated hereby except those obligations expressly set forth herein, in the Note and in the other Related Documents; and (c) the Bank and its Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Issuer, and neither the Bank nor any of its Affiliates has any obligation to disclose any of such interests to the Issuer. To the fullest extent permitted by law, the Issuer, hereby waives and releases any claims that it may have against the Bank or any of its Affiliates with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transactions contemplated hereby.

Section 8.12. Electronic Execution of Certain Documents. The words "delivery," "execute," "execution," "signed," "signature," and words of like import in any Related Document or any other document executed in connection herewith shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Bank, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any Applicable Law, including the Federal Electronic Signatures in Global

and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

Section 8.13. USA Patriot Act. The Bank hereby notifies Issuer that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the “USA Patriot Act”), it is required to obtain, verify and record information that identifies Issuer, which information includes the name and address of Issuer and other information that will allow the Bank to identify the Issuer in accordance with the USA Patriot Act.

The Issuer shall (a) ensure that neither the Issuer nor any of its respective officers and directors is or will be listed on the Specially Designated Nationals and Blocked Person List or other similar lists maintained by OFAC or the Department of the Treasury or included in any Executive Order that prohibits or limits the Bank from providing any funding or extending any credit to the Issuer or from otherwise conducting business with the Issuer and (b) ensure that the proceeds of any advance or extension of credit hereunder will not be used to violate any of the foreign asset control regulations of OFAC or any enabling statute or Executive Order relating thereto.

Section 8.14. Time of the Essence. Time is of the essence in this Agreement and the other Related Documents.

Section 8.15. Reserved.

Section 8.16. EMMA Postings. Except as otherwise required by the federal securities laws, the Issuer shall not file or submit or permit the filing or submission, of all or any portion of this Agreement or the Note (or any summary thereof) (or any default, event of acceleration, termination event, modification of terms or other similar events relating to this Agreement) with the Municipal Securities Rulemaking Board’s Electronic Municipal Market Access system (or any successor continuing disclosure vehicle) unless such document or portion thereof (or summary thereof), as applicable, to be so filed or submitted (i) has been provided to the Bank for review in advance of such filing or submission, and (ii) shall have been redacted to the extent reasonably required by the Bank with respect to notice addresses, signatories, wiring information and similar confidential information, *provided* that such redaction may be no greater than permitted under applicable federal securities laws. The Issuer acknowledges and agrees that although the Bank may request review, edits or redactions of such materials prior to filing, the Bank is not responsible for the Issuer’s or any other entity’s (including, but not limited to, any broker-dealer’s) compliance or noncompliance (or any claims, losses or liabilities arising therefrom) with any continuing disclosure undertaking, similar agreement or applicable securities or other laws, including but not limited to those relating to SEC Rule 15c2-12.

Section 8.17. US QFC Stay Rules.

(a) *Recognition of U.S. Resolution Regimes.* In the event that any party that is a Covered Entity becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of this Agreement (and any interest and obligation in or under this Agreement and any property securing this Agreement) from such Covered Entity will be effective to the same extent as the

transfer would be effective under the U.S. Special Resolution Regime if this Agreement (and any such interest, obligation and property) were governed by the laws of the United States or a state of the United States. In the event that any party that is a Covered Entity or a BHC Act Affiliate of such party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights against such party with respect to this Agreement are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Agreement were governed by the laws of the United States or a state of the United States. The requirements of this paragraph (a) apply notwithstanding the provisions of paragraph (b).

(b) *Limitation on the Exercise of Certain Rights Related to Affiliate Insolvency Proceedings.* Notwithstanding anything to the contrary in this Agreement or any related agreement, but subject to the requirements of paragraph (a), no party to this Agreement shall be permitted to exercise any Default Right against a party that is a Covered Entity with respect to this Agreement that is related, directly or indirectly, to a BHC Act Affiliate of such Covered Entity becoming subject to Insolvency Proceedings, except to the extent the exercise of such Default Right would be permitted under 12 C.F.R. § 252.84, 12 C.F.R. § 47.5, or 12 C.F.R. § 382.4, as applicable. After a BHC Act Affiliate of a party that is a Covered Entity has become subject to Insolvency Proceedings, any party that seeks to exercise a Default Right against such Covered Entity with respect to this Agreement shall have the burden of proof, by clear and convincing evidence, that the exercise of such Default Right is permitted hereunder.

“*BHC Act Affiliate*” of a party means an “affiliate” (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

“*Covered Entity*” means any of the following:

(a) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);

(b) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or

(c) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“*Default Right*” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

Section 8.18. Amendment and Restatement. This Agreement shall become effective on the Closing Date and shall supersede, amend and restate all provisions of the Existing Agreement as of such date. From and after the date hereof, all references made to the Existing Agreement in any instrument or document shall, without more, be deemed to refer to this Agreement. Without limiting the foregoing, the parties to this Agreement hereby acknowledge and agree that the “Agreement” referred to in the Existing Agreement shall from and after the date hereof be deemed a reference to this Agreement.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

BOARD OF PUBLIC UTILITIES COMMISSIONERS OF
THE CITY OF LONG BEACH, ACTING ON ITS
OWN BEHALF AND ON BEHALF OF THE CITY
OF LONG BEACH

By: _____
Name: [**Christopher J. Garner**]
Title: [**General Manager of the Public
Utilities Department of the City of
Long Beach**]

APPROVED AS TO FORM

DAWN MCINTOSH, City Attorney

By: _____
Deputy City Attorney

JPMORGAN CHASE BANK, NATIONAL
ASSOCIATION

By: _____
Its: _____

SCHEDULE 8.02

**BANK'S LENDING OFFICE,
CERTAIN ADDRESSES FOR NOTICES**

ISSUER:

Public Utilities Department of the City of Long Beach
[1800 East Wardlow Road]
Long Beach, California 90807
Attention: Director of Finance
Telephone: (562) 570-2367
Facsimile: (562) 570-2374

BANK:

**JPMorgan Chase Bank, National Association
300 S. Grand Avenue, Floor 3
Los Angeles, CA 90071
Attention: Matt Moon
Telephone: (213) 621-8133
E-mail: matthew.s.moon@jpmorgan.com**

With Copies to:

**JPMorgan Chase Bank, National Association
300 S. Grand Avenue, Floor 3
Los Angeles, CA 90071
Attention: Nicole J Williams
Telephone: (213) 621-8655
Mobile: (818) 636-2956
E-mail: nicole.williams@jpmorgan.com**

EXHIBIT A

[FORM OF LOAN NOTICE]

JPMorgan Chase Bank, National Association

Telephone: (800) 472-9029

Facsimile: (844) 490-5662

Attention: Chase Borrower

Email: chase.borrower.request@jpmchase.com

Ladies and Gentlemen:

The undersigned, a Designated Representative, refers to the Amended and Restated Revolving Credit Agreement dated as of May [___], 2023 (together with any amendments or supplements thereto, the “*Agreement*”), by and between the Board of Public Utilities Commissioners of the City of Long Beach, successor to the Board of Water Commissioners of the City of Long Beach (the “*Board*”), acting on its own behalf and on behalf of the City of Long Beach, a charter city and municipal corporation duly organized and existing under its charter and the Constitution and laws of the State of California (the “*Issuer*”) and JPMorgan Chase Bank, National Association (the “*Bank*”) (the terms defined therein being used herein as therein defined) and hereby requests, pursuant to Section 2.02 of the Agreement, a Borrowing and in that connection sets forth below the following information relating to such proposed Loan (the “*Proposed Loan*”):

1. The Business Day of the Proposed Loan is _____, 20__ (the “*Loan Date*”).
2. The principal amount of the Proposed Loan is \$[_____], which is not greater than the Available Commitment as of the Loan Date set forth in 1 above.
3. The aggregate amount of the Proposed Loan shall be used solely as permitted under the Agreement, the Master Subordinate Lien Indenture and the Fourth Supplemental Subordinate Lien Indenture.
4. After giving effect to the Proposed Loan, the aggregate principal amount of all Loans outstanding under the Agreement will not exceed the Revolving Commitment. With respect to a Borrowing, the amount of such Loan is not in excess of the Available Commitment as of the Loan Date set forth in 1 above.

Solely with respect to a Borrowing, the undersigned hereby certifies that the following statements are true on the date hereof, and will be true on the Loan Date, before and after giving effect thereto:

(a) the undersigned is a Designated Representative;

(b) the representations and warranties of the Issuer set forth in Article V of the Agreement and in the other Related Documents, or which are contained in any document furnished at any time under or in connection with the Agreement, shall be true and correct on the date hereof and on such Loan Date as though made on the date hereof and on such Loan Date, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct as of such earlier date, and except that for purposes of Section 4.02 of the Agreement, the representations and warranties contained in Section 5.15 of the Agreement shall be deemed to refer to the most recent statements furnished pursuant to clause (a) of Section 6.02 of the Agreement;

(c) no Default or Event of Default shall have occurred and be continuing on such Loan Date or would result from the proposed Borrowing or from the application of the proceeds thereof; and

(d) all conditions precedent to the Borrowing in Section 4.02 of the Agreement have been satisfied.

7. With respect to the use of the proceeds of the Proposed Loan

- Such Proposed Loan is for “Costs of a Project” as defined in the Agreement; or
- The definition of “Costs of a Project” in the Agreement is hereby amended to read as follows:

The Proposed Loan shall be made by the Bank by wire transfer of immediately available funds to the undersigned in accordance with the instructions set forth below:

BOARD OF PUBLIC UTILITIES COMMISSIONERS OF
THE CITY OF LONG BEACH, ACTING ON ITS
OWN BEHALF AND ON BEHALF OF THE CITY
OF LONG BEACH

By: _____
Name: _____
Title: _____

EXHIBIT B

THE TRANSFERABILITY OF THIS NOTE IS SUBJECT TO THE LIMITATIONS ON TRANSFER SET FORTH IN SECTION 8.06 OF THE HEREINAFTER DEFINED AGREEMENT

FORM OF NOTE

Not to exceed \$60,000,000

May 21, 2020

FOR VALUE RECEIVED, the undersigned the Board of Water Commissioners of the City of Long Beach (the “*Board*”), acting on its own behalf and on behalf of the City of Long Beach, a charter city and municipal corporation duly organized and existing under its charter and the Constitution and laws of the State of California (the “*Issuer*”), hereby promises to pay to JPMorgan Chase Bank, National Association, or registered assigns (the “*Bank*”), in accordance with the provisions of the Agreement (as hereinafter defined), the principal outstanding amount of each Loan from time to time made by the Bank to the Issuer under that certain Revolving Credit Agreement, dated as of May 21, 2020 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the “*Agreement*”; the terms defined therein being used herein as therein defined), between the Issuer and the Bank, in accordance with the terms of the Agreement.

The Issuer promises to pay interest on the unpaid principal amount of each Loan from the date of such Loan until such principal amount is paid in full, at such interest rates and at such times as provided in the Agreement. All payments of principal and interest shall be made to the Bank in Dollars in immediately available funds at the Bank’s Lending Office. If any amount is not paid in full when due hereunder, such unpaid amount shall bear interest, to be paid upon demand, from the due date thereof until the date of actual payment (and before as well as after judgment) computed at the per annum rate set forth in the Agreement.

This Note is the Note referred to in the Agreement, is entitled to the benefits thereof and may be prepaid in whole or in part subject to the terms and conditions provided therein. Upon the occurrence and continuation of one or more of the Events of Default specified in the Agreement, all amounts then remaining unpaid on this Note shall become, or may be declared to be, immediately due and payable all as provided in the Agreement. The Loans made by the Bank shall be evidenced by one or more loan accounts or records maintained by the Bank in the ordinary course of business. The Bank may also attach schedules to this Note and endorse thereon the date, amount and maturity of its Loans and payments with respect thereto.

The Issuer, for itself, its successors and assigns, hereby waives diligence, presentment, protest and demand and notice of protest, demand, dishonor and non-payment of this Note.

THIS NOTE IS A SPECIAL LIMITED OBLIGATION OF THE CITY OF LONG BEACH, CALIFORNIA (THE "CITY"), PAYABLE SOLELY FROM AND SECURED BY A PLEDGE OF SUBORDINATE NET REVENUES DERIVED BY THE BOARD FROM THE OPERATIONS OF THE ENTERPRISE AND CERTAIN FUNDS AND ACCOUNTS. NONE OF THE PROPERTIES OF THE ENTERPRISE ARE SUBJECT TO ANY MORTGAGE OR OTHER LIEN FOR THE BENEFIT OF THE OWNERS OF THIS NOTE, AND NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE CITY, THE STATE OR ANY POLITICAL SUBDIVISION OR AGENCY OF THE STATE IS PLEDGED TO THE PAYMENT OF THE OBLIGATIONS. NEITHER THIS NOTE NOR THE OBLIGATION TO PAY THE OBLIGATIONS CONSTITUTES A DEBT OF THE CITY, THE STATE OR ANY OF ITS POLITICAL SUBDIVISIONS WITHIN THE MEANING OF ANY CONSTITUTIONAL LIMITATION ON INDEBTEDNESS.

THIS NOTE AND THE OBLIGATIONS ARE JUNIOR AND SUBORDINATE IN ALL RESPECTS TO THE SENIOR LIEN BONDS AS TO LIEN ON AND SOURCE AND SECURITY FOR PAYMENT FROM THE NET REVENUES.

Delivery of an executed counterpart of a signature page of this Note by fax transmission or other electronic mail transmission (e.g., "pdf" or "tif") shall be effective as delivery of a manually executed counterpart of this Note.

BOARD OF WATER COMMISSIONERS OF THE CITY
OF LONG BEACH, ACTING ON ITS OWN
BEHALF AND ON BEHALF OF THE CITY OF
LONG BEACH

By: _____
Name: _____
Title: _____

ATTEST

By: _____
Executive Assistant to the Board of Water
Commissioners of the City of Long Beach

CERTIFICATE OF AUTHENTICATION

U.S. Bank National Association, as Trustee, hereby certifies that this is one of the Subordinate Obligations referred to in the Master Subordinate Lien Indenture and the Fourth Supplemental Subordinate Lien Indenture.

Date of Authentication: May 21, 2020

U.S. BANK NATIONAL ASSOCIATION,
as Subordinate Lien Trustee

By: _____
Name: _____
Title: _____

**LOANS
AND PAYMENTS WITH RESPECT THERETO**

DATE	AMOUNT OF LOAN MADE	AMOUNT OF PRINCIPAL OR INTEREST PAID THIS DATE	OUTSTANDING PRINCIPAL BALANCE THIS DATE	NOTATION MADE BY
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
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_____	_____	_____	_____	_____
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_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

EXHIBIT C

FORM OF NOTICE OF LOAN PREPAYMENT

[Date]

JPMorgan Chase Bank, National Association

Telephone: (800) 472-9029

Facsimile: (844) 490-5662

Attention: Chase Borrower

Email: chase.borrower.request@jpmchase.com

The undersigned, an Authorized Board Representative, refers to the Amended and Restated Revolving Credit Agreement dated as of May [___], 2023 (together with any amendments or supplements thereto, the “*Agreement*”), by and between the Board of Public Utilities Commissioners of the City of Long Beach, successor to the Board of Water Commissioners of the City of Long Beach (the “*Board*”), acting on its own behalf and on behalf of the City of Long Beach, a charter city and municipal corporation duly organized and existing under its charter and the Constitution and laws of the State of California (the “*Issuer*”) and JPMorgan Chase Bank, National Association (the “*Bank*”) (the terms defined therein being used herein as therein defined) and hereby notifies the Bank that on _____ pursuant to the terms of Section 2.03(a) Agreement, the Issuer intends to prepay/repay the following Loans as more specifically set forth below:

1. The Business Day of the prepayment is _____, 20__ (the “*Prepayment Date*”).
2. The principal amount of the prepayment is \$[_____].

Delivery of an executed counterpart of a signature page of this notice by fax transmission or other electronic mail transmission (e.g. “pdf” or “tif”) shall be effective as delivery of a manually executed counterpart of this notice.

Very truly yours,

BOARD OF PUBLIC UTILITIES COMMISSIONERS OF
THE CITY OF LONG BEACH, ACTING ON ITS
OWN BEHALF AND ON BEHALF OF THE CITY
OF LONG BEACH

By: _____
Name: _____
Title: _____

EXHIBIT D

FORM OF COMPLIANCE CERTIFICATE

This Compliance Certificate is furnished to JPMorgan Chase Bank, National Association (the “*Bank*”), pursuant to that certain Amended and Restated Revolving Credit Agreement dated as of May [], 2023 (the “*Agreement*”), between Board of Public Utilities Commissioners of the City of Long Beach, successor to the Board of Water Commissioners of the City of Long Beach (the “*Board*”), acting on its own behalf and on behalf of the City of Long Beach, a charter city and municipal corporation duly organized and existing under its charter and the Constitution and laws of the State of California (the “*Issuer*”) and the Bank. Unless otherwise defined herein, the terms used in this Compliance Certificate have the meanings ascribed thereto in the Agreement.

THE UNDERSIGNED HEREBY CERTIFIES THAT:

1. I am the duly appointed [] of the Issuer;
2. I have reviewed the terms of the Agreement and I have made, or have caused to be made under my supervision, a detailed review of the transactions and conditions of the Issuer during the accounting period covered by the attached financial statements;
3. The examinations described in paragraph 2 did not disclose, and I have no knowledge of, the existence of any condition or the occurrence of any event which constitutes a Default or Event of Default during or at the end of the accounting period covered by the attached financial statements or as of the date of this Certificate, except as set forth below;
4. The financial statements required by Section 6.02 of the Agreement and being furnished to you concurrently with this certificate fairly represent the financial condition of the Issuer and the Enterprise in accordance with GAAP (subject to year end adjustments) as of the dates and for the periods covered thereby; and
5. Attached are true and accurate calculations demonstrating compliance with the rate covenant set forth in Section 6.15 of the Agreement for the periods specified in such attachment; and

Described below are the exceptions, if any, to paragraph 3 by listing, in detail, the nature of the condition or event, the period during which it has existed and the action which the Corporation has taken, is taking, or proposes to take with respect to each such condition or event:

The foregoing certifications, together with the computations set forth in the Attachment hereto and the financial statements delivered with this Certificate in support hereof, are made and delivered this _____ day of _____, 20__.

BOARD OF PUBLIC UTILITIES COMMISSIONERS OF
THE CITY OF LONG BEACH, ACTING ON ITS
OWN BEHALF AND ON BEHALF OF THE CITY
OF LONG BEACH

By: _____
Name: _____
Title: _____

ATTACHMENT TO COMPLIANCE CERTIFICATE

COMPLIANCE CALCULATIONS FOR AMENDED AND RESTATED REVOLVING CREDIT AGREEMENT

Dated as of May [], 2023
Calculations as of _____, 20__

Calculations as of _____, 20__

- A. Rate Covenant (Section 6.15(a))
1. Aggregate Annual Debt Service on Senior Lien Bonds and Subordinate Obligations \$ _____
 2. Required deposits to any debt service reserve fund established with respect to Senior Lien Bonds and Subordinate Obligations \$ _____
 3. Reimbursement or repayment to any provider of a Qualified Reserve Fund Credit Instrument or to any Credit Provider or Liquidity Provider \$ _____
 4. Interest on and principal of any Debt required to be funded other than Senior Lien Bonds or Subordinate Obligations \$ _____
 5. Payments on any reserved requirement for Debt described in Line A4 \$ _____
 6. Sum of Lines A1 through A5 \$ _____
 7. Net Revenues for Fiscal Year \$ _____
 8. Ratio of Line A7 to Line A6 _____
 9. Line A8 must not be less than 1.0: 1.0
 10. The Issuer is in compliance (circle one) Yes/No
- B. Rate Covenant (Section 6.15(b))
1. Sum of Lines A1, A2 and A3 \$ _____
 2. Net Revenues for Fiscal Year \$ _____
 3. Ratio of Line B2 to Line B1 _____
 4. Line B3 must not be less than 1.10: 1.0
 5. The Issuer is in compliance (circle one) Yes/No