

ORDINANCE NO. _____

**FOURTH SUPPLEMENTAL ORDINANCE TO THE
MASTER ORDINANCE ESTABLISHING THE
CITY OF PFLUGERVILLE, TEXAS
UTILITY SYSTEM REVENUE FINANCING PROGRAM**

Adopted October 25, 2022

ORDINANCE NO. _____

**FOURTH SUPPLEMENTAL ORDINANCE TO THE
MASTER ORDINANCE ESTABLISHING THE
CITY OF PFLUGERVILLE, TEXAS
UTILITY
SYSTEM REVENUE FINANCING PROGRAM**

**THE STATE OF TEXAS §
COUNTIES OF TRAVIS AND WILLIAMSON §
CITY OF PFLUGERVILLE §**

WHEREAS, on September 14, 2021, the City Council of the City of Pflugerville, Texas (the "City"), adopted a "Master Ordinance Establishing the City of Pflugerville, Texas Utility System Revenue Financing Program" (referred to herein as the "Master Ordinance");

WHEREAS, in order to enable the City to provide for the financing of the utility system projects authorized by Chapter 1502, Texas Government Code, as amended, and any other applicable provisions of State law, the Master Ordinance establishes a revenue financing program pursuant to which the City can issue and enter into obligations, including bonds and other types of obligations, secured by and payable from a pledge of and lien on all or part of the Security, as hereinafter defined;

WHEREAS, for such purposes, the City deems it necessary to issue Parity Debt, as hereinafter defined, pursuant to this "Fourth Supplemental Ordinance to the Master Ordinance establishing the City of Pflugerville, Texas Utility System Revenue Financing Program" (this "Fourth Supplement");

WHEREAS, the City has requested that the United States Environmental Protection Agency, an agency of the United States of America, acting by and through the Administrator of the Environmental Protection Agency (the "WIFIA Lender"), make the WIFIA Loan (as defined herein) in a principal amount not to exceed \$52,049,683 (the "WIFIA Loan") to be used to pay a portion of the Eligible Project Costs (as defined in the WIFIA Loan Agreement) related to the Project (as defined in the WIFIA Loan Agreement) pursuant to the City's application to the WIFIA Lender for credit assistance dated July 26, 2021 (the "Application");

WHEREAS, the Administrator of the Environmental Protection Agency proposes to approve WIFIA financial assistance for the Project in the form of a direct loan in an aggregate principal amount not to exceed \$52,049,683;

WHEREAS, the WIFIA Lender proposes to extend credit upon the terms and conditions contained in the WIFIA Loan Agreement;

WHEREAS, the City agrees to repay any amount due pursuant to the WIFIA Loan Agreement and the WIFIA Bond (as defined herein) in accordance with the terms and provisions of the WIFIA Loan Agreement and the WIFIA Bond;

WHEREAS, the City desires to adopt this Fourth Supplement to set forth the terms of the City's obligations to the WIFIA Lender relating to the issuance by the City of the WIFIA Bond authorized herein which is being issued to evidence any advances to be made by the WIFIA Lender under the WIFIA Loan Agreement, a contract allowing for the construction of Utility System facilities pursuant to Section 1502.002(b) of the Texas Government Code, as amended, and a contract in connection with providing funds for the construction of Utility System facilities pursuant to Section 1502.051(c) of the Texas Government Code, as amended;

WHEREAS, as contemplated by the Master Ordinance, including Section 7 thereof, this Fourth Supplement relates to the execution, issuance and delivery of the WIFIA Bond as Parity Debt as provided herein;

WHEREAS, the City further finds and determines that all terms and conditions for the issuance of the obligations herein authorized as Parity Debt have been or can be met and satisfied;

WHEREAS, the City held a public hearing on October 25, 2022 prior to the adoption of this Fourth Supplement in accordance with the City Charter; and

WHEREAS, the obligations authorized by this Fourth Supplement are to be issued and delivered pursuant to the Enabling Act, as hereinafter defined, and other applicable State laws, including Chapter 1371, Texas Government Code, as amended (collectively, the "Acts").

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF PFLUGERVILLE, TEXAS THAT:

ARTICLE I
BONDS ISSUED UNDER UTILITY SYSTEM
REVENUE FINANCING PROGRAM

Section 1.01. DEFINITIONS. (a) Definitions. The capitalized terms used herein and not otherwise defined shall have the meanings given in the Master Ordinance or in Exhibit "A" to this Fourth Supplement. The recitals to this Fourth Supplement and the exhibits hereto are incorporated herein and made a part hereof for all purposes.

(b) Construction of Terms. If appropriate in the context of this Fourth Supplement, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, words of the masculine, feminine, or neuter gender shall be considered to include the other genders, and words importing persons shall include firms, associations, and corporations.

Section 1.02. ESTABLISHMENT OF FINANCING PROGRAM AND ISSUANCE OF PARITY DEBT.

(a) Fourth Supplement. By adoption of the Master Ordinance, the City has established the City of Pflugerville, Texas Utility System Revenue Financing Program for the purpose of enabling the City to provide for the financing of utility system projects authorized by the Enabling Act and any other applicable provisions of State law pursuant to which the City may issue and enter into obligations, including bonds and other types of obligations, secured by and payable from a pledge of and lien on all or part of the Security. This Fourth Supplement provides for the authorization, form, characteristics, provisions of payment and redemption, and security of the WIFIA Loan Agreement and the WIFIA Bond. This Fourth Supplement is subject to the terms of the Master Ordinance and the terms of the Master Ordinance are incorporated herein by reference and as such are made a part hereof for all purposes.

(b) Parity Debt. As required by Section 7 of the Master Ordinance governing the issuance of Parity Debt such as the WIFIA Bond, the City hereby finds that, upon the issuance of the WIFIA Bond, the Security will be sufficient to meet the financial obligations relating to the Financing Program, including Security in amounts sufficient to satisfy the Annual Debt Service Requirements of the Financing Program. The WIFIA Bond is hereby declared to be Parity Debt under the Master Ordinance.

(c) Security. In order to ensure that the Administrator is and shall be in compliance with the provisions of 40 C.F.R. § 35.10045, the City shall not pledge any grants, donations or income received or to be received from the United States Government as security for the WIFIA Loan Agreement and the WIFIA Bond. Any attempted or purported pledge of any such amounts which results in a pledge of any such amounts as security for the WIFIA Loan Agreement and the WIFIA Bond in violation of the provisions of 40 C.F.R. § 35.10045 shall be null and void and otherwise ineffective.

Section 1.03. FOURTH SUPPLEMENT TO CONSTITUTE A CONTRACT; EQUAL SECURITY.

In consideration of the execution of the WIFIA Loan Agreement by the WIFIA Lender and the acceptance of the WIFIA Bond by the WIFIA Lender and by those who shall hold the same from time to time in the future, this Fourth Supplement shall be deemed to be and shall constitute a contract between the City and the WIFIA Lender, as well as with any future Owner, and the pledge made in this Fourth Supplement by the City and the covenants and agreements set forth in this Fourth Supplement to be performed by the City shall be for the equal and proportionate benefit, security, and protection of all Owners from time to time, without preference, priority, or distinction as to security or otherwise by reason of time of issuance, sale, or maturity thereof or otherwise for any cause whatsoever, except as expressly provided in or permitted by this Fourth Supplement and the Master Ordinance.

Section 1.04. LIMITATION OF BENEFITS WITH RESPECT TO THIS FOURTH SUPPLEMENT.

With the exception of the rights or benefits herein expressly conferred, nothing expressed or contained herein or implied from the provisions of Fourth Supplement, the WIFIA Loan Agreement or the WIFIA Bond is intended or should be construed to confer upon or give to any person other than the City, the Owner, and the Paying Agent/Registrar, any legal or equitable right, remedy, or claim under or by reason of or in respect to this Fourth Supplement or any

covenant, condition, stipulation, promise, agreement, or provision herein contained. This Fourth Supplement and all of the covenants, conditions, stipulations, promises, agreements, and provisions hereof are intended to be and shall be for and inure to the sole and exclusive benefit of the City, the Owner, and the Paying Agent/Registrar as herein and therein provided.

ARTICLE II WIFIA LOAN AGREEMENT AND WIFIA BOND AUTHORIZATION

Section 2.01. AUTHORIZATION. (a) The WIFIA Loan Agreement, a substantially final draft of which is attached hereto as Exhibit "B", constitutes a contract allowing for the construction of Utility System facilities pursuant to Section 1502.002(b) of the Texas Government Code, as amended, and a contract in connection with providing funds for the construction of Utility System facilities pursuant to Section 1502.051(c) of the Texas Government Code, as amended. The WIFIA Loan Agreement and the WIFIA Bond evidencing amounts due under the WIFIA Loan Agreement are hereby authorized in the maximum aggregate principal amount not to exceed \$52,049,683 to be used to provide funds for paying a portion of the Eligible Project Costs related to the Project.

(b) The authority for an Authorized Representative to execute the Award Certificate for the WIFIA Bond and the WIFIA Loan Agreement shall expire at 5:00 p.m. Central Time on October 25, 2023. So long as the Award Certificate is executed on or before such date and time, the WIFIA Bond and the WIFIA Loan Agreement may be executed and delivered to the WIFIA Lender after such date. The WIFIA Loan Agreement, together with the WIFIA Bond, are authorized pursuant to authority conferred by and in conformity with State law, particularly the provisions of the Acts, as applicable.

(c) In order to satisfy the requirements of the WIFIA Lender in connection with the delivery of the WIFIA Bond and WIFIA Loan Agreement, the term sheet in connection therewith is hereby authorized to be executed and delivered by an Authorized Representative in substantially the form attached here to as attached here as Exhibit "C".

Section 2.02. TERMS OF WIFIA BOND AND WIFIA LOAN AGREEMENT AND AWARD CERTIFICATE.

(a) Initially there shall be issued and delivered hereunder one bond, payable to the WIFIA Lender, in the principal amount not to exceed \$52,049,683. The WIFIA Bond shall be designated the "City of Pflugerville, Texas Utility System Revenue Bond (Water Treatment Plant Expansion – 30 MGD Project), Series 2022" and shall be numbered consecutively from R-1 upward. Advances made pursuant to the WIFIA Loan Agreement, which shall be evidenced by the WIFIA Bond, shall mature not later than 40 years from the date of the initial delivery of the WIFIA Bond, all as further set forth in the WIFIA Bond and the WIFIA Loan Agreement. All principal of the WIFIA Bond shall be payable as provided, and in the manner required or indicated, in the WIFIA Loan Agreement.

(b) As authorized by the Acts, each Authorized Representative is hereby authorized, appointed, and designated to act on behalf of the City delivering the WIFIA Loan Agreement and the WIFIA Bond and carrying out the other procedures specified in this Fourth Supplement, including determining and fixing the Effective Date of the WIFIA Bond, any additional or different designation or title by which the WIFIA Bond shall be known, the years in which the WIFIA Bond will mature, the principal amount to mature or otherwise be payable in each of such years, the aggregate principal amount of WIFIA Bond, the rate or rates of interest to be borne by any maturity, the interest payment periods, and all other matters relating to the issuance, sale, and delivery of the WIFIA Bond and the WIFIA Loan Agreement, all of which shall be specified in the Award Certificate; provided that the WIFIA Bond shall not bear interest at a rate greater than the Highest Lawful Rate. The Award Certificate, when executed and delivered, is hereby incorporated into and made a part of this Fourth Supplement.

It is further provided, however, that notwithstanding the foregoing provisions, the WIFIA Bond shall not be delivered unless, prior to delivery, the WIFIA Bond has been rated by a nationally recognized rating agency for municipal securities in one of the four highest rating categories for long term obligations, as required by Section 1371.001(5), Texas Government Code.

In satisfaction of Sections 1201.022(a)(3) and Section 1371.056(c), Texas Government Code, as applicable, the City hereby determines that the delegation of the authority to each Authorized Representative to approve the final terms and conditions of the WIFIA Loan Agreement and the WIFIA Bond as set forth in this Fourth Supplement and the decisions made by each Authorized Representative pursuant to such delegated authority and incorporated in the Award Certificate will be, in the best interests and shall have the same force and effect, as if such determination were made by the City Council, and each Authorized Representative is hereby authorized to make and include in each Award Certificate an appropriate finding to that effect.

(c) The WIFIA Bond (i) may and shall be prepaid prior to the respective scheduled payment dates pursuant to the respective optional and mandatory prepayment requirements in the WIFIA Loan Agreement, (ii) may not be assigned or transferred except as provided in the WIFIA Bond and the WIFIA Loan Agreement, (iii) shall have the characteristics, (iv) shall be signed and sealed, and (v) shall be payable, as to the principal thereof and interest thereon, all as provided, and in the manner required or indicated, in the Master Ordinance, this Fourth Supplement, the WIFIA Bond and the WIFIA Loan Agreement.

Section 2.03. PAYMENT OF WIFIA BOND; PAYING AGENT/REGISTRAR.

(a) The City appoints UMB Bank, N.A. (the "Paying Agent/Registrar") to act as the paying agent/registrar for the WIFIA Bond. By accepting the appointment as Paying Agent/Registrar, the Paying Agent/Registrar acknowledges receipt of copies of the Master Ordinance and this Fourth Supplement and is deemed to have agreed to the provisions thereof and hereof. The principal of, premium, if any, and the interest on the WIFIA Bond shall be payable, without exchange or collection charges to the Owner thereof, in any coin or currency of the United States of America that at the time of payment is legal tender for the payment of public and private debts.

(b) The Paying Agent/Registrar Agreement by and between the City and the Paying Agent/Registrar in substantially the form set forth in Exhibit "D" hereto is hereby approved, and the Mayor is hereby authorized to complete, amend, modify, execute and deliver such Paying Agent/Registrar Agreement.

(c) The City agrees and covenants to cause to be kept and maintained at the designated office of the Paying Agent/Registrar a Security Register, all as provided herein, in accordance with the terms and provisions of the Paying Agent/Registrar Agreement and such reasonable rules and regulations as the Paying Agent/Registrar and the City may prescribe. In addition, to the extent required by law, the City covenants to cause to be kept and maintained the Security Register or a copy thereof in the State.

(d) The City expressly reserves the right to appoint one or more successor Paying Agent/Registrars, by filing with the Paying Agent/Registrar a certified copy of a resolution or ordinance of the City making such appointment. The City further expressly reserves the right to terminate the appointment of the Paying Agent/Registrar by filing a certified copy of a resolution of the City giving notice of the City's termination of the City's agreement with such Paying Agent/Registrar and appointing a successor. The City covenants to maintain and provide a Paying Agent/Registrar at all times until the WIFIA Bond is paid and discharged, and any successor Paying Agent/Registrar shall be a bank, trust company, financial institution, or other entity duly qualified and legally authorized to serve as and perform the duties and services of Paying Agent/Registrar for the WIFIA Bond. If a Paying Agent/Registrar is replaced, such Paying Agent/Registrar, promptly upon the appointment of the successor, will deliver the Security Register (or a copy thereof) and all other pertinent books and records relating to the WIFIA Bond to the successor Paying Agent/Registrar. Upon any change in the Paying Agent/Registrar, the City agrees promptly to cause a written notice thereof to be sent to the Owner of the WIFIA Bond by United States mail, first-class postage prepaid, which notice shall also give the address of the new Paying Agent/Registrar.

(e) The principal of, premium, if any, and interest on the WIFIA Bond due and payable by reason of maturity, redemption, or otherwise, shall be payable only to the Owner thereof appearing on the Security Register, and, to the extent permitted by law, neither the City nor the Paying Agent/Registrar, nor any agent of either, shall be affected by notice to the contrary.

(f) The WIFIA Bond and the WIFIA Loan Agreement shall not be issued in book-entry-only form.

(g) An authorized representative of the Paying Agent/Registrar shall, before the delivery of any WIFIA Bond issued in exchange for any WIFIA Bond Number R-1 or any other WIFIA Bond issued under this Fourth Supplement, date and manually sign the Paying Agent/Registrar's Authentication Certificate attached to such WIFIA Bond, and no such WIFIA Bond shall be deemed to be issued or outstanding under this Fourth Supplement unless such certificate is so authenticated. The Paying Agent/Registrar's Authentication Certificate shall be in the form set forth in the WIFIA Loan Agreement. Notwithstanding the first sentence of this

paragraph, WIFIA Bond Number R-1 shall not need an executed Trustee's Authentication Certificate but shall be outstanding, when delivered, if an executed Registration Certificate of the Comptroller of Public Accounts of the State of Texas is attached thereto.

Section 2.04. FORM OF WIFIA BOND. The form of the WIFIA Bond shall be substantially as set forth in the WIFIA Loan Agreement (including the form of the Paying Agent/Registrar's Authentication Certificate, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas to be attached to the WIFIA Bond Number R-1) with such appropriate variations, omissions, or insertions as are permitted or required by the WIFIA Loan Agreement and the Award Certificate. It is specifically provided that the provisions of the WIFIA Bond to be provided in the Award Certificate shall be incorporated into the form of the executed WIFIA Bond.

ARTICLE III PAYMENTS AND NO RESERVE ACCOUNT

Section 3.01. PAYMENTS. Semiannually on or before each principal or interest payment date while any of the WIFIA Bond is outstanding and unpaid, commencing on the first interest payment date for the WIFIA Bond, the City shall make available from the Interest and Sinking Account to the Paying Agent/Registrar, money sufficient to pay such interest on and such principal of the WIFIA Bond as will accrue or mature, or be subject to mandatory redemption prior to maturity, on such principal, redemption, or interest payment date. The Paying Agent/Registrar shall cancel all paid WIFIA Bonds and shall furnish the City with an appropriate certificate of cancellation.

Section 3.02. NO RESERVE ACCOUNT. In accordance with Section 3(e) of the Master Ordinance, no reserve account or subaccount is created for the purpose of paying or securing the Parity Debt authorized under this Fourth Supplement.

ARTICLE IV TAXABLE BOND

Section 4.01. TAXABLE BOND. It is the intention of the City that the WIFIA Bond and the WIFIA Loan Agreement not be obligations described in section 103 of the Internal Revenue Code of 1986 interest on which is excludable from the gross income of the holders and, in that regard, the City is not required to file a form 8038-G, or any comparable information return relating to tax-exempt obligations, with the Internal Revenue Service and hereby agrees not to make any such filing.

ARTICLE V MISCELLANEOUS

Section 5.01. CONSTRUCTION FUND. (a) There is hereby created, established and maintained on the books of the City, a separate fund to be entitled the "City of Pflugerville, Texas

Series 2022 WIFIA Bond Construction Fund" (hereinafter called the "Construction Fund"). The Construction Fund shall constitute a sub-account of the Bond Proceeds Account.

(b) Proceeds of the WIFIA Bond deposited for credit to the Construction Fund shall be used by the City to reimburse a portion of the Eligible Project Costs related to the Project in accordance with the WIFIA Loan Agreement.

Section 5.02. MAILED NOTICES. Except as otherwise required herein, all notices required or authorized to be given to the City or the Paying Agent/Registrar pursuant to this Fourth Supplement shall be in writing and shall be sent by registered or certified mail, postage prepaid, to the following addresses or otherwise given in a manner deemed, in writing, acceptable to the party to receive the notice:

1. to the City:
City of Pflugerville, Texas
100 East Main Street, Suite 300
Pflugerville, Texas 78691-0589
Attn: City Manager
Telephone: (512) 990-6101
Facsimile: (512) 990-4364

2. to the Paying Agent/Registrar:
UMB Bank, N.A.
Corporate Trust and Escrow Group
6034 West Courtyard Drive, Suite 370
Austin, Texas 78730
Attn: Corporate Trust and Escrow Group
Telephone: (512) 582-5851
Facsimile: (512) 582-5855

Section 5.03. FURTHER PROCEDURES. Each Authorized Representative is hereby expressly authorized, empowered, and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge, and deliver in the name and under the corporate seal and on behalf of the City all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Fourth Supplement, the WIFIA Loan Agreement and the WIFIA Bond, the sale and delivery of the WIFIA Bond, and attending to all details in connection therewith, and the Paying Agent/Registrar Agreement, and the City Secretary is hereby authorized to provide any necessary attestation for any of the foregoing. In connection with the issuance and delivery of each the Bonds, the above-stated officers, with the advice of the City Attorney and Bond Counsel to the City, are hereby authorized to approve, subsequent to the date of the adoption of this Fourth Supplement, any amendments to the above named documents, and any technical amendments to this Fourth Supplement required by the State Attorney General's Office or any rating agency, and each Authorized Representative is hereby authorized to execute this Fourth Supplement to evidence approval of such changes.

Section 5.04. EFFECT OF SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS.

Whenever this Fourth Supplement requires any action to be taken on a Saturday, Sunday, or legal holiday, such action shall be taken on the first business day occurring thereafter. Whenever in this Fourth Supplement the time within which any action is required to be taken or within which any right will lapse or expire shall terminate on a Saturday, Sunday, or legal holiday, such time shall continue to run until midnight on the next succeeding business day.

Section 5.05. PARTIAL INVALIDITY. If any one or more of the covenants or agreements or portions thereof provided in this Fourth Supplement on the part of the City should be determined by a court of competent jurisdiction to be contrary to law, then such covenant or covenants, or such agreement or agreements, or such portions thereof, shall be deemed severable from the remaining covenants and agreements or portions thereof provided in this Fourth Supplement and the invalidity thereof shall in no way affect the validity of the other provisions of this Fourth Supplement or of the Bonds, but the Owner of the WIFIA Bonds shall retain all the rights and benefits accorded to them hereunder and under any applicable provisions of law.

Section 5.06. NO RULE 15C2-12 CONTINUING DISCLOSURE UNDERTAKING.

The sale of the WIFIA Bond is exempt from Rule 15c2-12. Consequently, the City makes no undertaking with respect to Rule 15c2-12 or with respect to the provision of on-going financial and operating data under Rule 15c2-12.

Section 5.07. SOVEREIGN IMMUNITY WAIVER. To the fullest extent permitted by applicable law and pursuant to Section 1371.059(c) of the Texas Government Code, as amended, with respect to its obligations arising under the WIFIA Bond which evidences amounts due under the WIFIA Loan Agreement, the City hereby waives sovereign immunity from suit and liability for the purpose of adjudicating a claim to enforce its duties and obligations under the WIFIA Bond or for damages for breach of the WIFIA Bond.

Section 5.08. DEFAULT AND REMEDIES. Each "Event of Default" as defined and as set forth in the WIFIA Loan Agreement is hereby declared to be an Event of Default under this Fourth Supplement and the Master Ordinance. Upon the occurrence of an Event of Default under the WIFIA Loan Agreement, the Owner may exercise any and all remedies set forth in and in accordance with the Master Ordinance and the WIFIA Loan Agreement.

Section 5.09. DISCLOSURE OF FINANCIAL OBLIGATIONS. The execution and delivery of the WIFIA Loan Agreement and the issuance and delivery of the WIFIA Bond will constitute the incurrence of a "financial obligation" by the City pursuant to existing continuing disclosure undertakings of the City under Rule 15c2-12. Accordingly, the City's Finance Director as the City's appointed disclosure officer is hereby authorized and directed to file or cause to be filed the executed WIFIA Loan Agreement and any other appropriate notice or description of the financial obligation thereunder on the Electronic Municipal Market Access system, which is the prescribed electronic format for disclosures established and maintained by the Municipal Securities Rulemaking Board and can be accessed at www.emma.msrb.org, no more than ten business days after the Effective Date.

Section 5.10. RULES OF INTERPRETATION. For purposes of this Fourth Supplement, except as otherwise expressly provided or the context otherwise requires:

(a) The words "herein," "hereof" and "hereunder" and other similar words refer to this Fourth Supplement as a whole and not to any particular Article, Section, or other subsection.

(b) The definitions in an Article are applicable whether the terms defined are used in the singular or the plural.

(c) All accounting terms that are not defined in this Fourth Supplement have the meanings assigned to them in accordance with then applicable accounting principles.

(d) Any pronouns used in this Fourth Supplement include both the singular and the plural and cover both genders.

(e) Any terms defined elsewhere in this Fourth Supplement have the meanings attributed to them where defined.

(f) The captions or headings are for convenience only and in no way define, limit or describe the scope or intent, or control or affect the meaning or construction, of any provisions or sections hereof.

(g) Any references to Section numbers are to Sections of this Fourth Supplement unless stated otherwise.

Section 5.11. INDIVIDUALS NOT LIABLE. All covenants, stipulations, obligations, and agreements of the City contained in this Fourth Supplement shall be deemed to be covenants, stipulations, obligations, and agreements of the Financing Program, the Utility System and the City to the full extent authorized or permitted by State law. No covenant, stipulation, obligation, or agreement herein contained shall be deemed to be a covenant, stipulation, obligation, or agreement of any member of the City Council or agent or employee of the City in his or her individual capacity and neither the members of the City Council, nor any officer, employee, or agent of the City shall be liable personally on the WIFIA Bond or the WIFIA Loan Agreement when issued and/or delivered, or be subject to any personal liability or accountability by reason of the issuance thereof.

Section 5.12. PAYMENT OF ATTORNEY GENERAL FEE. The City hereby authorizes the disbursement of a fee equal to the lesser of (i) one-tenth of one percent of the principal amount of the WIFIA Bond or (ii) \$9,500, provided that such fee shall not be less than \$750, to the Attorney General of Texas Public Finance Division for payment of the examination fee charged by the State of Texas for the Attorney General's review and approval of public securities and credit agreements, as required by Section 1202.004 of the Texas Government Code. The Authorized Representative is hereby instructed to take the necessary measures to make this payment. The City is also authorized to reimburse the appropriate City funds for such payment from proceeds of the WIFIA Bond as a cost of issuance thereof.

[The Remainder of This Page is Intentionally Left Blank]

FINALLY PASSED, APPROVED AND EFFECTIVE on first and final reading in accordance with Section 1201.028, Texas Government Code, on this October 25, 2022.

Mayor,
City of Pflugerville, Texas

ATTEST:

City Secretary,
City of Pflugerville, Texas

APPROVED AS TO FORM:

City Attorney

The City has caused this Fourth Supplement to be executed by an Authorized Representative.

CITY OF PFLUGERVILLE, TEXAS

By: _____
Authorized Representative

EXHIBIT A

DEFINITIONS

As used in this Fourth Supplement, the following terms shall have the meanings set forth below, unless the text hereof specifically indicates otherwise:

"Acts" – As defined in the recitals hereto.

"Administrator" – As defined in the recitals hereto.

"Authorized Representative" - Means the Mayor, City Manager, any Assistant City Manager, Chief Financial Officer or such other individuals so designated by the City to perform the duties of an Authorized Representative under this Fourth Supplement.

"Award Certificate" – The certificate to be executed and delivered by an Authorized Representative pursuant to Sections 2.01 and 2.02 of this Fourth Supplement in connection with the WIFIA Bond and the WIFIA Loan Agreement.

"Chief Financial Officer" - Means the Finance Director or such other officer or employee of the City or such other individual so designated by the City to perform the duties of Chief Financial Officer under this Fourth Supplement.

"Construction Fund" – The sub-account of the Bond Proceeds Account created pursuant to Section 5.01(a) hereof.

"Effective Date" – The date on which the WIFIA Bond is first delivered to the WIFIA Lender.

"Eligible Project Costs" - As defined in the WIFIA Loan Agreement.

"Fourth Supplement" - This Fourth Supplemental Ordinance, which was adopted pursuant to authority reserved by the City under the Master Ordinance.

"Highest Lawful Rate" – The maximum net effective interest rate permitted by law to be paid on obligations issued or incurred by the City in the exercise of its borrowing powers (prescribed by Chapter 1204, Texas Government Code, or any successor provisions).

"Master Ordinance" - The "Master Ordinance Establishing the Utility System Revenue Financing Program," adopted by the City on September 14, 2021, as may be amended or supplemented from time to time.

"Owner" – As applicable, the registered owner of the WIFIA Bond as shown on the Security Register and the WIFIA Lender acting under the WIFIA Loan Agreement or any successor thereto as permitted under such agreement.

"Paying Agent" - The agent selected and appointed by the City for purposes of paying the principal of, premium, if any, and interest on the WIFIA Bond to the Owner thereof, as identified in Section 2.03 hereof and any successor to such agent.

"Paying Agent/Registrar" - Collectively, the Paying Agent and the Registrar designated in Section 2.03 hereof or any successor to such agent.

"Paying Agent/Registrar Agreement" - The agreement having such name executed by and between the City and the Paying Agent/Registrar.

"Project" – As defined in the WIFIA Loan Agreement.

"Registrar" - The agent selected and appointed by the City for purposes of keeping and maintaining books and records relating to the registration, transfer, exchange, and payment of the WIFIA Bond and interest thereon, as identified in Section 2.03 hereof and any successor to such agent.

"Rule 15c2-12" - Securities and Exchange Commission Rule 15c2-12.

"Section" - Unless the context clearly requires otherwise, refers to a Section of this Fourth Supplement.

"Security" – As defined in the Master Ordinance, subject to the provisions of Section 1.02(c) of this Fourth Supplement.

"Security Register" - The books and records kept and maintained by the Registrar relating to the registration, transfer, exchange, and payment of the Bonds and the interest thereon.

"WIFIA Bond" - The bond authorized by this Fourth Supplement relating to the WIFIA Loan Agreement.

"WIFIA Lender" - As defined in the recitals hereto.

"WIFIA Loan" - As defined in the recitals hereto.

"WIFIA Loan Agreement" – The WIFIA Loan Agreement between the WIFIA Lender and the City executed and delivered in connection with the WIFIA Bond.

EXHIBIT B
WIFIA LOAN AGREEMENT

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

WIFIA LOAN AGREEMENT

For Up to \$52,049,683

With

CITY OF PFLUGERVILLE, TEXAS

For the

**CITY OF PFLUGERVILLE WATER TREATMENT PLANT
(WTP) EXPANSION – 30 MGD PROJECT
(WIFIA – N20166TX)**

Dated as of October 28, 2022

TABLE OF CONTENTS

Page

ARTICLE I

DEFINITIONS AND INTERPRETATION

Section 1. Definitions.....2
Section 2. Interpretation.....15

ARTICLE II

THE WIFIA LOAN

Section 3. WIFIA Loan Amount.....16
Section 4. Disbursement Conditions; Quarterly Approval of Eligible Project Costs.....16
Section 5. Term.....18
Section 6. Interest Rate18
Section 7. Security and Priority; Flow of Funds.....18
Section 8. Payment of Principal and Interest.....19
Section 9. Prepayment21
Section 10. Fees and Expenses22

ARTICLE III

CONDITIONS PRECEDENT

Section 11. Conditions Precedent23

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

Section 12. Representations and Warranties of Borrower.....28
Section 13. Representations and Warranties of WIFIA Lender33

ARTICLE V

COVENANTS

Section 14. Affirmative Covenants.....33
Section 15. Negative Covenants38
Section 16. Reporting Requirements39

ARTICLE VI

EVENTS OF DEFAULT

Section 17. Events of Default and Remedies.....43

ARTICLE VII

MISCELLANEOUS

Section 18. Disclaimer of Warranty.....46
Section 19. No Personal Recourse.....46
Section 20. No Third Party Rights.....47
Section 21. Borrower’s Authorized Representative.....47
Section 22. WIFIA Lender’s Authorized Representative.....47
Section 23. Servicer.....47
Section 24. Amendments and Waivers.....47
Section 25. Governing Law.....47
Section 26. Severability.....47
Section 27. Successors and Assigns.....48
Section 28. Remedies Not Exclusive.....48
Section 29. Delay or Omission Not Waiver.....48
Section 30. Counterparts.....48
Section 31. Notices.....48
Section 32. Indemnification.....49
Section 33. Sale of WIFIA Loan.....50
Section 34. Effectiveness.....50
Section 35. Termination.....50
Section 36. Integration.....51

SCHEDULE I – Project Budget

SCHEDULE II – Construction Schedule

SCHEDULE III – Existing Indebtedness

SCHEDULE IV-A – WIFIA Loan Payment Instructions

SCHEDULE IV-B – WIFIA Fee Payment Instructions

SCHEDULE V – Defined Terms From Master Ordinance

SCHEDULE VI – Accounts; Flow of Funds

SCHEDULE VII – Rate Covenant

SCHEDULE VIII – Additional Debt Test

SCHEDULE 12(o) – Construction Contracts

EXHIBIT A – Form of WIFIA Bond

EXHIBIT B – Anticipated WIFIA Loan Disbursement Schedule

EXHIBIT C – Form of Non-Debarment Certificate

EXHIBIT D-1 – Requisition Procedures

EXHIBIT D-2 – Certification of Eligible Project Costs Documentation

EXHIBIT E – Form of Non-Lobbying Certificate

EXHIBIT F – WIFIA Debt Service

EXHIBIT G-1 – Opinions Required from Counsel to Borrower

EXHIBIT G-2 – Opinions Required from Bond Counsel

EXHIBIT H – Form of Closing Certificate

EXHIBIT I – Form of Certificate of Substantial Completion

EXHIBIT J – Form of Quarterly Report

EXHIBIT K – Form of Public Benefits Report

WIFIA LOAN AGREEMENT

THIS WIFIA LOAN AGREEMENT (this “**Agreement**”), dated as of October 28, 2022, is by and between the **CITY OF PFLUGERVILLE, TEXAS**, a municipal body politic and corporate created under the laws of the State of Texas (the “**State**”), with an address at 100 E. Main Street, Pflugerville, TX 78660 (the “**Borrower**”), and the **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**, an agency of the United States of America, acting by and through the Administrator of the Environmental Protection Agency (the “**Administrator**”), with an address at 1200 Pennsylvania Avenue NW, Washington, DC 20460 (the “**WIFIA Lender**”).

RECITALS:

WHEREAS, the Congress of the United States of America enacted the Water Infrastructure Finance and Innovation Act, as amended by Section 1445 of the Fixing America’s Surface Transportation Act of 2015, as further amended by Section 5008 of the Water Infrastructure Improvements For the Nation Act of 2016 and by Section 4201 of America’s Water Infrastructure Act of 2018 (collectively, as the same may be amended from time to time, the “**Act**” or “**WIFIA**”), which is codified as 33 U.S.C. §§ 3901–3915;

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

WHEREAS, the Borrower has requested that the WIFIA Lender make the WIFIA Loan (as defined herein) in a principal amount not to exceed \$52,049,683 to be used to pay a portion of the Eligible Project Costs (as defined herein) related to the Project (as defined herein) pursuant to the application for WIFIA financial assistance dated July 26, 2021 (the “**Application**”);

WHEREAS, as of the date hereof, the Administrator has approved WIFIA financial assistance for the Project to be provided in the form of the WIFIA Loan, subject to the terms and conditions contained herein;

WHEREAS, based on the Application and the representations, warranties and covenants set forth herein, the WIFIA Lender proposes to make funding available to the Borrower through the purchase of the WIFIA Bond (as defined herein), upon the terms and conditions set forth herein;

WHEREAS, the Borrower agrees to repay any amount due pursuant to this Agreement and the WIFIA Bond in accordance with the terms and provisions hereof and of the WIFIA Bond; and

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

NOW, THEREFORE, the premises being as stated above, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged to be adequate, and intending

to be legally bound hereby, it is hereby mutually agreed by and between the Borrower and the WIFIA Lender as follows:

ARTICLE I

DEFINITIONS AND INTERPRETATION

Section 1. Definitions.

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

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

“**Additional Construction Contracts**” means each Construction Contract entered into after the Effective Date.

“**Additional Debt**” means Additional Parity Debt and Additional Subordinated Debt.

“**Additional Parity Debt**” means any Parity Debt permitted under Section 15(a) (*Negative Covenants – Indebtedness*) and under the Master Ordinance, which Parity Debt is issued or incurred on or after the Effective Date.

“**Additional Parity Debt Project Obligations**” means any Parity Debt of the Borrower issued or incurred on or after the Effective Date to fund any portion of Total Project Costs.

“**Additional Subordinated Debt**” means any Subordinated Debt permitted under Section 15(a) (*Negative Covenants – Indebtedness*) and under the Master Ordinance, which Subordinated Debt is issued or incurred after the Effective Date.

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

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

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

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

“**Bankruptcy Related Event**” means, with respect to the Borrower, (a) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of the Borrower or any of its debts, or of a substantial part of the assets thereof, under any Insolvency Laws, or (ii) the appointment of a receiver, paying agent, registrar, liquidator, custodian, sequestrator, conservator or similar official for the Borrower

or for a substantial part of the assets thereof and, in any case referred to in the foregoing subclauses (i) and (ii), such proceeding or petition shall continue undismissed for sixty (60) days or an order or decree approving or ordering any of the foregoing shall be entered; (b) the Borrower shall (i) apply for or consent to the appointment of a receiver, paying agent, registrar, liquidator, custodian, sequestrator, conservator or similar official therefor or for a substantial part of the assets thereof, (ii) generally not be paying its debts as they become due unless such debts are the subject of a bona fide dispute, or become unable to pay its debts generally as they become due, (iii) fail to make a payment of WIFIA Debt Service in accordance with the provisions of Section 8 (*Payment of Principal and Interest*) and such failure is not cured within thirty (30) days following notification by the WIFIA Lender of failure to make such payment, (iv) make a general assignment for the benefit of creditors, (v) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition with respect to it described in clause (a) of this definition, (vi) commence a voluntary proceeding under any Insolvency Law, or file a voluntary petition seeking liquidation, reorganization, an arrangement with creditors or an order for relief, in each case under any Insolvency Law, (vii) file an answer admitting the material allegations of a petition filed against it in any proceeding referred to in the foregoing subclauses (i) through (v), inclusive, of this clause (b), or (viii) take any action for the purpose of effecting any of the foregoing, including seeking approval or legislative enactment by any Governmental Authority to authorize commencement of a voluntary proceeding under any Insolvency Law; (c) (i) any Person shall commence a process pursuant to which all or a substantial part of the Security may be sold or otherwise disposed of in a public or private sale or disposition pursuant to a foreclosure of the Liens thereon securing the Parity Debt, or (ii) any Person shall commence a process pursuant to which all or a substantial part of the Security may be sold or otherwise disposed of pursuant to a sale or disposition of such Security in lieu of foreclosure; or (d) any receiver, paying agent, registrar, liquidator, custodian, sequestrator, conservator or similar official shall transfer, pursuant to directions issued by the Parity Debt Bondholders, funds on deposit in any of the Utility System Accounts upon the occurrence and during the continuation of an Event of Default under this Agreement or an event of default under the Ordinance Documents for application to the prepayment or repayment of any principal amount of the Parity Debt other than in accordance with the provisions of the Master Ordinance.

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

“Bondholder” means (i) when used with respect to the WIFIA Bond, the WIFIA Lender (and any subsequent holder of the WIFIA Bond), (ii) when used with respect to any other Parity Debt, the registered owner of such Parity Debt, and (iii) when used with respect to any Subordinated Debt, the registered owner of such Subordinated Debt.

“Bond Proceeds Account” has the meaning provided in Section 3(d) of the Master Ordinance.

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

“**Borrower Fiscal Year**” means (a) as of the Effective Date, a fiscal year of the Borrower commencing on October 1 of any calendar year and ending on September 30 of the immediately succeeding calendar year or (b) such other fiscal year as the Borrower may hereafter adopt after giving thirty (30) days’ prior written notice to the WIFIA Lender in accordance with Section 15(f) (*Negative Covenants – Fiscal Year*).

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

“**Business Day**” means any day other than a Saturday, a Sunday or a day on which offices of the Government or the State are authorized to be closed or on which commercial banks are authorized or required by law, regulation or executive order to be closed in New York, New York, or Pflugerville, Texas or the city and state in which the principal office of the Paying Agent/Registrar is located as provided in writing by the Paying Agent/Registrar to the Borrower from time to time as provided in the Paying Agent/Registrar Agreement.

“**City Council**” means the City Council of the City of Pflugerville, Texas.

“**Closing Certificate**” has the meaning provided in Section 11(a)(viii) (*Conditions Precedent – Conditions Precedent to Effectiveness*).

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

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

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

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

“**Construction Period**” means the period from the Effective Date through the Substantial Completion Date.

“**Construction Period Servicing Fee**” has the meaning set forth in Section 10(a)(ii) (*Fees and Expenses – Fees*).

“**Construction Schedule**” means (a) the initial schedule or schedules on which the construction timetables for the Project are set forth, attached as **Schedule II** (*Construction Schedule*), and (b) any updates thereto included in the periodic reports submitted to the WIFIA

Lender pursuant to Section 16(d) (*Reporting Requirements – Construction Reporting*) most recently approved by the WIFIA Lender.

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

“**Credit Agreement**” has the meaning provided in the Master Ordinance.

“**Debt**” means all indebtedness of the Borrower payable from all or part of the Security that is also:

(1) indebtedness incurred or assumed by the Borrower for borrowed money (including all obligations arising under Credit Agreements) and all other financial obligations of the Borrower that, in accordance with generally accepted accounting principles, are shown on the liability side of a balance sheet;

(2) all other indebtedness (other than indebtedness otherwise treated as Debt hereunder) for borrowed money or for the acquisition, construction, or improvement of property or capitalized lease obligations that is guaranteed, directly or indirectly, in any manner by the Borrower, or that is in effect guaranteed, directly or indirectly, by the Borrower through an agreement, contingent or otherwise, to purchase any such indebtedness or to advance or supply funds for the payment or purchase of any such indebtedness or to purchase property or services primarily for the purpose of enabling the debtor or seller to make payment of such indebtedness, or to assure the owner of the indebtedness against loss, or to supply funds to or in any other manner invest in the debtor (including any agreement to pay for property or services irrespective of whether or not such property is delivered or such services are rendered), or otherwise; and

(3) all indebtedness secured by any mortgage, lien, charge, encumbrance, pledge, or other security interest upon property owned by the Borrower whether or not the Borrower has assumed or become liable for the payment thereof.

For the purpose of determining the “Debt” of the Borrower, only outstanding Debt shall be included. No item shall be considered Debt unless such item constitutes indebtedness under generally accepted accounting principles applied on a basis consistent with the financial statements of the Borrower in prior Borrower Fiscal Years.

“**Debt Service Payment Commencement Date**” means the Interest Payment Date immediately following the date of receipt by the Borrower of the initial requisition of funds pursuant to this Agreement.

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

“**Default Rate**” means an interest rate equal to the sum of (a) the WIFIA Interest Rate plus (b) two hundred (200) basis points.

“Development Default” means (a) the Borrower abandons work or fails, in the reasonable judgment of the WIFIA Lender, to diligently prosecute the work related to the Project or (b) the Borrower fails to achieve Substantial Completion of the Project by December 31, 2027.

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

“Effective Date” means the date of this Agreement as provided on the cover page.

“Eligible Project Costs” means amounts in the Project Budget approved by the WIFIA Lender, which are paid by or for the account of the Borrower in connection with the Project (including, as applicable, Project expenditures incurred prior to the receipt of WIFIA credit assistance), which shall arise from the following:

(a) development-phase activities, including planning, feasibility analysis (including any related analysis necessary to carry out an eligible project), revenue forecasting, environmental review, permitting, preliminary engineering and design work and other preconstruction activities;

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

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

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

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

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

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

“Enabling Act” has the meaning provided in the Master Ordinance.

“Environmental Laws” means collectively all laws applicable to the Utility System (including the Project) relating to (i) air emissions, (ii) discharges to surface water or ground water, (iii) noise emissions, (iv) solid or liquid waste disposal, (v) the use, generation, storage, transportation or disposal of toxic or hazardous substances or wastes, (vi) biological resources (such as threatened and endangered species), and (vii) other environmental, health or safety matters, including all laws applicable to the Utility System (including the Project).

“**EPA**” means the United States Environmental Protection Agency.

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

“**Event of Loss**” means any event or series of events that causes any portion of the Utility System to be damaged, destroyed or rendered unfit for normal use for any reason whatsoever, including through a casualty, a failure of title, or any loss of such property through eminent domain.

“**Existing Construction Contract**” means each Construction Contract existing as of the Effective Date.

“**Existing Indebtedness**” means Debt of the Borrower that has been issued or incurred prior to the Effective Date, as listed and described in **Schedule III** (*Existing Indebtedness*).

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

“**Final Disbursement Date**” means the earliest of (a) the date on which the WIFIA Loan has been disbursed in full; (b) the last anticipated date of disbursement set forth in the then-current Anticipated WIFIA Loan Disbursement Schedule; (c) the date on which the Borrower has certified to the WIFIA Lender that it will not request any further disbursements under the WIFIA Loan; (d) the date on which the WIFIA Lender terminates its obligations relating to disbursements of any undisbursed amounts of the WIFIA Loan in accordance with Section 17 (*Events of Default and Remedies*); and (e) the date that is one (1) year after the Substantial Completion Date.

“**Final Maturity Date**” means the earlier of (a) August 1, 2053 (or such earlier date as is set forth in an updated **Exhibit F** (*WIFIA Debt Service*) pursuant to Section 8(e) (*Payment of Principal and Interest – Adjustments to Loan Amortization Schedule*)); and (b) the Payment Date immediately preceding the date that is thirty-five (35) years following the Substantial Completion Date.

“**Financial Statements**” has the meaning provided in Section 12(t) (*Representations and Warranties of Borrower – Financial Statements*).

“**Financing Program**” means the “City of Pflugerville, Texas Utility System Revenue Financing Program”, of which the WIFIA Loan is a part.

“**GAAP**” means generally accepted accounting principles for U.S. state and local governments, as established by the Government Accounting Standards Board (or any successor entity with responsibility for establishing accounting rules for governmental entities), in effect from time to time in the United States of America.

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

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

“**Governmental Authority**” means any federal, state, provincial, county, city, town, village, municipal or other government or governmental department, commission, council, court, board, bureau, agency, authority or instrumentality (whether executive, legislative, judicial, administrative or regulatory), of or within the United States of America or its territories or possessions, including the State and its counties and municipalities, and their respective courts, agencies, instrumentalities and regulatory bodies, or any entity that acts “on behalf of” any of the foregoing, whether as an agency or authority of such body.

“**Gross Revenues**” has the meaning provided in the Master Ordinance, which definition is hereby incorporated herein and such definition, as of the Effective Date, is set forth in **Schedule V** (*Certain Defined Terms*).

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

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

“**Interest Payment Date**” means each February 1 and August 1, commencing on the Debt Service Payment Commencement Date.

“**Interest and Sinking Account**” has the meaning provided in Section 3(c) of the Master Ordinance.

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

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

“**Loan Amortization Schedule**” means the Loan Amortization Schedule reflected in the applicable column of **Exhibit F** (*WIFIA Debt Service*), as amended from time to time in accordance with Section 8(e) (*Payment of Principal and Interest – Adjustments to Loan Amortization Schedule*).

“**Maintenance and Operating Expenses**” has the meaning provided in the Master Ordinance, which definition is hereby incorporated herein and such definition, as of the Effective Date, is set forth in **Schedule V** (*Certain Defined Terms*).

“**Master Ordinance**” means Ordinance No. 1512-21-09-14 adopted by the City Council on September 14, 2021, establishing a master financing program under which Parity Debt of the Financing Program can be incurred, as amended from time to time, including as amended by the WIFIA Supplement, as the foregoing may be further supplemented or amended from time to time as authorized by the Borrower and the Master Ordinance; provided that if the consent of the WIFIA Lender is required under this Agreement as a condition of such amendment, only if such approval has been granted.

“**Material Adverse Effect**” means a material adverse effect on (a) the Utility System, the Project or the Gross Revenues, (b) the business, operations, properties, condition (financial or otherwise) or prospects of the Borrower relating to the Utility System, (c) the legality, validity or enforceability of any material provision of any Ordinance Document or WIFIA Loan Document, (d) the ability of the Borrower to enter into, perform or comply with any of its material obligations under any Ordinance Document or WIFIA Loan Document, (e) the validity, enforceability or priority of the Liens provided under the Ordinance Documents on the Security in favor of the Parity Debt Bondholders or (f) the WIFIA Lender’s rights or remedies available under any WIFIA Loan Document.

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

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

“**NEPA Determination**” means the Categorical Exclusion for the Project issued by EPA on December 13, 2021 in accordance with NEPA.

“**Net Revenues**” has the meaning provided in the Master Ordinance, which definition is hereby incorporated herein and such definition, as of the Effective Date, is set forth in **Schedule V** (*Certain Defined Terms*).

“**Non-Debarment Certificate**” means a certificate, signed by the Borrower’s Authorized Representative, as to the absence of debarment, suspension or voluntary exclusion from participation in Government contracts, procurement and non-procurement matters with respect to the Borrower and its principals (as defined in 2 C.F.R. § 180.995 and supplemented by 2 C.F.R. 1532.995), substantially in the form attached hereto as **Exhibit C** (*Form of Non-Debarment Certificate*).

“**Non-Lobbying Certificate**” means a certificate, signed by the Borrower’s Authorized Representative, with respect to the prohibition on the use of appropriated funds for lobbying pursuant to 49 C.F.R. § 20.100(b), substantially in the form attached hereto as **Exhibit E** (*Form of Non-Lobbying Certificate*).

“**Operating Period Servicing Fee**” has the meaning set forth in Section 10(a)(iii) (*Fees and Expenses – Fees*).

“Ordinance Documents” means the Master Ordinance, each Supplement, including the WIFIA Supplement and each other agreement, instrument and document executed and delivered pursuant to or in connection with any of the foregoing.

“Organizational Documents” means: (a) the constitutional and statutory provisions that are the basis for the existence and authority of the Borrower, including any enabling statutes, ordinances or the City Charter and any other organic laws establishing the Borrower and (b) the resolutions, bylaws, code of regulations, operating procedures or other organizational documents (including any amendments, modifications or supplements thereto) of or adopted by the Borrower by which the Borrower, its powers, operations or procedures or its securities, bonds, notes or other obligations are governed or from which such powers are derived.

“Outstanding” means: (a) with respect to Parity Debt (other than the WIFIA Bond), Parity Debt that has not been cancelled or legally defeased or discharged pursuant to the Master Ordinance and the applicable Supplement, (b) with respect to Subordinated Debt, Subordinated Debt has not been cancelled or legally defeased or discharged pursuant to the instrument evidencing or authorizing such Subordinated Debt, and (c) with respect to the WIFIA Bond, the (i) entire amount available to be drawn under this Agreement (including amounts drawn and amounts that remain available to be drawn), less (ii) any amount that has been irrevocably determined will not be drawn under this Agreement, less (iii) the aggregate principal amount of the WIFIA Bond that has been repaid.

“Outstanding WIFIA Loan Balance” means the sum of (i) the aggregate principal amount of the WIFIA Loan drawn by the Borrower minus (ii) the aggregate principal amount of the WIFIA Loan repaid by the Borrower, as determined in accordance with Section 8(e) (*Payment of Principal and Interest – Adjustments to Loan Amortization Schedule*).

“Parity Debt” means all Debt of the Borrower permitted under Section 15(a) (*Negative Covenants – Indebtedness*) which may be issued or assumed in accordance with the terms of the Master Ordinance and a Supplement, secured by a lien on and pledge of the Security, and that ranks *pari passu* in right of payment and right of security with the WIFIA Bond.

“Paying Agent/Registrar” means UMB Bank, N.A. and any successor thereto appointed as paying agent/registrar for the WIFIA Bond pursuant to the WIFIA Supplement.

“Paying Agent/Registrar Agreement” means the Paying Agent/Registrar Agreement, dated as of October 28, 2022, by and between the Borrower and UMB Bank, N.A., as the initial Paying Agent/Registrar.

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

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

“Payment Period” means (i) the period beginning on the date the first requisition of funds under this Agreement is received by the Borrower and ending on the day immediately preceding the following Interest Payment Date, and each succeeding six (6) month period beginning on a

February 1 and ending on the following July 31, and beginning on an August 1 and ending on the following January 31, as applicable.

“Permitted Debt” means:

- (a) Existing Indebtedness;
- (b) the WIFIA Bond and any additional payments authorized under this Agreement;
- (c) Additional Parity Debt issued or incurred in accordance with all requirements and conditions set forth in Section 7 of the Master Ordinance; and
- (d) Additional Subordinated Debt issued or incurred in accordance with all requirements and conditions set forth in Section 7 of the Master Ordinance.

“Permitted Liens” means:

- (a) Liens imposed pursuant to the WIFIA Loan Documents;
- (b) Liens imposed on all or part of the Security, pursuant to the Master Ordinance;
- (c) Liens imposed by law, including Liens for taxes that are not yet due or are being contested in compliance with Section 14(j) (*Affirmative Covenants – Material Obligations*);
- (d) carriers’, warehousemen’s, mechanics’, materialmen’s, repairmen’s and other like Liens imposed by law, arising in the ordinary course of business and securing obligations that are not overdue by more than thirty (30) days or are being contested in compliance with Section 14(j) (*Affirmative Covenants – Material Obligations*);
- (e) pledges and deposits made in the ordinary course of business in compliance with workers’ compensation, unemployment insurance, and other social security laws or regulations;
- (f) deposits to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business;
- (g) judgment Liens in respect of judgments that do not constitute an Event of Default under Section 17(a)(v) (*Events of Default and Remedies – Material Adverse Judgment*); and
- (h) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that, in any case, do not secure any monetary obligations and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of the Borrower.

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

“**Pledged Revenues**” has the meaning provided in the Master Ordinance, which definition is hereby incorporated herein and such definition, as of the Effective Date, is set forth in **Schedule V** (*Certain Defined Terms*).

“**Principal Payment Date**” means each August 1, commencing on August 1, 2023.

“**Project**” means the planning, design, and expansion of the water treatment plant for the Borrower, comprising lake raw water pump station improvements, water treatment plant pretreatment system improvements, water treatment plant filtration system improvements, water treatment plant disinfection and treatment chemical feed and storage system improvements, water treatment plant finished water pumping improvements, water treatment plant solids/residuals management process improvements, and acquisition of land and real property interests necessary to complete the Project.

“**Project Budget**” means the budget for the Project attached to this Agreement as **Schedule I** (*Project Budget*) showing a summary of Total Project Costs with a breakdown of all Eligible Project Costs and the estimated sources and uses of funds for the Project.

“**Project Obligations**” means any indebtedness of the Borrower issued or incurred to fund any portion of Total Project Costs.

“**Projected Substantial Completion Date**” means December 31, 2025, as such date may be adjusted in accordance with Section 16(d) (*Reporting Requirements – Construction Reporting*).

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

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

“**Rebate Account**” has the meaning provided in Section 4.02 of the WIFIA Supplement.

“**Related Documents**” means the Ordinance Documents and the WIFIA Loan Documents.

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

“**Reserve Account**” means a reserve account established pursuant to the Master Ordinance and Supplement.

“**Revenue Account**” has the meaning provided in the Master Ordinance.

“**Security**” has the meaning provided in the Master Ordinance and the WIFIA Supplement, subject to the provisions of Section 1.02(c) of the WIFIA Supplement, which definition is hereby

incorporated herein and such definition, as of the Effective Date, is set forth in **Schedule V** (*Certain Defined Terms*).

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

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

“**Servicing Set-Up Fee**” has the meaning set forth in Section 10(a)(i) (*Fees and Expenses – Fees*).

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

“**Subject to Appropriation Obligation**” means any obligation under this Agreement which is expressly subject to annual appropriation pursuant to the terms of this Agreement.

“**Subordinated Debt**” means any Debt that expressly provides that all payments thereon shall be subordinated to the timely payment of all Parity Debt then outstanding or subsequently issued.

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

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

“**Supplement**” means a resolution supplemental to, and authorized and executed pursuant to the terms of, the Master Ordinance as may be supplemented or amended from time to time as authorized by the Borrower and such Supplement.

“**System Account**” has the meaning assigned to that term in Section 3(b) of the Master Ordinance.

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

“Uncontrollable Force” means any cause beyond the control of the Borrower, including: (a) a hurricane, tornado, flood or similar occurrence, landslide, earthquake, fire or other casualty, strike or labor disturbance, freight embargo, act of a public enemy, explosion, war, blockade, terrorist act, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, sabotage, or act of God (provided, that the Borrower shall not be required to settle any strike or labor disturbance in which it may be involved) or (b) the order or judgment of any federal, state or local court, administrative agency or governmental officer or body, if it is not also the result of willful or negligent action or a lack of reasonable diligence of the Borrower and the Borrower does not control the administrative agency or governmental officer or body; provided, that the diligent contest in good faith of any such order or judgment shall not constitute or be construed as a willful or negligent action or a lack of reasonable diligence of the Borrower.

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

“Utility System” has the meaning provided in the Master Ordinance, which definition is hereby incorporated herein and such definition, as of the Effective Date, is set forth in **Schedule V** (*Certain Defined Terms*).

“Utility System Accounts” means all funds, accounts and subaccounts holding Gross Revenues or Net Revenues, including the System Account and the Interest and Sinking Account and such additional funds, accounts or subaccounts that may be established in connection with the System for Gross Revenues or Net Revenues.

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

“WIFIA Bond” means the Bond delivered by the Borrower in substantially the form of **Exhibit A** (*Form of WIFIA Bond*).

“WIFIA CUSIP Number” has the meaning provided in Section 11(a)(viii)(7) (*Conditions Precedent – Conditions Precedent to Effectiveness*).

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

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

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

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

“**WIFIA Loan**” means the secured loan made by the WIFIA Lender to the Borrower on the terms and conditions set forth herein, pursuant to the Act, in a principal amount not to exceed \$52,049,683, to be used in respect of Eligible Project Costs paid or incurred by the Borrower.

“**WIFIA Loan Documents**” means this Agreement, the WIFIA Bond, the WIFIA Supplement, and the other Ordinance Documents.

“**WIFIA Supplement**” means Ordinance No. [___], enacted by the City Council on October 25, 2022, authorizing the execution and delivery of this Agreement, the WIFIA Bond, and certain related actions by the Borrower in connection with the issuance of the WIFIA Loan.

Section 2. Interpretation.

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

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

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

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

(e) Whenever the Borrower’s knowledge is implicated in this Agreement or the phrase “to the Borrower’s knowledge” or a similar phrase is used in this Agreement, the Borrower’s knowledge or such phrase(s) shall be interpreted to mean to the best of the Borrower’s knowledge after reasonable and diligent inquiry. Unless the context shall otherwise require, references to any Person shall be deemed to include such Person’s successors and permitted assigns.

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

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

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

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

(j) Every request, order, demand, application, appointment, notice, statement, certificate, consent or similar communication or action hereunder by any party shall, unless otherwise specifically provided, be delivered in writing in accordance with Section 31 (*Notices*) and signed by a duly authorized representative of such party.

(k) References to “disbursements of WIFIA Loan Proceeds” or similar phrasing shall be construed as meaning the same thing as “paying the purchase price of the WIFIA Bond”.

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

ARTICLE II

THE WIFIA LOAN

Section 3. WIFIA Loan Amount. The principal amount of the WIFIA Loan shall not exceed \$52,049,683. WIFIA Loan proceeds available to be drawn shall be disbursed from time to time in accordance with Section 4 (*Disbursement Conditions*) and Section 11(b) (*Conditions Precedent – Conditions Precedent to Disbursements*).

Section 4. Disbursement Conditions; Quarterly Approval of Eligible Project Costs.

(a) WIFIA Loan proceeds shall be disbursed solely in respect of Eligible Project Costs paid or incurred and approved for payment by or on behalf of the Borrower in connection with the Project. If the Borrower intends to utilize the WIFIA Loan proceeds to make progress payments for Project construction work performed under the Construction Contracts, the Borrower shall demonstrate to the satisfaction of the WIFIA Lender that such progress payments are commensurate with the cost of the work that has been completed. Each disbursement of the WIFIA Loan shall be made pursuant to a requisition and certification (a “**Requisition**”) in the form set forth in **Appendix One** (*Form of Requisition*) to **Exhibit D-1** (*Requisition Procedures*), along with all documentation and other information required thereby, submitted by the Borrower to, and approved by, the WIFIA Lender, all in accordance with the procedures of **Exhibit D-1** (*Requisition Procedures*) and subject to the requirements of this Section 4 and the conditions set forth in Section 11(b) (*Conditions Precedent – Conditions Precedent to Disbursements*); provided, that no disbursements of WIFIA Loan proceeds shall be made after the Final Disbursement Date.

(b) The WIFIA Lender will make an initial disbursement of the WIFIA Loan to the Borrower in an amount equal to four hundred thousand five hundred ninety-seven dollars and sixty-eight cents (\$400,597.68) within five (5) Business Days after the Effective Date (or as soon thereafter as is possible in the event that the WIFIA Lender is prevented from making such disbursement within the time period described above for reasons beyond its control), subject to the

following terms and conditions: (i) the Borrower shall have delivered a completed and executed Requisition dated the Effective Date in accordance with Section 4(a) (*Disbursement Conditions; Quarterly Approval of Eligible Project Costs*), together with written invoices evidencing incurrence of the Eligible Project Costs to be reimbursed, to the WIFIA Lender no later than three (3) Business Days prior to the Effective Date and the WIFIA Lender shall have accepted and approved such Requisition, provided that the timing requirements for Requisitions set forth in Section 4(c) (*Disbursement Conditions; Quarterly Approval of Eligible Project Costs*) and in **Exhibit D-1** (*Requisition Procedures*) shall not apply to this initial disbursement; (ii) no Material Adverse Effect, or any event or condition that could reasonably be expected to have a Material Adverse Effect, has occurred or arisen since the date of the Application; and (iii) other than the conditions precedent in Section 11(b) (*Conditions Precedent – Conditions Precedent to Disbursements*) that are expressly addressed in the initial Requisition, no other conditions precedent set forth in Section 11(b) (*Conditions Precedent – Conditions Precedent to Disbursements*) shall apply to such initial disbursement.

(c) For each disbursement other than the disbursement contemplated in Section 4(b) (*Disbursement Conditions; Quarterly Approval of Eligible Project Costs*), each Requisition shall include a certification by the Borrower certifying as to the following: (i) whether reimbursement or payment is being requested with respect to (A) Eligible Project Costs that have been submitted by the Borrower pursuant to Section 4(e) and approved by the WIFIA Lender pursuant to Section 4(g) or (B) other Eligible Project Costs incurred by the Borrower; (ii) the Eligible Project Costs for which reimbursement or payment is being requested have not been reimbursed or paid by any previous disbursement of WIFIA Loan proceeds; and (iii) to the extent any Eligible Project Costs described in clause (i)(B) above are included in the Requisition, that such Eligible Project Costs have not and will not be submitted by the Borrower for approval pursuant to Section 4(e) and Section 4(f).

(d) The Borrower shall deliver copies of each Requisition to the WIFIA Lender and the Servicer (if any) on or before the first (1st) Business Day of each month for which a disbursement is requested. If the WIFIA Lender shall expressly approve a Requisition or shall not expressly deny a Requisition, disbursements of funds shall be made on the fifteenth (15th) day of the month for which a disbursement has been requested, or on the next succeeding Business Day if such fifteenth (15th) day is not a Business Day. Express WIFIA Lender approval or denial shall be substantially in the form annexed hereto as **Appendix Two** (*[Approval/Disapproval] of the WIFIA Lender*) to **Exhibit D-1** (*Requisition Procedures*). In no event shall disbursements be made more than once each month.

(e) At the time of any disbursement, the sum of all prior disbursements of WIFIA Loan proceeds and the disbursement then to be made shall not exceed the cumulative disbursements through the end of the then-current Federal Fiscal Year set forth in the Anticipated WIFIA Loan Disbursement Schedule, as the same may be amended from time to time in accordance with the terms of this Agreement. Subject to this Section 4, any scheduled disbursement (as reflected in the Anticipated WIFIA Loan Disbursement Schedule) that remains undrawn at the end of any Federal Fiscal Year shall automatically roll forward to be available in the next succeeding Federal Fiscal Year up to the last anticipated date of disbursement set forth in the Anticipated WIFIA Loan Disbursement Schedule, having the effect of automatically updating the Anticipated WIFIA Loan Disbursement Schedule without need for the WIFIA Lender's

approval. The Borrower may also amend the Anticipated WIFIA Loan Disbursement Schedule by submitting a revised version thereof to the WIFIA Lender no later than thirty (30) days prior to the proposed effective date of such amendment, together with a detailed explanation of the reasons for such revisions. Such revised Anticipated WIFIA Loan Disbursement Schedule shall become effective upon the WIFIA Lender's approval thereof, which approval shall be granted in the WIFIA Lender's sole discretion.

Section 5. Term. The term of the WIFIA Loan shall extend from the Effective Date to the Final Maturity Date or to such earlier date as all amounts due or to become due to the WIFIA Lender hereunder have been irrevocably paid in full in immediately available funds. Notwithstanding expiration of the term, the provisions that expressly survive termination of this Agreement that are set forth in Section 35 shall survive the end of the term.

Section 6. Interest Rate. The interest rate with respect to the Outstanding WIFIA Loan Balance (the "**WIFIA Interest Rate**") shall be [●] and [●] hundredths percent ([]%) per annum. Interest will accrue and be computed on the Outstanding WIFIA Loan Balance (as well as on any past due interest to the extent permitted under State law, including specifically Chapter 1204, Texas Government Code, as amended) from time to time on the basis of a three hundred sixty (360) day year of twelve (12) thirty (30) day months; provided, that, upon the occurrence of an Event of Default, the Borrower shall pay interest on the Outstanding WIFIA Loan Balance at the Default Rate, (a) in the case of any Payment Default, from (and including) its due date to (but excluding) the date of actual payment and (b) in the case of any other Event of Default, from (and including) the date of such occurrence to (but excluding) the earlier of the date on which (i) such Event of Default has been cured (if applicable) in accordance with the terms of this Agreement and (ii) the Outstanding WIFIA Loan Balance has been irrevocably paid in full in immediately available funds. For the avoidance of doubt, interest on the WIFIA Loan (and the corresponding WIFIA Bond) shall accrue and be payable only on those amounts for which a Requisition has been submitted and funds (or such portion of funds as have been approved by the WIFIA Lender) have been disbursed to the Borrower for use on the Project in accordance with Section 4 (*Disbursement Conditions*).

Section 7. Security and Priority; Flow of Funds.

(a) As security for the WIFIA Loan, and concurrently with the issuance and delivery of this Agreement, the Borrower shall pledge, assign and grant to the WIFIA Lender for its benefit, Liens on the Security in accordance with the provisions of the Ordinance Documents and shall deliver to the WIFIA Lender, as the registered owner, the WIFIA Bond. The WIFIA Bond shall be secured by the Liens on the Security on a parity with the Parity Debt and senior to all Subordinated Debt. A Reserve Account will not be required as security for the WIFIA Bond. Payment of the purchase price of the WIFIA Bond will be through disbursements to be made by the WIFIA Lender to the Borrower pursuant to the terms of this Agreement. The WIFIA Bond shall be in the form set forth in **Exhibit A** (*Form of WIFIA Bond*).

(b) Except (i) for Permitted Liens, or (ii) to the extent otherwise provided in Section 7(a), the Security will be free and clear of any pledge, Lien, charge or encumbrance thereon or with respect thereto, that is of equal rank with or senior to the pledge of the Borrower created under the Ordinance Documents for the benefit of the WIFIA Lender, and all organizational,

regulatory or other necessary action on the part of the Borrower with respect to the foregoing has been duly and validly taken. All action necessary to perfect such security interest has been taken and no further filing or continuation filing is necessary to maintain such perfected security interest.

(c) The Borrower shall not use Gross Revenues to make any payments or satisfy any obligations other than in accordance with the provisions of Section 4 of the Master Ordinance and shall not apply any portion of the Gross Revenues in contravention of this Agreement or the Master Ordinance.

(d) Flow of Funds. The Borrower has agreed and covenanted in the Master Ordinance that all Gross Revenues shall be deposited into the System Account immediately upon receipt by the Borrower and applied in accordance with the requirements specified in Section 4 of the Master Ordinance, which requirements are hereby incorporated herein and a copy of such section, as of the Effective Date, is attached hereto as **Schedule VI** (*Accounts; Flow of Funds*). For avoidance of doubt, moneys on deposit in the System Account not required to make any of the payments required above or expended by the Borrower at any time for any lawful purpose authorized pursuant to the Enabling Act and other State law shall remain in the System Account and remain subject to the pledge and lien provided in Section 7(a) (*Security and Priority; Flow of Funds*).

(e) Creation or Affirmation of Funds. The Borrower has agreed and covenanted in the Master Ordinance to establish and maintain certain funds and accounts, including the System Account and the Interest and Sinking Account, in accordance with the requirements specified in Section 3 of the Master Ordinance, which requirements are hereby incorporated herein and a copy of such section, as of the Effective Date, is attached hereto as **Schedule VI** (*Accounts; Flow of Funds*).

(f) Notwithstanding anything in this Agreement to the contrary, all payment obligations of the Borrower under the WIFIA Bond constitute special obligations of the Borrower payable from the Security and the WIFIA Lender (including any of its permitted successors or assigns) shall never have the right to demand payment out of funds raised or to be raised by taxation, or from any source other than those specified in the Master Ordinance or the WIFIA Supplement.

Section 8. Payment of Principal and Interest.

(a) Payment of WIFIA Debt Service.

(i) On each Payment Date occurring on or after the Debt Service Payment Commencement Date, the Borrower shall pay WIFIA Debt Service by making (A) semi-annual payments of interest, on each Interest Payment Date, (B) annual payments of principal, on each Principal Payment Date, and (C) payments of any other amounts on each other date on which payment thereof is required to be made hereunder (including the Final Maturity Date and any other date on which a payment is due); provided, that if any such date is not a Business Day, payment shall be made on the next Business Day following such date. Payments of WIFIA Debt Service shall be made in the amounts and on the Payment Dates as set forth in **Exhibit F** (*WIFIA Debt Service*), as the same may be revised

pursuant to Section 8(e) (*Payment of Principal and Interest – Adjustments to Loan Amortization Schedule*), and shall be calculated by the WIFIA Lender in such manner that each payment of WIFIA Debt Service is approximately equal, in order for the Outstanding WIFIA Loan Balance to be reduced to zero Dollars (\$0) on the Final Maturity Date.

(ii) Notwithstanding anything herein to the contrary, the Outstanding WIFIA Loan Balance and any accrued interest thereon shall be due and payable in full on the Final Maturity Date.

(b) [Reserved]

(c) WIFIA Bond. As evidence of the Borrower’s obligation to repay the WIFIA Loan, the Borrower shall issue and deliver to the WIFIA Lender, on or prior to the Effective Date, the WIFIA Bond substantially in the form of **Exhibit A** (*Form of WIFIA Bond*), having a principal amount of \$52,049,683, bearing interest at the WIFIA Interest Rate and having principal and interest payable on the same dates set forth herein. Any payment in respect of the WIFIA Bond shall be treated as a payment in respect of the WIFIA Loan and any prepayment of principal in respect of the WIFIA Loan shall be treated as a redemption in respect of the WIFIA Bond.

(d) Manner of Payment. Payments to the WIFIA Lender as the owner of the WIFIA Bond shall be made by wire transfer on or before each Payment Date in Dollars and immediately available funds (without counterclaim, offset or deduction) in accordance with payment instructions set forth in **Schedule IV-A** (*WIFIA Loan Payment Instructions*), as may be modified in writing from time to time by the WIFIA Lender. In order to provide sufficient funds for such payment, the Borrower shall transfer to the Paying Agent/Registrar from funds then on deposit in the Interest and Sinking Account money sufficient to make any such payment or portion thereof required to be made with respect to principal of and interest on the WIFIA Bond, and the Paying Agent/Registrar shall make such payment or portion thereof to the WIFIA Lender on behalf of the Borrower. Payments by the Borrower under this Agreement, including but not limited to, payments to be made pursuant to Section 10 (*Fees and Expenses*), other than payments required to be made with respect to principal of and interest on the WIFIA Bond, shall be made on or before the applicable due date in Dollars and in immediately available funds (without counterclaim, offset or deduction) in accordance with the payment instructions set forth in **Schedule IV-B** (*WIFIA Fee Payment Instructions*), as may be modified in writing from time to time by the WIFIA Lender. Whenever any payment would otherwise fall on a day that is not a Business Day, the due date for payment shall be the immediately succeeding Business Day.

(e) Adjustments to Loan Amortization Schedule. (i) The Borrower shall have the right to propose modifications to the Loan Amortization Schedule with respect to the WIFIA Loan exercisable once on or prior to the date that is forty-five (45) days preceding the first Payment Date, such modifications to be submitted by the Borrower to the WIFIA Lender and the Paying Agent/Registrar in an updated **Exhibit F** (*WIFIA Debt Service*) with adjustments to the column titled “Principal Payment as a % of Aggregate Amount of All Disbursements”; provided that (x) the form of and any modification to the Loan Amortization Schedule shall be reasonably acceptable to the WIFIA Lender, (y) the Weighted Average Life of the WIFIA Loan shall not exceed thirty-one (31) years measured as of the initial disbursement date of the WIFIA Loan and

(z) the Loan Amortization Schedule shall comply with all applicable requirements under this Agreement and law.

(ii) The Outstanding WIFIA Loan Balance will be (A) increased on each occasion on which the WIFIA Lender disburses loan proceeds hereunder, by the amount of such disbursement of loan proceeds; and (B) decreased upon each payment or prepayment of the Outstanding WIFIA Loan Balance, by the amount of principal or accrued interest so paid. The WIFIA Lender may in its discretion at any time and from time to time, or when so requested by the Borrower, advise the Borrower and the Paying Agent/Registrar by written notice of the amount of the Outstanding WIFIA Loan Balance as of the date of such notice, and its determination of such amount in any such notice shall be deemed conclusive absent manifest error; provided, however, that no failure to give or delay in giving such notice shall affect any of the obligations of the Borrower hereunder or under any of the other WIFIA Loan Documents.

(iii) The WIFIA Lender is hereby authorized to modify the Loan Amortization Schedule included in **Exhibit F (WIFIA Debt Service)** from time to time, in accordance with the principles set forth below in this Section 8(e), to reflect (A) any change to the Outstanding WIFIA Loan Balance, (B) any change to the date and amount of any principal or interest due and payable or to become due and payable by the Borrower under this Agreement, and (C) such other information as the WIFIA Lender may determine is necessary for administering the WIFIA Loan and this Agreement. Any calculations described above shall be rounded up to the nearest whole cent. Any adjustments or revisions to the Loan Amortization Schedule as a result of changes in the Outstanding WIFIA Loan Balance shall be applied to reduce future payments due on the WIFIA Bond in inverse order of maturity, other than prepayments, which shall be applied in accordance with Section 9(b) (*Prepayment – General Prepayment Instructions*). Absent manifest error, the WIFIA Lender's determination of such matters as set forth on **Exhibit F (WIFIA Debt Service)** shall be conclusive evidence thereof; provided, however, that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner the Borrower's obligations hereunder or under any other WIFIA Loan Document. The WIFIA Lender shall provide the Borrower and the Paying Agent/Registrar with a copy of **Exhibit F (WIFIA Debt Service)** as revised, but no failure to provide or delay in providing the Borrower and the Paying Agent/Registrar with such copy shall affect any of the obligations of the Borrower under this Agreement or the other WIFIA Loan Documents.

Section 9. Prepayment.

(a) Optional Prepayments. The Borrower may prepay the WIFIA Loan in whole on any date or in part on any Payment Date (and, if in part, the amounts thereof to be prepaid shall be determined by the Borrower; provided, that such prepayments shall be in principal amounts of \$500,000 or any integral multiple of \$1.00 in excess thereof), from time to time but not more than once annually from the Borrower's excess revenues (after payment of debt service then due on the Borrower's Project Obligations, including any reserve fund requirements, if applicable). The Borrower may make such prepayment, without penalty or premium, by paying to the WIFIA Lender such principal amount of the WIFIA Loan to be prepaid, together with the unpaid interest accrued on the amount of principal so prepaid to the date of such prepayment;

provided, that, a prepayment in full of the WIFIA Loan may be made on any date. Each prepayment of the WIFIA Loan pursuant to this Section 9(a) shall be made on such date and in such principal amount as shall be specified by the Borrower in a written notice, signed by the Borrower's Authorized Representative and delivered to the WIFIA Lender not less than thirty (30) days prior to the requested date of prepayment, unless otherwise agreed by the WIFIA Lender. At any time between delivery of such written notice and the applicable optional prepayment, the Borrower may, without penalty or premium, rescind its announced optional prepayment by further written notice to the WIFIA Lender. Anything in this Section 9(a) to the contrary notwithstanding, the failure by the Borrower to make any optional prepayment shall not constitute a breach or default under this Agreement.

(b) General Prepayment Instructions. Upon the WIFIA Lender's receipt of confirmation that payment in full in immediately available funds of the entire Outstanding WIFIA Loan Balance and any unpaid interest, fees and expenses with respect thereto has occurred as a result of an optional prepayment, the WIFIA Lender shall surrender the WIFIA Bond to the Borrower or its representative at the principal office of the WIFIA Lender. If the Borrower prepays only part of the unpaid balance of principal of the WIFIA Loan, the WIFIA Lender may make a notation on **Exhibit F** (*WIFIA Debt Service*) indicating the amount of principal of and interest on the WIFIA Loan then being prepaid. Absent manifest error, the WIFIA Lender's determination of such matters as set forth on **Exhibit F** (*WIFIA Debt Service*) shall be conclusive evidence thereof; provided, however, that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner the Borrower's obligations hereunder or under any other WIFIA Loan Document. All partial prepayments of principal shall be applied to reduce future payments due on the WIFIA Loan in inverse order of maturity. If such funds have not been so paid on the prepayment date, such principal amount of the WIFIA Loan shall continue to bear interest until payment thereof at the rate provided for in Section 6 (*Interest Rate*).

Section 10. Fees and Expenses.

(a) Fees. To the extent allowed by law and subject to annual appropriation, the Borrower shall pay to the WIFIA Lender:

(i) a servicing set-up fee equal to \$11,550.00 (the "**Servicing Set-Up Fee**"), which shall be due and payable within thirty (30) days after receipt of an invoice from the WIFIA Lender with respect thereto;

(ii) an annual construction period servicing fee equal to \$11,550.00 (the "**Construction Period Servicing Fee**"), which shall accrue on the first Business Day of the then-current Federal Fiscal Year and shall be due and payable on or prior to each November 15 during the Construction Period (including the Federal Fiscal Year during which the Substantial Completion Date occurs); provided, that the initial Construction Period Servicing Fee shall be due and payable within thirty (30) days after receipt of an invoice from the WIFIA Lender with respect thereto, in a pro-rated amount equal to \$10,580.00; and

(iii) an annual operating period servicing fee equal to \$8,670.00 (the "**Operating Period Servicing Fee**"), which shall accrue on the first Business Day of the

then-current Federal Fiscal Year and shall be due and payable on or prior to each November 15, beginning with the first November 15 following the end of the Federal Fiscal Year during which the Substantial Completion Date occurs, until (and including) the Final Maturity Date; provided, that the Operating Period Servicing Fee due and payable with respect to the Federal Fiscal Year during which the Final Maturity Date occurs shall be equal to the pro-rata monthly portion of the then applicable Operating Period Servicing Fee multiplied by the number of partial or whole months remaining between October 1 and the Final Maturity Date.

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

(c) Expenses. To the extent allowed by law and subject to annual appropriation, the Borrower agrees, whether or not the transactions hereby contemplated shall be consummated, to reimburse the WIFIA Lender on demand from time to time, within thirty (30) days after receipt of any invoice from the WIFIA Lender, for any and all fees, costs, charges, and expenses incurred by it (including the fees, costs, and expenses of its legal counsel, financial advisors, auditors and other consultants and advisors) in connection with the negotiation, preparation, execution, delivery, and performance of this Agreement and the other WIFIA Loan Documents and the transactions hereby and thereby contemplated, including attorneys', and engineers' fees and professional costs, including all such fees, costs, and expenses incurred as a result of or in connection with: (i) the enforcement of or attempt to enforce, or the protection or preservation of any right or claim under, the Security or any provision of this Agreement or any of the other WIFIA Loan Documents or the rights of the WIFIA Lender thereunder; (ii) any amendment, modification, waiver, or consent with respect to this Agreement or any other Related Document; and (iii) any work-out, restructuring, or similar arrangement of the obligations of the Borrower under this Agreement or the other WIFIA Loan Documents, including during the pendency of any Event of Default.

(d) To the extent allowed by law and subject to annual appropriation, the obligations of the Borrower under this Section 10 shall survive the payment or prepayment in full or transfer of the WIFIA Bond, the enforcement of any provision of this Agreement or the other WIFIA Loan Documents, any such amendments, waivers or consents, any Event of Default, and any such workout, restructuring, or similar arrangement.

ARTICLE III

CONDITIONS PRECEDENT

Section 11. Conditions Precedent.

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

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

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

(ii) The Borrower shall have delivered to the WIFIA Lender certified, complete, and fully executed copies of each WIFIA Loan Document, together with any amendments, supplements, waivers or modifications thereto, that has been entered into on or prior to the Effective Date, along with a certification in the Closing Certificate that each such document is complete, fully executed and in full force and effect, and that all conditions contained in such documents that are necessary to the closing of the WIFIA transactions contemplated hereby have been fulfilled.

(iii) The Borrower shall have delivered to the WIFIA Lender complete and fully executed copies of each Existing Construction Contract requested by the WIFIA Lender, together with any amendments, waivers or modifications thereto, along with a certification in the Closing Certificate that each such document is complete, fully executed and in full force and effect.

(iv) The Borrower shall have delivered to the WIFIA Lender (A) a copy of the City Charter, as in effect on the Effective Date, along with a certification in the Closing Certificate that such City Charter is in full force and effect, and (B) other than the WIFIA Supplement, all further instruments and documents (including any resolutions, ordinances, and supplements) as are necessary for the Borrower to execute and deliver, and to perform its obligations under, the WIFIA Loan Documents to which it is a party and to consummate and implement the transactions contemplated by the WIFIA Loan Documents.

(v) Counsel to the Borrower shall have rendered to the WIFIA Lender legal opinions in the form set forth in **Exhibit G-1** (*Opinions Required from Counsel to Borrower*) and bond counsel to the Borrower shall have rendered to the WIFIA Lender legal opinions satisfactory to the WIFIA Lender in its sole discretion (including those opinions set forth in **Exhibit G-2** (*Opinions Required from Bond Counsel*)).

(vi) The Borrower shall have delivered to the WIFIA Lender the Non-Debarment Certificate.

(vii) The Borrower shall have delivered to the WIFIA Lender the Non-Lobbying Certificate and the Civil Rights Pre-Award Compliance Review Report: EPA Form 4700-4.

(viii) The Borrower shall have delivered to the WIFIA Lender a certificate, signed by the Borrower's Authorized Representative, substantially in the form attached hereto as **Exhibit H** (*Form of Closing Certificate*) (the "**Closing Certificate**") (A) designating the Borrower's Authorized Representative, (B) confirming such person's

position and incumbency, and (C) certifying as to the satisfaction of the following conditions precedent:

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

(2) the Borrower has obtained all Governmental Approvals necessary (x) as of the Effective Date in connection with the Project and (y) to execute and deliver, and perform its obligations under the WIFIA Loan Documents, and all such Governmental Approvals are in full force and effect (and are not subject to any notice of violation, breach, or revocation);

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

(4) the Borrower is in compliance with NEPA and any applicable federal, state or local environmental review and approval requirements with respect to the Project, and, if requested by the WIFIA Lender, has provided evidence satisfactory to the WIFIA Lender of such compliance;

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

(6) the Borrower has (A) obtained a Federal Employer Identification Number (as evidenced by a signed W9), (B) obtained a Unique Entity Identifier number, and (C) registered with, and obtained confirmation of active registration status from, the federal System for Award Management (www.SAM.gov);

(7) the Borrower shall have obtained a CUSIP number for the WIFIA Bond (the “**WIFIA CUSIP Number**”) for purposes of monitoring through EMMA;

(8) the representations and warranties of the Borrower set forth in this Agreement and in each other Related Document to which the Borrower is a party are true, correct, and complete in all material respects

as of the date hereof, except to the extent that such representations and warranties expressly relate to an earlier date, in which case such representations and warranties were true and correct as of such earlier date; and

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

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

(x) The Borrower shall have delivered to the WIFIA Lender a certified Base Case Financial Model on or prior to the Effective Date, along with a certification in the Closing Certificate that such Base Case Financial Model (A) demonstrates that projected Net Revenues are sufficient to meet the Loan Amortization Schedule, and (B) demonstrates that the Borrower has developed, and identified adequate revenues to implement, a plan for operating, maintaining and repairing the Project over the useful life of the Project, in form and substance acceptable to the WIFIA Lender.

(xi) The Borrower shall have delivered to the WIFIA Lender the Public Benefits Report.

(xii) The Borrower shall have delivered to the WIFIA Lender the opinion of the State Attorney General approving the WIFIA Bond and the proceedings authorizing this Agreement.

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

(xiv) The Borrower shall have delivered such other agreements, documents, instruments, opinions and other items required by the WIFIA Lender, all in form and substance satisfactory to the WIFIA Lender.

(b) Conditions Precedent to Disbursements. Notwithstanding anything in this Agreement to the contrary, the WIFIA Lender shall have no obligation to make any disbursement of the WIFIA Loan proceeds to the Borrower (except as otherwise provided in Section 4(b) (*Disbursement Conditions; Quarterly Approval of Eligible Project Costs*) with respect to the initial disbursement) until each of the following conditions precedent has been satisfied or waived in writing by the WIFIA Lender in its sole discretion:

(i) The Borrower shall have provided to the WIFIA Lender (A) evidence satisfactory to the WIFIA Lender that (1) the aggregate amount of all

disbursements of the WIFIA Loan (including the requested disbursement but excluding any interest that is capitalized in accordance with the terms hereof) shall not exceed (x) the maximum principal amount of the WIFIA Loan, (y) the amount of Eligible Project Costs paid or incurred by the Borrower, and (z) the cumulative disbursements through the end of the current Federal Fiscal Year as set forth in the Anticipated WIFIA Loan Disbursement Schedule; and (2) the Borrower has sufficient funds committed to the Project, which together with funds that remain available and not yet drawn under the WIFIA Loan, will be sufficient to pay the reasonably anticipated remaining Total Project Costs; and (B) a certification that the total federal assistance provided to the Project, including the maximum principal amount of the WIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), does not exceed eighty percent (80%) of Total Project Costs.

(ii) The Borrower shall have delivered to the WIFIA Lender a Requisition that complies with the provisions of Section 4 (*Disbursement Conditions*) (including satisfactory Eligible Project Costs Documentation relating to such Requisition), and the WIFIA Lender shall have approved (or be deemed to have approved in accordance with Section 4(c) (*Disbursement Conditions*)) such Requisition. The Borrower's Authorized Representative shall also certify in such Requisition that:

(1) all Governmental Approvals necessary as of the time of such disbursement for the development, construction, operation and maintenance of the Project have been issued and are in full force and effect (and are not subject to any notice of violation, breach or revocation);

(2) each of the insurance policies obtained by the Borrower and by any applicable Construction Contractor in satisfaction of the requirements of Section 14(f) (*Affirmative Covenants – Insurance*) is in full force and effect, and no notice of termination thereof has been issued by the applicable insurance provider;

(3) at the time of, and immediately after giving effect to, any disbursement of WIFIA Loan proceeds then currently requested, (1) no Default or Event of Default hereunder shall have occurred and be continuing and (2) no event of default or default that, with the giving of notice or the passage of time or both, would constitute an event of default, in each case, under any other Related Document, shall have occurred and be continuing. No Material Adverse Effect, or any event or condition that could reasonably be expected to result in a Material Adverse Effect, shall have occurred since the date of the Application;

(4) (1) the Borrower, and each of its contractors and subcontractors at all tiers with respect to the Project, has complied with all applicable laws, rules, regulations and requirements, including without limitation 40 U.S.C. §§ 3141–3144, 3146, and 3147 (relating to Davis-Bacon Act requirements) (and regulations relating thereto) and 33 U.S.C. § 3914 (relating to American iron and steel products); and (2) supporting documentation, such as certified payroll records and certifications for all iron and steel products used for the Project, are being maintained and are available for review upon request by the WIFIA Lender; and

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

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

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

Section 12. Representations and Warranties of Borrower. The Borrower hereby represents and warrants that, as of the Effective Date and, as to each of the representations and warranties below other than those contained in clauses (b), (k), and (n) of this Section 12, as of each date on which any disbursement of the WIFIA Loan is requested or made:

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

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

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

(d) Non-Contravention. The execution and delivery of the Related Documents to which the Borrower is a party, the consummation of the transactions contemplated by the

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

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

(f) Litigation. There is no action suit, proceeding or, to the knowledge of the Borrower, any inquiry or investigation, in any case before or by any court or other Governmental Authority pending or, to the knowledge of the Borrower, threatened against or affecting the Utility System (including the Project) or the ability of the Borrower to execute, deliver and perform its obligations under the Related Documents or that in any case could reasonably be expected to result in a Material Adverse Effect.

(g) Security Interests. (i) The Ordinance Documents and Chapters 1208 and 1502, Texas Government Code, as amended to the date hereof, establish, and (ii) the Borrower has taken all necessary action to pledge, assign, and grant, in each case in favor of the WIFIA Lender, as the holder of the WIFIA Bond, legal, valid, binding and enforceable Liens on the Security purported to be created, pledged, assigned, and granted pursuant to and in accordance with the Ordinance Documents, irrespective of whether any Person has notice of the pledge and without the need for any physical delivery, recordation, filing, or further act, and the security interests created in the Security have been duly perfected under applicable State law, including Chapter 1208, Texas Government Code. Such Liens are in full force and effect and are not subordinate or junior to any other Liens in respect of the Security and not *pari passu* with any Liens other than the Liens on the Security in favor of the Parity Debt. The Borrower is not in breach of any covenants set forth in Section 14(b) (*Affirmative Covenants – Securing Liens*) or in the Ordinance Documents with respect to the matters described in Section 14(b) (*Affirmative Covenants – Securing Liens*). As of the Effective Date and as of each other date this representation and warranty is made, (A) all documents and instruments have been recorded or filed for record in such manner and in such places as are required and all other action as is necessary or desirable has been taken to establish a legal, valid, binding, and enforceable and perfected Lien on the Security in favor of the Parity Debt Bondholders to secure the Parity Debt to the extent contemplated by

the Ordinance Documents, and (B) all taxes and filing fees that are due and payable in connection with the execution, delivery or recordation of any Ordinance Documents or any instruments, certificates or financing statements in connection with the foregoing, have been paid. As provided by Chapter 1208, Texas Government Code, neither the attachment, perfection, validity, enforceability nor priority of the security interest in the Security granted pursuant to the Ordinance Documents is governed by Article 9 of the UCC.

All Parity Debt and the interest thereon constitute special obligations of the Borrower payable from the Security and the owners of Parity Debt shall never have the right to demand payment out of funds raised or to be raised by taxation, or from any source other than those specified in the Master Ordinance or any Supplement. The obligation of the Borrower to pay or cause to be paid the amounts payable under the Master Ordinance and each Supplement out of the Security is absolute, irrevocable, complete, and unconditional, and the amount, manner, and time of payment of such amounts shall not be decreased, abated, rebated, setoff, reduced, abrogated, waived, diminished, or otherwise modified in any manner or to any extent whatsoever, regardless of any right of setoff, recoupment, or counterclaim that the Borrower might otherwise have against any owner or any other party and regardless of any contingency, force majeure, event, or cause whatsoever and notwithstanding any circumstance or occurrence that may arise or take place before, during, or after the issuance of Parity Debt while any Parity Debt is outstanding.

The Pledged Revenues do not include any grants, donations or income received or to be received from the United States Government.

(h) No Debarment. The Borrower has fully complied with its verification obligations under 2 C.F.R. § 180.320 and confirms, based on such verification, that, to its knowledge, neither the Borrower nor any of its principals (as defined in 2 C.F.R. § 180.995 and supplemented by 2 C.F.R § 1532.995) is debarred, suspended or voluntarily excluded from participation in Government contracts, procurement or non-procurement matters or delinquent on a Government debt as more fully set forth in the certificate delivered pursuant to Section 11(a)(vi) (*Conditions Precedent – Conditions Precedent to Effectiveness*).

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

(j) Accuracy of Representations and Warranties. The representations, warranties and certifications of the Borrower set forth in this Agreement and the other Related Documents are true, correct, and complete, except to the extent such representations and warranties

expressly relate to an earlier date (in which case, such representations and warranties shall be true, correct, and complete as of such earlier date).

(k) Compliance with Laws.

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

(ii) To ensure such compliance, the Borrower has included in all contracts with respect to the Project (A) the contract clauses relating to the Davis-Bacon Act requirements that are set forth in the Code of Federal Regulations, Title 29 Part 5.5 and (B) requirements that its contractor(s) (1) shall comply with all applicable laws, rules, regulations, and requirements set forth in this Section 12(k) and follow applicable federal guidance and (2) incorporate in all subcontracts (and cause all subcontractors to include in lower tier subcontracts) such terms and conditions as are required to be incorporated therein by any applicable laws, rules, regulations and requirements set forth in this Section 12(k) (including without limitation with respect to the Davis-Bacon Act requirements).

(l) Credit Ratings. The WIFIA Bond has received an Investment Grade Rating from at least one (1) Nationally Recognized Rating Agency, and written evidence of such ratings has been provided to the WIFIA Lender prior to the Effective Date, and no such rating has been reduced, withdrawn or suspended as of the Effective Date.

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

(n) Governmental Approvals. All Governmental Approvals required as of the Effective Date and any subsequent date on which this representation is made (or deemed made) for the undertaking and completion by the Borrower of the Project and the construction, operation and maintenance of the Utility System have been obtained or effected and are in full force and effect and there is no basis for, nor proceeding that is pending or threatened that could reasonably be expected to result in, the revocation of any such Governmental Approval.

(o) Construction Contracts. Attached as **Schedule 12(o)** (*Construction Contracts*) is a list of the Existing Construction Contracts and all Additional Construction Contracts that are expected to be entered into.

(p) Information. The information furnished by, or on behalf of, the Borrower to the WIFIA Lender, when taken as a whole, is true and correct in all material respects (other than for projections and other forward-looking statements contained in the Base Case Financial Model which have been made in good faith and based on reasonable assumptions) and does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements contained therein not misleading as of the date made or furnished.

(q) Environmental Matters. The Borrower has not received any written communication or notice, whether from a Governmental Authority, employee, citizens group, or any other Person, that alleges that the Borrower is not in full compliance with all Environmental Laws and Governmental Approvals relating thereto in connection with the Project and, to the Borrower's knowledge, there are no circumstances that may prevent or interfere with full compliance in the future by the Borrower with any such Environmental Law or Governmental Approval. The Borrower has provided to the WIFIA Lender all material assessments, reports, results of investigations or audits, and other material information in the possession of or reasonably available to the Borrower regarding the Borrower's or the Project's compliance with (A) Environmental Laws and (B) Governmental Approvals relating to Environmental Laws that are required for the Project.

(r) Insurance. The Borrower is in compliance with all insurance obligations required under each Construction Contract and the other Related Documents as of the date on which this representation and warranty is made. To the extent the Borrower self-insures, the Borrower's self-insurance program is actuarially sound.

(s) No Liens. Except for Permitted Liens, the Borrower has not created, and is not under any obligation to create, and has not entered into any transaction or agreement that would result in the imposition of, any Lien on the Security, the Utility System, the Project, the Gross Revenues, or the properties or assets in relation to the Project.

(t) Financial Statements. Each income statement, balance sheet and statement of operations and cash flows (collectively, "**Financial Statements**") delivered to the WIFIA Lender pursuant to Section 16(b) (*Reporting Requirements – Annual Financial Statements*) has been prepared in accordance with GAAP and presents fairly, in all material respects, the financial condition of the Borrower as of the respective dates of the balance sheets included therein and the results of operations of the Borrower for the respective periods covered by the statements of income included therein. Except as reflected in such Financial Statements, there are no liabilities or obligations of the Borrower of any nature whatsoever for the period to which such Financial Statements relate that are required to be disclosed in accordance with GAAP.

(u) Securities Laws. Under existing law, the WIFIA Bond may be issued and sold without registration under the Securities Act of 1933, as amended, and any State blue sky laws, and the Ordinance is exempt from qualification pursuant to the Trust Indenture Act of 1939, as amended.

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

(w) Sufficient Funds. The amount of the WIFIA Loan, when combined with all other funds committed for the development and construction of the Project as set forth under the

various sources of funds in the Base Case Financial Model and the Project Budget will be sufficient to carry out the Project, pay all Total Project Costs anticipated for the development and construction of the Project and achieve Substantial Completion by the Projected Substantial Completion Date.

(x) Sovereign Immunity. To the extent authorized by Texas Government Code Section 1371.059(c), the Borrower has, in the WIFIA Supplement waived sovereign immunity from suit and liability for the purposes of adjudicating a claim to enforce the WIFIA Bond which evidences amounts due under this Agreement or for damages for breach thereof.

Section 13. Representations and Warranties of WIFIA Lender. The WIFIA Lender represents and warrants that:

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

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

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

ARTICLE V

COVENANTS

Section 14. Affirmative Covenants. The Borrower covenants and agrees as follows until the date the WIFIA Bond and the obligations of the Borrower under this Agreement (other than contingent indemnity obligations) are irrevocably paid in full in immediately available funds and this Agreement is terminated (other than obligations of the Borrower that are expressly stated to survive termination), unless the WIFIA Lender waives compliance in writing:

(a) Rate Covenant. The Borrower has agreed and covenanted in the Master Ordinance with the Owners of the Parity Debt that so long as any Parity Debt, or any interest thereon, remain Outstanding and unpaid, to establish and maintain rates and charges for facilities and services afforded by the Utility System that are reasonably expected, on the basis of available information and experience and with due allowance for contingencies, to produce Gross Revenues in each Fiscal Year to satisfy the requirements specified in Section 5 of the Master Ordinance, which requirements are hereby incorporated herein and a copy of such section, as of the Effective Date, is attached hereto as **Schedule VII** (*Rate Covenant*) (collectively, the “**Rate Covenant**”).

(b) Securing Liens. The Borrower shall at any and all times, to the extent permitted by law, pass, make, do, execute, acknowledge and deliver, all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable in connection with assuring, conveying, granting, assigning, securing and confirming

the Liens on the Security (whether now existing or hereafter arising) granted to the WIFIA Lender for its benefit pursuant to the Ordinance Documents, or intended so to be granted pursuant to the Ordinance Documents, or which the Borrower may become bound to grant. The Borrower shall at all times maintain the Security free and clear of any pledge, Lien, charge or encumbrance thereon or with respect thereto that has priority over, or equal rank with, the Liens created by the Ordinance Documents, other than as permitted by this Agreement, and all organizational, regulatory or other necessary action on the part of the Borrower to that end shall be duly and validly taken at all times. The Borrower shall at all times, to the extent permitted by law, defend, preserve and protect the Liens on the Security granted pursuant to the Ordinance Documents and for the benefit of the WIFIA Lender under the Ordinance Documents against all claims and demands of all Persons whomsoever, subject to Permitted Liens. The Borrower shall comply with Section 1.02(c) of the WIFIA Supplement, which requirements are hereby incorporated herein.

(c) Use of Proceeds. The Borrower shall use the proceeds of the WIFIA Loan for purposes permitted by applicable law and as otherwise permitted under this Agreement and the other Related Documents.

(d) Prosecution of Work; Verification Requirements.

(i) The Borrower shall diligently prosecute the work relating to the Project and complete the Project in accordance with the Construction Schedule, the Governmental Approvals in connection with the Project, and prudent industry practice.

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

(e) Operations and Maintenance. The Borrower shall (i) operate and maintain the Utility System (including, but not limited to, the Project) in a reasonable and prudent manner and (ii) maintain the Utility System (including the Project) in good repair, working order and condition and in accordance with the requirements of all applicable laws and each applicable Related Document. The Borrower shall at all times do or cause to be done all things necessary to obtain, preserve, renew, extend and keep in full force and effect the Governmental Approvals and any other rights, licenses, franchises, and authorizations material to the conduct of its business.

(f) Insurance.

(i) The Borrower shall at all times procure and maintain or cause to be maintained insurance on the Utility System and the construction of the Project, with responsible insurers, or as part of a reasonable system of self-insurance that is adequately funded, in such amounts and against such risks (including damage to or destruction of the Utility System) as are customarily maintained with respect to works and properties of like character against accident to, loss of, or damage to such works or properties. All policies of insurance required to be maintained herein shall, to the extent reasonably obtainable, provide that the WIFIA Lender shall be given thirty (30) days written notice of any intended cancellation thereof or reduction of coverage provided thereby. The Borrower

shall cause each Construction Contractor to obtain and maintain builders risk and casualty and liability insurance in accordance with the requirements of the applicable Construction Contract.

(ii) The Borrower shall (by self-insuring or maintaining with responsible insurers or by a combination thereof) provide for workers' compensation insurance for Borrower's workers and insurance against public liability and property damage to the Utility System (including the Project) to the extent reasonably necessary to protect the Borrower and the WIFIA Lender.

(iii) The Borrower shall cause all liability insurance policies that it maintains (and, during the Construction Period, that are maintained by any Construction Contractor), other than workers' compensation insurance, to reflect the WIFIA Lender as an additional insured to the extent of its insurable interest.

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

(v) The Borrower shall comply with the insurance requirements of the Ordinance Documents and shall deliver to the WIFIA Lender within thirty (30) days after receipt thereof any certifications or opinions provided to the Borrower pursuant to the Ordinance Documents with respect to the Borrower's program of insurance or self-insurance.

(g) Maintain Legal Structure. The Borrower shall maintain its existence as a municipal body politic and corporate organized and existing under its Organizational Documents and the laws of the State.

(h) [Reserved]

(i) Compliance with Laws.

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

(ii) To ensure such compliance, the Borrower shall include in all contracts with respect to the Project (A) the contract clauses relating to the Davis-Bacon Act requirements that are set forth in the Code of Federal Regulations, Title 29 Part 5.5 and (B) requirements that its contractor(s) (1) shall comply with all applicable laws, rules, regulations, and requirements set forth in this Section 14(i) and follow applicable federal guidance and (2) incorporate in all subcontracts (and cause all subcontractors to include in

lower tier subcontracts) such terms and conditions as are required to be incorporated therein by any applicable laws, rules, regulations and requirements set forth in this Section 14(i) (including without limitation with respect to the Davis-Bacon Act requirements).

(j) Material Obligations. The Borrower shall pay its material obligations promptly and in accordance with their terms and pay and discharge promptly all taxes, assessments and governmental charges or levies imposed upon it or upon the Gross Revenues or other assets of the Utility System, before the same shall become delinquent or in default, as well as all lawful and material claims for labor, materials and supplies or other claims which, if unpaid, might give rise to a Lien upon such properties or any part thereof or on the Gross Revenues or the Security; provided, however, that such payment and discharge shall not be required with respect to any such tax, assessment, charge, levy, claim or Lien so long as the validity or amount thereof shall be contested by the Borrower in good faith by appropriate proceedings and so long as the Borrower shall have set aside adequate reserves with respect thereto in accordance with and to the extent required by GAAP, applied on a consistent basis.

(k) [Reserved]

(l) SAM Registration. The Borrower shall (i) obtain and maintain through the Final Disbursement Date an active registration status with the federal System for Award Management (www.SAM.gov) (or any successor system or registry) prior to the Effective Date and provide such registration information to the WIFIA Lender and (ii) within sixty (60) days prior to each anniversary of the Effective Date until the Final Disbursement Date, provide to the WIFIA Lender evidence of such active registration status with no active exclusions reflected in such registration.

(m) UEI Number. The Borrower shall (i) obtain and maintain a number issued by the Federal Government (including through SAM.gov) as the unique entity identifier for the Borrower (a “**UEI Number**”) prior to the Effective Date and provide such number to the WIFIA Lender and (ii) within sixty (60) days prior to each anniversary of the Effective Date, provide to the WIFIA Lender evidence of the continuing effectiveness of such UEI Number, in each case until the Final Maturity Date or to such earlier date as all amounts due or to become due to the WIFIA Lender under this Agreement have been irrevocably paid in full in immediately available funds.

(n) Insurance Proceeds. The Borrower shall pledge and apply the proceeds of insurance covering the Utility System in accordance with Section 6(o) of the Master Ordinance.

(o) [Reserved]

(p) Accounting and Audit Procedures.

(i) The Borrower shall establish fiscal controls and accounting procedures sufficient to assure proper accounting for all (A) Gross Revenues, operating expenses, capital expenses, depreciation, reserves, debt issued and outstanding and debt payments and (B) Project-related costs, WIFIA Loan requisitions submitted, WIFIA Loan proceeds received, payments made by the Borrower with regard to the Project, other sources of funding for the Project (including amounts paid from such sources for Project

costs so that audits may be performed to ensure compliance with and enforcement of this Agreement). The Borrower shall use accounting, audit and fiscal procedures conforming to GAAP, including, with respect to the WIFIA Loan, accounting of principal and interest payments, disbursements, prepayments and calculation of interest and principal amounts Outstanding.

(ii) The Borrower shall have a single or program-specific audit conducted in accordance with 2 C.F.R. Part 200 Subpart F and 31 U.S.C. § 7502 for 2022 and annually thereafter, except to the extent biennial audits are permitted for the Borrower pursuant to 2 C.F.R. § 200.504 and 31 U.S.C. § 7502(b). Upon reasonable notice, the Borrower shall cooperate fully in the conduct of any periodic or compliance audits conducted by the WIFIA Lender, or designees thereof, pursuant to 40 C.F.R. Part 35, 31 U.S.C. § 7503(b), or 31 U.S.C. § 6503(h) and shall provide full access to any books, documents, papers or other records that are pertinent to the Project or the WIFIA Loan, to the WIFIA Lender, or the designee thereof, for any such project or programmatic audit.

(q) Access; Records.

(i) So long as the WIFIA Loan or any portion thereof shall remain outstanding and until five (5) years after the WIFIA Loan shall have been paid in full, the WIFIA Lender shall have the right, upon reasonable prior notice, to visit and inspect any portion of the Project, to examine books of account and records of the Borrower relating to the Project, to make copies and extracts therefrom at the Borrower's expense, and to discuss the Borrower's affairs, finances and accounts relating to the Project with, and to be advised as to the same by, its officers and employees and its independent public accountants (and by this provision the Borrower irrevocably authorizes its independent public accountants to discuss with the WIFIA Lender the affairs, finances and accounts of the Borrower, whether or not any representative of the Borrower is present, it being understood that nothing contained in this Section 14(q) is intended to confer any right to exclude any such representative from such discussions), all at such reasonable times and intervals as the WIFIA Lender may request. The Borrower agrees to pay all out-of-pocket expenses incurred by the WIFIA Lender in connection with the WIFIA Lender's exercise of its rights under this Section 14(q) at any time when an Event of Default shall have occurred and be continuing.

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

Section 15. Negative Covenants. The Borrower covenants and agrees as follows until the date the WIFIA Bond and the obligations of the Borrower under this Agreement (other than contingent indemnity obligations) are irrevocably paid in full in immediately available funds, unless the WIFIA Lender waives compliance in writing:

(a) Indebtedness.

(i) Except for Permitted Debt, the Borrower shall not without the prior written consent of the WIFIA Lender issue or incur any Debt.

(ii) The Borrower shall not create, incur or suffer to exist (A) any Debt the payments of which are senior or prior in right to the payment by the Borrower of the Parity Debt, or (B) any Additional Parity Debt Project Obligations that are secured by a Lien on any assets or property of the Borrower other than the Security.

(iii) The Borrower shall not issue or incur any Parity Debt or Subordinated Debt except in accordance with all requirements and conditions set forth in Section 7 of the Master Ordinance, which requirements and conditions are hereby incorporated herein and a copy of such article, as of the Effective Date, is attached hereto as **Schedule VIII** (*Additional Debt Test*).

(b) No Lien Extinguishment or Adverse Amendments. The Borrower shall not, and shall not permit any Person to, without the prior written consent of the WIFIA Lender, (i) extinguish the Rate Covenant; (ii) extinguish or impair the Liens on the Security or any dedicated source of repayment of the WIFIA Loan or any other Debt (the proceeds of which are applied to fund Total Project Costs), in each case granted pursuant to the Master Ordinance, (iii) amend, modify, replace or supplement any Related Document or permit a waiver of any provision thereof in a manner that could adversely affect the WIFIA Lender or could reasonably be expected to result in a Material Adverse Effect, or (iv) terminate, assign or replace any Related Document in a manner that could adversely affect the WIFIA Lender or could reasonably be expected to have a Material Adverse Effect.

(c) No Prohibited Liens. Except for Permitted Liens, the Borrower shall not create, incur, assume or permit to exist any Lien on the Project, the Security, the Gross Revenues, or the Borrower's respective rights therein.

(d) [Reserved]

(e) No Prohibited Sale, Lease or Assignment. The Borrower shall not sell, lease or assign its rights in and to the Utility System or a substantial portion of the assets included in the Utility System, unless such sale, lease or assignment (i) could not reasonably be expected to have a Material Adverse Effect and (ii) is made by the Borrower in the ordinary course of business.

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

(g) Mergers and Acquisitions. The Borrower shall not, and shall not agree to, reorganize, consolidate with or merge into another Person unless (i) such reorganization, merger or consolidation is with or into another entity established by State law and such reorganization, merger or consolidation is mandated by State law, and in each case, does not adversely affect or impair to any extent or in any manner (A) the Gross Revenues or other elements of the Security or (B) the availability of the Gross Revenues for the payment and security of the obligations of the Borrower under this Agreement; and (ii) the Borrower provides to the WIFIA Lender, no later than sixty (60) days prior to the date of reorganization, consolidation or merger, prior written notice of such reorganization, consolidation or merger and the agreements and documents authorizing the reorganization, consolidation or merger, satisfactory in form and substance to the WIFIA Lender. In addition, the Borrower shall provide all information concerning such reorganization, consolidation or merger as shall have been reasonably requested by the WIFIA Lender.

(h) Hedging. The Borrower shall not enter into any swap or hedging transaction with respect to or payable from all or part of the Security, including inflation indexed swap transactions, “cap” or “collar” transactions, futures, or any other hedging transaction, for any speculative purpose. For the avoidance of doubt, the Borrower is permitted to enter into a swap or hedging transaction with respect to or payable from all or part of the Security, including inflation indexed swap transactions, “cap” or “collar” transactions, futures, or any other hedging transaction with respect to or payable from all or part of the Security with respect to Parity Debt that bears interest at a variable interest rate so long as the Borrower’s obligations to pay any termination payments with respect thereto are made junior and subordinate in all respects to Parity Debt.

Section 16. Reporting Requirements.

(a) Annual Budget; Financial Plan.

(i) The Borrower shall provide to the WIFIA Lender not later than one hundred eighty (180) days after the beginning of each Borrower Fiscal Year (A) its annual budget or (B) a financial plan demonstrating to the satisfaction of the WIFIA Lender that the Borrower has developed and identified adequate revenues to implement a plan for operating, maintaining and repairing the Project over its useful life, and including (x) the Borrower’s capital improvement plan, major maintenance plan, projected rates and charges, projected Gross Revenues and Operation and Maintenance Expenses for a reasonable projection period consistent with the Borrower’s operating and financial planning, and projected debt outstanding and annual debt service, and (y) evidence of compliance with the Rate Covenant for the most recent Borrower Fiscal Year and the projected Rate Covenant coverages through the Final Maturity Date.

(ii) The delivery by the Borrower of its annual budget or the financial plan to the WIFIA Lender pursuant to Section 16(a)(i) shall constitute a representation and warranty by the Borrower that such documents reflect the Borrower’s reasonable expectations, using assumptions that the Borrower believes to be reasonable, of the System’s expected operations, including capital costs, capital spending schedule, rates and charges, Gross Revenues, Operation and Maintenance Expenses, major maintenance costs, financing structure and other scheduling, cost and financing elements.

(b) Annual Financial Statements. The Borrower shall deliver to the WIFIA Lender, as soon as available, but no later than one hundred eighty (180) days after the end of each Borrower Fiscal Year a copy of the audited income statement and balance sheet of the Borrower as of the end of such Borrower Fiscal Year and the related audited statements of operations and of cash flow of the Borrower for such Borrower Fiscal Year, (A) setting forth in each case in comparative form the figures for the previous fiscal year, (B) certified without qualification or exception, or qualification as to the scope of the audit, by an independent public accounting firm selected by the Borrower, and (C) which shall be complete and correct in all material respects and shall be prepared in reasonable detail and in accordance with GAAP applied consistently throughout the periods reflected therein (except, with respect to the annual financial statements, for changes approved or required by the independent public accountants certifying such statements and disclosed therein).

(c) Final Design Specifications. The Borrower shall deliver to the WIFIA Lender prior to bid advertisement, a copy of the final specifications relating to the development and construction of the Project, demonstrating compliance with all applicable federal requirements and including a summary of the scope of work thereunder.

(d) Construction Reporting. The WIFIA Lender shall have the right in its sole discretion to monitor (or direct its agents to monitor) the development of the Project, including environmental compliance, design, and construction of the Project. The Borrower shall be responsible for administering construction oversight of the Project in accordance with applicable federal, state and local governmental requirements. The Borrower agrees to cooperate in good faith with the WIFIA Lender in the conduct of such monitoring by promptly providing the WIFIA Lender with such reports, documentation or other information as shall be requested by the WIFIA Lender or its agents, including any independent engineer reports, documentation or information. During the period through Substantial Completion of the Project, the Borrower shall furnish to the WIFIA Lender, on a quarterly basis, a report on the status of the Project, substantially in the form of **Exhibit J** (*Form of Quarterly Report*). The report for any quarter, shall be delivered to the WIFIA Lender within thirty (30) days of the following quarter (or if such day is not a Business Day, on the next following Business Day). If the then-current projection for the Substantial Completion Date is a date later than the Projected Substantial Completion Date, the Borrower shall provide in such report a description in reasonable detail to the reasonable satisfaction of the WIFIA Lender of the reasons for such projected delay, an estimate of the impact of such delay on the capital and operating costs of the Utility System (if any), and that the new date could not reasonably be expected to result in a Material Adverse Effect.

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

(f) Modifications to Total Project Costs. For the period through the Substantial Completion Date, the Borrower shall provide the WIFIA Lender with written notification at least thirty (30) days prior to instituting any increase to the aggregate Total Project Costs in an amount

equal to or greater than twenty percent (20%), which notification shall set forth the nature of the proposed increase or decrease and an estimate of the impact of such increase or decrease on the capital costs and operating costs of the Utility System. The Borrower's notice shall demonstrate that the proposed increase or decrease is consistent with the provisions of this Agreement, is necessary or beneficial to the Project, does not materially impair the WIFIA Lender's security or the Borrower's ability to comply with its obligations under the Related Documents (including any financial ratios or covenants included therein), and could not reasonably be expected to result in a Material Adverse Effect.

(g) Operations and Maintenance. The WIFIA Lender shall have the right, in its sole discretion, to monitor (or direct its agents to monitor) the Project's operations and, as the WIFIA Lender may request from time to time, to receive reporting on the operation and management of the Project, and copies of any contracts relating to the operation and maintenance of the Project. The Borrower agrees to cooperate in good faith with the WIFIA Lender in the conduct of such monitoring by promptly providing the WIFIA Lender with such reports, documentation, or other information requested by the WIFIA Lender. The WIFIA Lender has the right, in its sole discretion, to retain such consultants or advisors, to carry out the provisions of this Section 16(g). On or prior to the Substantial Completion Date, the Borrower shall deliver to the WIFIA Lender an operations and maintenance manual with respect to the Project, in form and substance reasonably acceptable to the WIFIA Lender.

(h) Notices.

(i) The Borrower shall, within fifteen (15) days after the Borrower learns of the occurrence, give the WIFIA Lender notice of any of the following events or receipt of any of the following notices, as applicable, setting forth details of such event:

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

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

(C) Litigation: (1) the filing of any litigation, suit or action, or the commencement of any proceeding, against the Borrower before any arbitrator, Governmental Authority, alternative dispute resolution body, or other neutral third-party that could reasonably be expected to have a Material Adverse Effect, and (2) any final, non-appealable judgment related to the Security entered against the Borrower;

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

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

(F) Amendments: except as otherwise agreed by the WIFIA Lender in writing, copies of (1) any proposed amendments to the provisions of the Master Ordinance or the WIFIA Supplement at least thirty (30) days prior to the effective date thereof and (2) copies of fully executed amendments of any Related Document within ten (10) days following execution thereof; provided, that such notice can be accomplished through an email to the WIFIA Lender that includes a link to the posting of the relevant documents on EMMA;

(G) Related Document Defaults: any material breach or default or event of default on the part of the Borrower or any other party under any Related Document; provided that such notice can be accomplished through the posting of the relevant documents on EMMA;

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

(I) Ratings Changes: any change in the rating assigned to the Parity Debt, the WIFIA Bond, or any Subordinated Debt, in each case by any Nationally Recognized Rating Agency that has provided a public rating on such indebtedness, and any notices, reports or other written materials (other than those that are ministerial in nature) received from any such rating agencies; provided, that such notice can be accomplished through an email to the WIFIA Lender that includes a link to the posting of the relevant documents on EMMA;

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

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

(L) Issuance of Debt: copies of any final issuing instrument (together with any continuing disclosure documents, ordinances, official statement, certifications or cash flow projections in connection therewith), prepared in connection with the incurrence of any Permitted Debt (including any Additional Debt); provided that such notice can be accomplished through an email to the WIFIA Lender that includes a link to the posting of the relevant documents on EMMA;

(M) Postings on EMMA: the posting of any document on EMMA in accordance with the requirements of any Continuing Disclosure Agreement with respect to any Outstanding Debt relating to annual financial information and operating data and the reporting of significant events; provided that such notice can be accomplished through a posting of the relevant document on EMMA; and

(N) Other Adverse Events: the occurrence of any other event or condition, including without limitation any notice of breach from a contract counterparty or any holder of any Debt, that could reasonably be expected to result in a Material Adverse Effect.

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

(i) Requested Information. The Borrower shall, at any time while the WIFIA Loan remains outstanding, promptly deliver to the WIFIA Lender such additional information regarding the business, financial, legal or organizational affairs of the Borrower or regarding the Utility System, the Project or the Gross Revenues as the WIFIA Lender may from time to time reasonably request.

ARTICLE VI

EVENTS OF DEFAULT

Section 17. Events of Default and Remedies.

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

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

(ii) Covenant Default. The Borrower shall fail to observe or perform any covenant, agreement or obligation of the Borrower under this Agreement, the WIFIA Bond or any other WIFIA Loan Document (other than in the case of any Payment Default or any Development Default), and such failure shall not be cured within thirty (30) days after the earlier to occur of (A) receipt by the Borrower from the WIFIA Lender of written notice thereof or (B) the Borrower's knowledge of such failure; provided, however, that if such failure is capable of cure but cannot reasonably be cured within such thirty (30) day cure period, then no Event of Default shall be deemed to have occurred or be continuing under this Section 17(a)(ii), and such thirty (30) day cure period shall be extended by up to one hundred fifty (150) additional days, if and so long as (x) within such thirty (30) day cure period the Borrower shall commence actions reasonably designed to cure such failure

and shall diligently pursue such actions until such failure is cured and (y) such failure is cured within one hundred eighty (180) days of the date specified in either (A) or (B) above, as applicable.

(iii) Misrepresentation Default. Any of the representations, warranties or certifications of the Borrower made in or delivered pursuant to the WIFIA Loan Documents (or in any certificates delivered by the Borrower in connection with the WIFIA Loan Documents) shall prove to have been false or misleading in any material respect when made or deemed made (or any representation and warranty that is subject to a materiality qualifier shall prove to have been false or misleading in any respect); provided, that no Event of Default shall be deemed to have occurred under this Section 17(a)(iii) if and so long as (A) such misrepresentation is not intentional, (B) such misrepresentation is not a misrepresentation in respect of Section 12(h) (*Representations and Warranties of Borrower – No Debarment*), or Section 12(k) (*Representations and Warranties of Borrower – Compliance with Laws*), (C) in the reasonable determination of the WIFIA Lender, such misrepresentation has not had, and would not reasonably be expected to result in, a Material Adverse Effect, (D) in the reasonable determination of the WIFIA Lender, the underlying issue giving rise to the misrepresentation is capable of being cured and (E) the underlying issue giving rise to the misrepresentation is cured by the Borrower within thirty (30) days after the date on which the Borrower first became aware (or reasonably should have become aware) of such misrepresentation.

(iv) Cross Default with Other Related Documents. Any default shall occur and be continuing (after the expiration of any applicable grace period) in respect of the performance of any covenant, agreement or obligation of the Borrower under a Related Document, if (A) the Borrower shall have failed to cure such default or to obtain an effective written waiver thereof in accordance with the terms thereof and (B) the effect of such default results in the exercise by the holder(s) of the Debt under such Related Document of any remedies permitted thereunder.

(v) Material Adverse Judgment. Any final, non-appealable judgment related to the Gross Revenues, the Utility System or the Project shall be entered against the Borrower which has a Material Adverse Effect.

(vi) Occurrence of a Bankruptcy Related Event. A Bankruptcy Related Event shall occur with respect to the Borrower, and in the case of an event described in clause (c)(i) or (c)(ii) of the definition thereof, such process shall continue undismissed for thirty (30) days, an order or decree approving or ordering any of the foregoing shall be entered, or, in the WIFIA Lender's judgment, such process has a reasonable basis for proceeding.

(vii) Invalidity of WIFIA Loan Documents. (A) Any WIFIA Loan Document ceases to be in full force and effect (other than as a result of the termination thereof in accordance with its terms) or becomes void, voidable, illegal or unenforceable, or the Borrower contests in any manner the validity or enforceability of any WIFIA Loan Document to which it is a party or denies it has any further liability under any WIFIA Loan Document to which it is a party, or purports to revoke, terminate or rescind any WIFIA

Loan Document to which it is a party; (B) any Ordinance Document ceases (other than as expressly permitted thereunder) to be effective or to grant a valid and binding security interest on any material portion of the Security other than as a result of actions or a failure to act by, and within the control of, any Bondholder, and with the priority purported to be created thereby; or (C) any event occurs that results in the material impairment in the perfection or priority of the WIFIA Lender's security interest in the Security or in the value of such Security.

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

(ix) Amounts Subject to Annual Appropriation. (A) The Borrower shall fail to request appropriation of, or to so appropriate, as separate line items in its annual budget, amounts sufficient to timely pay any Subject to Appropriation Obligation; or (B) any Subject to Appropriation Obligation which otherwise would have been due and payable under this Agreement but for the failure to appropriate such amounts, remains unpaid.

Except in the case of a Payment Default or an Event of Default under Section 17(a)(iv) (*Events of Default and Remedies – Cross Default with Other Financing Documents*) (where based on nonpayment of principal of, interest on or redemption price of Senior Debt when due), Section 17(a)(vi) (*Events of Default and Remedies – Occurrence of a Bankruptcy Related Event*) or Section 17(a)(vii) (*Events of Default and Remedies – Invalidity of WIFIA Loan Documents*), the Borrower shall not be considered in default hereunder, and no Event of Default shall be deemed to have occurred or be continuing, unless and until the WIFIA Lender provides the Borrower written notice of the Event of Default. Nothing in this paragraph is intended to limit any obligation of the Borrower hereunder, including any obligation to cure any event or condition contemplated under Section 17(a) (*Events of Default and Remedies*).

(b) Upon the occurrence of the Event of Default in Section 17(a)(vi) (*Events of Default and Remedies – Occurrence of a Bankruptcy Related Event*) or the Event of Default in Section 17(a)(vii) (*Events of Default and Remedies – Invalidity of WIFIA Loan Documents*), all obligations of the WIFIA Lender hereunder with respect to the disbursement of any undisbursed amounts of the WIFIA Loan shall automatically be deemed terminated.

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

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

(ii) the WIFIA Lender may apply the Default Rate provisions of Section 6 (*Interest Rate*);

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

(iv) the WIFIA Lender shall be entitled and empowered to institute any actions or proceedings at law or in equity for the collection of any sums due and unpaid hereunder or under the WIFIA Bond or the other WIFIA Loan Documents, and may prosecute any such judgment or final decree against the Borrower and collect in the manner provided by law out of the property of the Borrower the moneys adjudged or decreed to be payable, and the WIFIA Lender shall have all of the rights and remedies of a creditor, including all rights and remedies of a secured creditor under the Uniform Commercial Code, and may take such other actions at law or in equity as may appear necessary or desirable to collect all amounts payable by Borrower under this Agreement, the WIFIA Bond or the other WIFIA Loan Documents then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Agreement, the WIFIA Bond or the other WIFIA Loan Documents; and/or

(v) if any Bondholder of Parity Debt or Subordinated Debt exercises a right to accelerate or require the mandatory prepayment in full of such Parity Debt or Subordinated Debt, the WIFIA Lender may declare the unpaid principal amount of the WIFIA Bond to be, and the same shall thereupon forthwith become, immediately due and payable, together with the interest accrued thereon and all fees, costs, expenses, indemnities and other amounts payable under this Agreement, the WIFIA Supplement or the other WIFIA Loan Documents, all without presentment, demand, notice, protest or other requirements of any kind, all of which are hereby expressly waived. The parties acknowledge that as of the Effective Date acceleration is not a remedy allowed under the Ordinance Documents.

(d) No action taken pursuant to this Section 17 shall relieve Borrower from its obligations pursuant to this Agreement, the WIFIA Bond or the other WIFIA Loan Documents, all of which shall survive any such action.

ARTICLE VII

MISCELLANEOUS

Section 18. Disclaimer of Warranty. The WIFIA Lender makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for a particular purpose or fitness for use of the Project or any portion thereof or any other warranty with respect thereto. In no event shall the WIFIA Lender be liable for any incidental, indirect, special or consequential damages incidental to or arising out of this Agreement or the Utility System (including the Project) or the existence, furnishing, functioning or use of the Project or any item or products or services provided for in this Agreement.

Section 19. No Personal Recourse. No official, employee or agent of the WIFIA Lender or the Borrower or any Person executing this Agreement or any of the other WIFIA Loan Documents shall be personally liable on this Agreement or such other WIFIA Loan Documents by reason of the issuance, delivery or execution hereof or thereof.

Section 20. No Third Party Rights. The parties hereby agree that this Agreement creates no third party rights against the Borrower, the Government, or the WIFIA Lender, solely by virtue of the WIFIA Loan. To the extent authorized by law and in accordance with Section 32 (*Indemnification*), the Borrower agrees to indemnify and hold the WIFIA Lender, the Servicer (if any), the Administrator, and the Government harmless from any lawsuit or claim arising in law or equity solely by reason of the WIFIA Loan, and that no third party creditor of the Borrower shall have any right against the WIFIA Lender with respect to the WIFIA Loan made pursuant to this Agreement. Nothing in this Section 20 shall waive any limitations on liability or immunity provided by the Texas Constitution and the Texas Tort Claims Act, and Borrower hereby notifies WIFIA Lender that it has neither provided nor made any obligation from current revenues, budget allocation, order, resolution, tax, or interest and sinking fund in regards to said indemnity.

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

Section 22. WIFIA Lender's Authorized Representative. The WIFIA Lender hereby appoints the Director of the WIFIA Program, whose notice details are set forth below in Section 31 (*Notices*), to serve as the WIFIA Lender's Authorized Representative under this Agreement until such time as a successor or successors shall have been appointed. Thereafter, the successor in office shall serve as the WIFIA Lender's Authorized Representative. The WIFIA Lender shall provide notice to the Borrower within a reasonable time period following the succession.

Section 23. Servicer. The WIFIA Lender may from time to time designate another entity or entities to perform, or assist the WIFIA Lender in performing, the duties of the Servicer or specified duties of the WIFIA Lender under this Agreement and the WIFIA Bond. The WIFIA Lender shall give the Borrower written notice of the appointment of any successor or additional Servicer and shall enumerate the duties or any change in duties to be performed by any Servicer. Any references in this Agreement to the WIFIA Lender shall be deemed to be a reference to the Servicer with respect to any duties which the WIFIA Lender shall have delegated to such Servicer. The WIFIA Lender may at any time assume the duties of any Servicer under this Agreement and the WIFIA Bond. The Borrower shall cooperate and respond to any reasonable request of the Servicer for information, documentation or other items reasonably necessary for the performance by the Servicer of its duties hereunder.

Section 24. Amendments and Waivers. No amendment, modification, termination, or waiver of any provision of this Agreement shall in any event be effective without the written consent of each of the parties hereto.

Section 25. Governing Law. This Agreement shall be governed by the federal laws of the United States of America if and to the extent such federal laws are applicable and the internal laws of the State, if and to the extent such federal laws are not applicable.

Section 26. Severability. In case any provision in or obligation under this Agreement shall be invalid, illegal, or unenforceable in any jurisdiction, the validity, legality and

enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

Section 27. Successors and Assigns. This Agreement shall be binding upon the parties hereto and their respective permitted successors and assigns and shall inure to the benefit of the parties hereto and their permitted successors and assigns. Neither the Borrower's rights or obligations hereunder nor any interest therein may be assigned or delegated by the Borrower without the prior written consent of the WIFIA Lender.

Section 28. Remedies Not Exclusive. No remedy conferred herein or reserved to the WIFIA Lender is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Subject to Section 17(c)(v) (*Events of Default and Remedies*), acceleration of any amounts due under the WIFIA Bond or this Agreement is not a remedy available to the WIFIA Lender.

Section 29. Delay or Omission Not Waiver. No delay or omission of the WIFIA Lender to exercise any right or remedy provided hereunder upon a default of the Borrower (except a delay or omission pursuant to a written waiver) shall impair any such right or remedy or constitute a waiver of any such default or acquiescence therein. Every right and remedy given by this Agreement or by law to the WIFIA Lender may be exercised from time to time, and as often as may be deemed expedient by the WIFIA Lender.

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

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

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

If to Borrower: City of Pflugerville
100 East Main Street, Suite 300
Pflugerville, Texas 78660
Attention: Melissa Moore
Email: MelissaM@pflugervilletx.gov

If to Paying Agent / UMB Bank, N.A.
Registrar: 6034 West Courtyard Drive, Suite 370
Austin, Texas 78730
Attention: Corporate Trust and Escrow Group
Email: Anne-Marie.Hansen@umb.com

Unless otherwise instructed by the WIFIA Lender's Authorized Representative, all notices to the WIFIA Lender should be made by email to the email address noted above for the WIFIA Lender. Notices required to be provided herein shall be provided to such different addresses or to such further parties as may be designated from time to time by a Borrower's Authorized Representative, with respect to notices to the Borrower, or by the WIFIA Lender's Authorized Representative, with respect to notices to the WIFIA Lender or the Servicer. Each such notice, request or communication shall be effective (x) if delivered by hand or by nationally recognized courier service, when delivered at the address specified in this Section 31 (or in accordance with the latest unrevoked written direction from the receiving party) and (y) if given by email, when such email is delivered to the address specified in this Section 31 (or in accordance with the latest unrevoked written direction from the receiving party); provided, that notices received on a day that is not a Business Day or after 5:00 p.m. Eastern Time on a Business Day will be deemed to be effective on the next Business Day.

Section 32. Indemnification. The Borrower shall, to the extent permitted by law, including the Texas Constitution and State law, indemnify the WIFIA Lender and any official, employee, agent or representative of the WIFIA Lender (each such Person being herein referred to as an "**Indemnitee**") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities, fines, penalties, costs and expenses (including the fees, charges and disbursements of any counsel for any Indemnitee and the costs of environmental remediation), whether known, unknown, contingent or otherwise, incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (a) the execution, delivery and performance of this Agreement or any of the other Related Documents, (b) the WIFIA Loan or the use of the proceeds thereof, or (c) the violation of any law, rule, regulation, order, decree, judgment or administrative decision relating to the environment, the preservation or reclamation of natural resources, the management, release or threatened release of any hazardous material or to health and safety matters; in each case arising out of or in direct relation to the Project; provided, that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities, fines, penalties, costs or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from or arisen out of the negligence or willful misconduct of such Indemnitee. In case any action or proceeding is brought against an Indemnitee by reason of any claim with respect to which such Indemnitee is entitled to indemnification hereunder, the Borrower shall be entitled, at its expense, to participate in the defense thereof; provided, that such Indemnitee has the right to retain its own counsel, at the Borrower's expense, and such participation by the Borrower in the defense thereof shall not release

the Borrower of any liability that it may have to such Indemnitee. Nothing in this Section 32 shall waive any limitations on liability or immunity provided by the Texas Constitution and the Texas Tort Claims Act, and Borrower hereby notifies WIFIA Lender that it has neither provided nor made any obligation from current revenues, budget allocation, order, resolution, tax, or interest and sinking fund in regards to said indemnity. Any Indemnitee against whom any indemnity claim contemplated in this Section 32 is made shall be entitled, after consultation with the Borrower and upon consultation with legal counsel wherein such Indemnitee is advised that such indemnity claim is meritorious, to compromise or settle any such indemnity claim. Any such compromise or settlement shall be binding upon the Borrower for purposes of this Section 32. Nothing herein shall be construed as a waiver of any legal immunity that may be available to any Indemnitee. To the extent permitted by applicable law, neither the Borrower nor the WIFIA Lender shall assert, and each of the Borrower and the WIFIA Lender hereby waives, any claim against any Indemnitee or the Borrower, respectively, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any of the other Related Documents, the other transactions contemplated hereby and thereby, the WIFIA Loan or the use of the proceeds thereof, provided, that nothing in this sentence shall limit the Borrower's indemnity obligations to the extent such damages are included in any third party claim in connection with which an Indemnitee is entitled to indemnification hereunder. All amounts due to any Indemnitee under this Section 32 shall be payable promptly upon demand therefor. The obligations of the Borrower under this Section 32 shall survive the payment or prepayment in full or transfer of the WIFIA Bond, the enforcement of any provision of this Agreement or the other Related Documents, any amendments, waivers (other than amendments or waivers in writing with respect to this Section 32) or consents in respect hereof or thereof, any Event of Default, and any workout, restructuring or similar arrangement of the obligations of the Borrower hereunder or thereunder.

Section 33. Sale of WIFIA Loan. The WIFIA Lender shall not sell the WIFIA Loan at any time prior to the Substantial Completion Date. After such date, the WIFIA Lender may sell the WIFIA Loan to another entity or reoffer the WIFIA Loan into the capital markets only in accordance with the provisions of this Section 33. Such sale or reoffering shall be on such terms as the WIFIA Lender shall deem advisable. However, in making such sale or reoffering the WIFIA Lender shall not change the terms and conditions of the WIFIA Loan without the prior written consent of the Borrower in accordance with Section 24 (*Amendments and Waivers*). The WIFIA Lender shall provide, at least sixty (60) days prior to any sale or reoffering of the WIFIA Loan, written notice to the Borrower of the WIFIA Lender's intention to consummate such a sale or reoffering; provided, however, that no such notice shall be required during the continuation of any Event of Default. The provision of any notice pursuant to this Section 33 shall not (x) obligate the WIFIA Lender to sell nor (y) provide the Borrower with any rights or remedies in the event the WIFIA Lender, for any reason, does not sell the WIFIA Loan.

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

Section 35. Termination. This Agreement shall terminate upon the irrevocable payment in full in immediately available funds by the Borrower of the Outstanding WIFIA Loan Balance, together with all accrued interest, fees and expenses with respect thereto; provided, however, that the indemnification requirements of Section 32 (*Indemnification*), the access and record keeping requirements of Section 14(q) (*Affirmative Covenants – Access; Records*) and the payment

requirements of Section 10 (*Fees and Expenses*) shall survive the termination of this Agreement as provided in such Sections.

Section 36. Integration. This Agreement constitutes the entire contract between the parties relating to the subject matter hereof and supersedes any and all previous agreements and understandings, oral or written, relating to the subject matter hereof.

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

CITY OF PFLUGERVILLE, TEXAS,
by its authorized representative

By: _____
Name: Victor Gonzales
Title: Mayor

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

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

SCHEDULE I
PROJECT BUDGET

SOURCES OF FUNDS	AMOUNT (\$ USD)	PERCENTAGE (%)
WIFIA Loan	\$52,049,683	40
Cash	\$1,000,000	1
Impact Fees	\$20,353,536	16
Prior Senior Lien Revenue Bonds	\$24,000,000	18
New Senior Lien Revenue Bonds	\$32,648,009	25
Total Sources of Funds	\$130,051,228	100
USES OF FUNDS	AMOUNT (\$ USD)	PERCENTAGE (%)
Construction	\$101,551,108	78
Planning & Design	\$10,041,750	8
Owner's Oversight	\$5,355,600	4
Construction Engineering	\$7,257,975	6
Contingency	\$5,344,795	4
Issuance Costs	\$500,000	<1
Total Uses of Funds	\$130,051,228	100
Total Eligible Project Costs	\$130,051,228	100
Total Project Costs	\$130,051,228	100

SCHEDULE II

CONSTRUCTION SCHEDULE

Planning Completion	Design Completion	Permitting Completion	Construction Start	Substantial Completion
1/2021	3/2022	5/2022	9/2022	12/2025

SCHEDULE III
EXISTING INDEBTEDNESS¹

A. Parity Debt

	Agreement/Series	Outstanding Principal²
1.	CITY OF PFLUGERVILLE, TEXAS UTILITY SYSTEM REVENUE BONDS, SERIES 2021	\$11,630,000
2.	CITY OF PFLUGERVILLE, TEXAS UTILITY SYSTEM REVENUE BONDS, SERIES 2022A	\$31,120,000
3.	CITY OF PFLUGERVILLE, TEXAS UTILITY SYSTEM REVENUE BONDS, SERIES 2022B	\$24,000,000

¹ Excludes subordinated utility revenue pledged to the Borrower's Certificates of Obligation required for the issuance of such certificates pursuant to Subchapter C of the Chapter 271 of the Texas Local Government Code, as amended.

² As of Effective Date.

SCHEDULE IV-A

WIFIA LOAN PAYMENT INSTRUCTIONS

HOW TO MAKE A LOAN PAYMENT TO EPA WIFIA PROGRAM

Please select one of the acceptable payment methods and follow the instructions provided below for sending WIFIA payments to EPA.

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

Phone: 202-564-7593. Voicemails can be left when calling outside business hours

Email: OCFO-OC-ACAD-WIFIA@epa.gov

For questions about the WIFIA program:

Email: wifia@epa.gov

ACCEPTABLE METHODS FOR WIFIA PAYMENTS TO EPA

Option 1 PAY.GOV

Use of Pay.gov to make payments to EPA is the preferred electronic payment method. In Pay.gov, users can track their payments to EPA and schedule recurring or automatic payments. Although it is not mandatory to register for a user id to access and use Pay.Gov, registration is recommended to have access to all Pay.gov system functionality.

1. Remove Debit Block - Before submitting payments through Pay.gov, users should contact their financial institution to remove any debit blocks and add EPA to the list of payees. In addition, the financial institution will need to add EPA's company ID (6801123303) for WIFIA fees. Once the financial institution removes the debit block and sets up the company ID, users can set up Pay.gov to submit payments.
2. Access the Pay.gov system by going to <https://www.pay.gov> and search for WIFIA or click on the following hyperlink to directly launch the [WIFIA Loan Collection & Fees Form](#).
3. Provide the following information on your payment to ensure proper credit:
 - Remitter's contact phone number
 - Company/Organization Name as it appears on EPA document
 - Complete address, including city, state, zip code
 - Project Name
 - Loan Number: this is EPA WIFIA Loan number, NOT the remitter's number
 - From the "Payment Type" drop down menu select "**Loan Payment**"
4. Follow the remaining on-screen instructions to successfully process the payment to EPA.
5. Send an email to OCFO-OC-ACAD-WIFIA@epa.gov and wifia_portfolio@epa.gov informing that a payment has been made.

Option 2 Fedwire

Users must work within the processing guidelines established by their bank, which may include processing cutoffs, transaction fees, and other bank requirements. Banks that do not maintain an account at the Federal Reserve Bank (FRB) must use the services of correspondent banks that do have an FRB account.

FEDWIRE

To process a payment using FedWire please:

1. Send FedWire deposits as early as possible and no later than 5PM ET on the desired EPA receipt date.
2. Review the FedWire form Instructions provided in Attachment 1 and complete the form. It is very important that all relevant details identified in the instructions are accurate.
3. Send an email to OCFO-OC-ACAD-WIFIA@epa.gov and wifia_portfolio@epa.gov informing that a payment has been made.

Attachment 1 – FedWire Payment Form and Instructions

Please provide the following instructions to your Financial Institution for the remittance of Fedwire payments to the United States Environmental Protection Agency.

Fedwire Field Tag	Fedwire Field Name	Required Information
{1510}	Type/Subtype	1000
{2000}	Amount	\$
{3400}	Receiver ABA routing number *	021030004
{3400}	Receiver ABA short name	TREAS NYC
{3600}	Business Function Code	CTR (or CTP)
{4200}	Beneficiary Identifier (account number)	868010099000
{4200}	Beneficiary Name	US EPA
{5000}	Originator	
{6000}	Originator to Beneficiary Information – Line 1	FEE TYPE – WIFIA Application Fee (WIFIA Loan Number)
{6000}	Originator to Beneficiary Information – Line 2	
{6000}	Originator to Beneficiary Information – Line 3	
{6000}	Originator to Beneficiary Information – Line 4	

* The financial institution address for Treasury’s routing number: 33 Liberty Street, New York, NY 10045

Agency Contact:

Collections Inquiry Mailbox
 US Environmental Protection Agency
 Office of the Controller
 Fees and Collections Branch
Collections_Inquiry_Mailbox@epa.gov

SCHEDULE IV-B

WIFIA FEE PAYMENT INSTRUCTIONS

HOW TO MAKE A FEE PAYMENT TO EPA WIFIA PROGRAM

Please select one of the acceptable payment methods and follow the instructions provided below for sending WIFIA payments to EPA.

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

Phone: 202-564-7593. Voicemails can be left when calling outside business hours

Email: OCFO-OC-ACAD-WIFIA@epa.gov

For questions about the WIFIA program:

Email: wifia@epa.gov

ACCEPTABLE METHODS FOR WIFIA PAYMENTS TO EPA

Option 1 PAY.GOV

Use of Pay.gov to make payments to EPA is the preferred electronic payment method. In Pay.gov, users can track their payments to EPA and schedule recurring or automatic payments. Although it is not mandatory to register for a user id to access and use Pay.Gov, registration is recommended to have access to all Pay.gov system functionality.

1. Remove Debit Block - Before submitting payments through Pay.gov, users should contact their financial institution to remove any debit blocks and add EPA to the list of payees. In addition, the financial institution will need to add EPA's company ID (6801123303) for WIFIA fees. Once the financial institution removes the debit block and sets up the company ID, users can set up Pay.gov to submit payments.
1. Access the Pay.gov system by going to <https://www.pay.gov> and search for WIFIA or click on the following hyperlink to directly launch the [WIFIA Loan Collection & Fees Form](#).
2. Provide the following information on your payment to ensure proper credit:
 - Remitter's contact phone number
 - Company/Organization Name as it appears on EPA document
 - Complete address, including city, state, zip code
 - Project Name
 - Loan Number: this is EPA WIFIA Loan number, NOT the remitter's number
 - From the "Payment Type" drop down menu select the type from the Fee Notice letter
 - Other Description: please note the reference number from the Fee Notice letter
3. Follow the remaining on-screen instructions to successfully process the payment to EPA.

- Send an email to OCFO-OC-ACAD-WIFIA@epa.gov and wifia_portfolio@epa.gov informing that a payment has been made.

Option 2 Credit Gateway: Fedwire and ACH

Depending on preferences, Credit Gateway allows users to submit payment either via FedWire (electronic interbank transfers) or ACH (direct deposit). The primary differences are:

	FedWire	ACH (Automated Clearing House)
Fees	Charges fees	Less expensive than FedWire
Transaction Speed	Faster transfers	May take up to a few days
Security	Less secure	More secure
International Capabilities	Can be sent internationally	U.S.-only network
Processing time	Within 24 hours	A few hours to several days

Users must work within the processing guidelines established by their bank, which may include processing cutoffs, transaction fees, and other bank requirements. Banks that do not maintain an account at the Federal Reserve Bank (FRB) must use the services of correspondent banks that do have an FRB account.

FEDWIRE

To process a payment using FedWire please:

- Send FedWire deposits as early as possible and no later than 5PM ET on the desired EPA receipt date.
- Review the FedWire form Instructions provided in Attachment 1 and complete the form. It is very important that all relevant details identified in the instructions are accurate.
- Send an email to OCFO-OC-ACAD-WIFIA@epa.gov and wifia_portfolio@epa.gov informing that a payment has been made.

Automated Clearing house (ach)

To process payments using ACH please:

- Send ACH payments as early as possible and no later than 3 business days before the desired EPA receipt date.
- Review the ACH form Instructions provided in Attachment 2 and complete the form. It is important that all relevant details identified in the instructions are accurate.
- Send an email to OCFO-OC-ACAD-WIFIA@epa.gov and wifia_portfolio@epa.gov informing that the payment has been made.

Option 3 CHECK PAYMENTS

UNAVAILABLE DUE TO COVID19 PANDEMIC. EPA CANNOT PROCESS CHECKS AT THIS TIME.

Attachment 1 – FedWire Payment Form and Instructions

Please provide the following instructions to your Financial Institution for the remittance of Fedwire payments to the United States Environmental Protection Agency.

Fedwire Field Tag	Fedwire Field Name	Required Information
{1510}	Type/Subtype	1000
{2000}	Amount	
{3400}	Receiver ABA routing number *	021030004
{3400}	Receiver ABA short name	TREAS NYC
{3600}	Business Function Code	CTR (or CTP)
{4200}	Beneficiary Identifier (account number)	868010099000
{4200}	Beneficiary Name	US EPA
{5000}	Originator	
{6000}	Originator to Beneficiary Information – Line 1	FEE TYPE – WIFIA Application Fee (WIFIA Loan Number)
{6000}	Originator to Beneficiary Information – Line 2	
{6000}	Originator to Beneficiary Information – Line 3	
{6000}	Originator to Beneficiary Information – Line 4	

* The financial institution address for Treasury’s routing number is 33 Liberty Street, New York, NY 10045

Agency Contact:

Collections Inquiry Mailbox
 US Environmental Protection Agency
 Office of the Controller
 Fees and Collections Branch
Collections_Inquiry_Mailbox@epa.gov

Attachment 2 - ACH Credit Gateway Form and Instructions

Please provide the following instructions to your Financial Institution for the remittance of Automated Clearing House (ACH) credits to the United States Environmental Protection Agency.

NACHA Record Type Code	NACHA Field	NACHA Data Element Name	Required Information
5	3	Company Name	
5	6	Standard Entry Class Code	CCD
5	9	Effective Entry Date	
6	2	Transaction Code*	22
6	3 & 4	Receiving DFI Identification (ABA routing #) @	051036706
6	5	DFI Account Number	868010099000
6	6	Amount	<i>(enter payment amount)</i>
6	8	Receiving Company Name	US EPA FEE TYPE – WIFIA (Loan Number-Fee Type)

ACH bank information:

Name: Credit Gateway – ACH Receiver
 Address: 33 Livingston Ave. St. Paul, MN 55107
 Phone number: 1-877-815-1206

Agency Contact:

Collections Inquiry Mailbox
 Fees and Collections Branch
 Office of the Controller
 US Environmental Protection Agency
 Collections_Inquiry_Mailbox@epa.gov

[EPA W-9 to be inserted]

SCHEDULE V

DEFINED TERMS FROM MASTER ORDINANCE

All terms used in this Schedule V shall have the meaning assigned to such terms as provided in the Master Ordinance and, in the case of the definition of the term "Security," the WIFIA Supplement. All section references used in this Schedule V shall be references to the appropriate section in the Master Ordinance. All references to "herein" or "hereof" in this Schedule V shall be references to the Master Ordinance. The following is intended to copy (without change) certain defined terms in the Master Ordinance (and, in the case of the definition of the term "Security," in the WIFIA Supplement) as of the Effective Date.

"Annual Debt Service Requirements" means, for any Fiscal Year, (i) the principal of, premium, if any, and interest on all Parity Debt coming due at Maturity or Stated Maturity (or that could come due on demand of the owner thereof other than by acceleration or other demand conditioned upon default by the City on such Parity Debt, or be payable in respect of any required purchase of such Parity Debt by the City) plus (ii) all payments required to be made by the City under each Credit Agreement constituting Parity Debt (net of any credits as provided in (7) below) in such Fiscal Year, and minus (iii) all amounts on deposit to the credit of the Interest and Sinking Account from original proceeds from the sale of Parity Debt or from any other lawfully available source (other than moneys that would constitute Pledged Revenues in the subject annual period) and, for such purposes, any one or more of the following rules shall apply at the election of the City; provided, however, that this definition shall never be applied in a manner which results in Annual Debt Service Requirements for any Fiscal Year being an amount that is less than the aggregate amount actually required to be paid in such Fiscal Year with respect to Outstanding Parity Debt:

(1) **Committed Take Out.** If the City has entered into a Credit Agreement constituting Parity Debt and constituting a binding commitment within normal commercial practice, from any bank, savings and loan association, insurance company, or similar institution to discharge any of its Funded Debt at its Stated Maturity (or, if due on demand, at any date on which demand may be made) or to purchase any of its Funded Debt at any date on which such debt is subject to required purchase, all pursuant to arrangements whereby the City's obligation to repay the amounts advanced for such discharge or purchase constitutes Funded Debt, then the portion of the Funded Debt committed to be discharged or purchased shall be excluded from such calculation and the principal of and interest on the Funded Debt incurred for such discharge or purchase that would be due in the Fiscal Year for which the calculation is being made, if incurred at the Stated Maturity or purchase date of the Funded Debt to be discharged or purchased, shall be added to such calculation, and the remaining provisions of this definition shall be applied to such added Funded Debt;

(2) **Balloon Debt.** If the principal, including the accretion of interest resulting from original issue discount or compounding of interest (collectively, "Principal"), of any series or issue of Funded Debt due (or payable in respect of any required purchase of such Funded Debt by the City) in any Fiscal Year either is equal to at least 25% of the total

Principal of such Funded Debt or exceeds by more than 50% the greatest amount of Principal of such series or issue of Funded Debt due in any preceding or succeeding Fiscal Year (such Principal due in such Fiscal Year for such series or issue of Funded Debt being referred to herein as "Balloon Debt"), the amount of Principal of such Balloon Debt taken into account during any Fiscal Year shall be equal to the debt service calculated using the Principal of such Balloon Debt amortized over the Term of Issue on a level debt service basis at an assumed interest rate equal to the rate borne by such Balloon Debt on the date of calculation;

(3) Consent Sinking Fund. In the case of Balloon Debt (as defined in clause (2) above), if an Authorized Representative shall deliver to the City an Officer's Certificate providing for the retirement of (and the instrument creating such Balloon Debt shall permit the retirement of), or for the accumulation of a sinking fund for (and the instrument creating such Balloon Debt shall permit the accumulation of a sinking fund for), such Balloon Debt according to a fixed schedule stated in such Officer's Certificate ending on or before the Fiscal Year in which such principal (and premium, if any) is due, then the principal of (and, in the case of retirement, or to the extent provided for by the sinking fund accumulation, the premium, if any, and interest and other payments due on) such Balloon Debt shall be computed as if the same were due in accordance with such schedule, provided that this clause (3) shall apply only to Balloon Debt for which the installments previously scheduled have been paid or deposited to the sinking fund established with respect to such debt on or before the times required by such schedule; and provided further that this clause (3) shall not apply where the City has elected to apply the rule set forth in clause (2) above;

(4) Prepaid Debt. Principal of, premium, if any, and interest on Parity Debt, or portions thereof, shall not be included in the computation of the Annual Debt Service Requirements for any Fiscal Year for which such principal, premium, if any, or interest are payable from funds on deposit or set aside in trust for the payment thereof at the time of such calculations (including, without limitation, capitalized interest and accrued interest so deposited or set aside in trust) with a financial institution acting as fiduciary with respect to the payment of such Parity Debt;

(5) Variable Rate. As to any Parity Debt that bears interest at a variable interest rate which cannot be ascertained at the time of calculation of the Annual Debt Service Requirement, at the election of the City, the interest rate for such Parity Debt shall be determined to be either (i) an interest rate equal to the average rate borne by such Parity Debt (or by comparable debt in the event that such Parity Debt has not been outstanding during the preceding twenty-four (24) months) for any twenty-four (24) month period ending within thirty (30) days prior to the date of calculation, (ii) if the Parity Debt bears interest at tax-exempt rates, an interest rate equal to twenty-four (24) month average of the Bond Market Association Bond Index (as most recently published in The Bond Buyer), unless such index is no longer published in The Bond Buyer, in which case the index to be used in its place shall be that index which the City determines most closely replicates such index as set forth in a certificate of an Authorized Representative, (iii) if the Parity Debt bears interest at taxable rates, an interest rate equal to the rate of the thirty (30) day London Interbank Offered Rate, (iv) that interest rate which, in the judgment of the Chief Financial Officer, based, to the extent possible, upon an accepted market index which corresponds

with the provisions of the subject Parity Debt, is the average rate anticipated to be in effect with respect to such Parity Debt or (v) that interest rate which, in the judgment of the Chief Financial Officer, based upon the interest rate methodology in the applicable Credit Agreement if calculating payments under a Credit Agreement in accordance with paragraph 7 of this definition, is the average rate anticipated to be in effect;

(6) Short-Term Obligations. Notwithstanding anything in the foregoing to the contrary, with respect to any Parity Debt issued as Short-Term Obligations, the debt service on such Parity Debt shall be calculated assuming that such Parity Debt will be refunded and refinanced to mature over a 20-year period with level debt service requirements and bearing interest at then current market rates; provided, however, that to the extent permitted by law, if in the judgment of the Chief Financial Officer, as set forth in an Officer's Certificate delivered to the City, the result of the foregoing calculation is inconsistent with the reasonable expectations of the City, the interest on such Parity Debt shall be calculated in the manner provided in clause (5) of this definition and the maturity schedule shall be calculated in the manner provided in clause (2) of this definition; and

(7) Credit Agreement Payments. If the City has entered into a Credit Agreement in connection with an issue of Parity Debt, payments due under any such Credit Agreement (other than payments for fees and expenses) from either the City or the provider of a Credit Agreement shall be included in such calculation, except to the extent that the payments are already taken into account under clauses (1) through (6) above and any payments otherwise included under clauses (1) through (6) above which are to be replaced by payments under such a Credit Agreement, from either the City or the provider under a Credit Agreement, shall be excluded from such calculation.

“Authorized Representative” means the City Manager, any Assistant City Manager or Chief Financial Officer or such other individuals so designated by the City to perform the duties of an Authorized Representative under this Master Ordinance.

“Chief Financial Officer” means the Finance Director of the City or such other officer or employee of the City or such other individual so designated by the City to perform the duties of Chief Financial Officer under this Master Ordinance.

“Credit Agreement” means, collectively, a loan agreement, revolving credit agreement, agreement establishing a line of credit, letter of credit, reimbursement agreement, insurance contract, commitments to purchase Debt, purchase or sale agreements, interest rate swap, cap and/or floor agreement or commitment, or other contract or agreement authorized, recognized, and approved by the City as a Credit Agreement in connection with the authorization, issuance, sale, resale, security, exchange, payment, purchase, remarketing, or redemption of Debt, the interest on Debt, or both.

“Fiscal Year” means the twelve-month accounting period used by the City in connection with the operation of the Utility System, currently ending on September 30 of each year, which may be any twelve consecutive month period established by the City, but in no event may the Fiscal Year be changed more than one time in any three (3) calendar year period.

“Funded Debt” means all Parity Debt created, assumed, or guaranteed by the City that matures by its terms (in the absence of the exercise of any earlier right of demand), or is renewable at the option of the City to a date, more than one year after the original creation, assumption, or guarantee of such Debt by the City.

“Gross Revenues” and **“Gross Revenues of the City’s Utility System”** mean all revenues, income and receipts of every nature derived or received by the City from the operation and ownership of the Utility System including any lawfully available impact fees and the interest income from investment or deposit of money in any account or subaccount created by this Master Ordinance or maintained by the City in connection with the Utility System (except any account or subaccount not pledged as Security under this Master Ordinance or any Supplement) and any other revenues hereafter pledged to the payment of all Parity Debt. Any interest income related to any reserve account shall operate as provided in the applicable Supplement.

“Maintenance and Operating Expenses” means the reasonable and necessary expenses of operation and maintenance of the Utility System as required by Section 1502.056, Texas Government Code, as amended, or other applicable State law including all salaries, labor, materials, repairs and extensions necessary to render efficient service (but only such repairs and extensions as, in the judgment of the Chief Financial Officer, are necessary to keep the Utility System in operation and render adequate service to the City and the inhabitants thereof, or such as might be necessary to meet some physical accident or conditions which would otherwise impair the Parity Debt), and all payments under contracts now or hereafter defined as operating expenses by State law. Depreciation shall never be considered as a Maintenance and Operating Expense.

“Maturity” when used with respect to any Debt means the date on which the principal of such Debt or any installment thereof becomes due and payable as therein provided, whether at the Stated Maturity thereof or by call for redemption, or otherwise.

“Net Revenues” and **“Net Revenues of the City’s Utility System”** mean all Gross Revenues remaining after deducting the Maintenance and Operating Expenses.

“Non-Recourse Debt” means any debt secured by a lien (other than a lien on the Security), liability for which is effectively limited to the property subject to such lien with no recourse, directly or indirectly, to the Security.

“Officer’s Certificate” means a certificate signed by an Authorized Representative.

“Outstanding Principal Amount” means, as of any record date established by a Registrar in connection with a proposed amendment of this Master Ordinance or any Supplement, with respect to all Parity Debt or to a series of Parity Debt that is in the form of bonds, notes, or other similar instruments that have a stated principal amount, the outstanding and unpaid principal amount of such Parity Debt on which interest is paid on a current basis and the outstanding and unpaid principal and compounded interest on such Parity Debt paying accrued, accreted, or compounded interest only at maturity and, with respect to Credit Agreements shall total the amount, if any, then due under such Credit Agreement if it was to be terminated as of the date of calculation of Outstanding Principal Amount.

“Pledged Revenues” means (1) the Net Revenues plus (2) any additional revenues, income, receipts, or other resources, including, without limitation, any grants, donations or income received or to be received from the United States Government, or any other public or private source, whether pursuant to an agreement or otherwise, which hereafter are pledged by the City to the payment of the Parity Debt, and excluding those revenues excluded from Gross Revenues.

“Reserve Account Obligation” means a surety bond or insurance policy deposited in any reserve account established pursuant to a Supplement whereby the issuer is obligated to provide funds up to and including the maximum amount and under the conditions specified in such agreement or instrument.

“Security” means, subject to the provisions of Section 1.02(c) of the WIFIA Supplement, all of the interests of the City in (a) the Pledged Revenues; (b) all amounts in the System Account (subject to the payment of Maintenance and Operating Expenses as provided in Section 4 of this Master Ordinance) and the Interest and Sinking Account; (c) any additional account or subaccount that is subsequently established and so designated as being included within the Security pursuant to Section 3(f) of this Master Ordinance; (d) all of the proceeds of the foregoing, including, without limitation, investments thereof; (e) any applicable Credit Agreement to the extent set forth in such Credit Agreement; and (f) with respect to any applicable series of Parity Debt, all amounts in any reserve account or subaccount applicable to such Parity Debt pursuant to Section 3(e) of this Master Ordinance, including any reserve fund surety policy or other Credit Agreement entered into for the benefit of such account or subaccount.

“Stated Maturity” when used with respect to any Parity Debt or any installment of interest thereon means any date specified in the instrument evidencing or authorizing such Parity Debt or such installment of interest as a fixed date on which the principal of such Parity Debt or any installment thereof or the fixed date on which such installment of interest is due and payable.

“Term of Issue” means with respect to any Balloon Debt a period of time equal to the greater of (i) the period of time commencing on the date of issuance of such Balloon Debt and ending on the final maturity date of such Balloon Debt or the maximum maturity date in the case of commercial paper or (ii) twenty-five years.

“Utility System” or **“System”** means as currently comprised, the City’s combined waterworks and sewer system, which includes all properties, facilities, plants, improvements, equipment, interests and rights currently owned, operated and maintained by the City for the supply, treatment, and transmission and distribution of treated potable water and collection and treatment of wastewater, and for water reuse, together with all future extensions, improvements, purchases, repairs, replacements and additions thereto, whether situated within or without the limits of the City, and all water (in any form) owned by the City; provided, however, that the City expressly retains the right to (i) sell or disaggregate the Utility System as set forth in Section 6(q) of this Master Ordinance and (ii) incorporate any other utility system (other than telecommunications system) as provided by the laws of the State as a part of the Utility System. The Utility System shall not include any Special Project or any disaggregated part of the Utility System as provided in this Master Ordinance.

SCHEDULE VI

ACCOUNTS; FLOW OF FUNDS

All terms used in this Schedule VI shall have the meaning assigned to such terms as provided in the Master Ordinance. All section references used in this Schedule VI shall be references to the appropriate section in the Master Ordinance. All references to "herein" or "hereof" in this Schedule VI shall be references to the Master Ordinance. The following is intended to copy (without change) the provisions of Sections 3 and 4 of the Master Ordinance as of the Effective Date. For reference purposes, certain defined terms of the Master Ordinance used in this Schedule VI, as of the Effective Date, are set forth in Schedule V.

Section 3. ACCOUNTS. (a) Creation or Affirmation of Funds. The City hereby establishes and/or affirms the creation of the following funds or accounts:

- (i) the Utility System Revenue Fund or Account (the "System Account");
- (ii) the Utility System Interest and Sinking Account (the "Interest and Sinking Account"); and
- (iii) the Utility System Bond Proceeds Account (the "Bond Proceeds Account").

(b) System Account. Subject to the provisions of Section 4 of this Master Ordinance, moneys in the System Account may be used for any lawful purpose authorized pursuant to the Enabling Act and other State law.

(c) Interest and Sinking Account. Moneys in the Interest and Sinking Account shall be used to pay amounts due on or with respect to Parity Debt, including the principal of, premium, if any, and interest on Parity Debt as the same become due and payable (whether at Stated Maturity or upon prior redemption), and the City shall maintain such account as long as Parity Debt is Outstanding.

(d) Bond Proceeds Account. Proceeds from the issuance of Parity Debt shall be deposited from time to time upon the issuance of such Parity Debt as provided by the applicable Supplement into the Bond Proceeds Account, or any subaccount thereof created with respect to such Parity Debt. Such proceeds and the interest thereon shall remain in the Bond Proceeds Account or applicable subaccount thereof until expended to accomplish the purposes for which such Parity Debt was issued or until otherwise utilized as provided in the applicable Supplement. Amounts in the Bond Proceeds Account do not constitute Security.

(e) Reserve Accounts or Subaccounts. The City may establish a reserve account and/or any other account or subaccount pursuant to the provisions of the applicable Supplement for the purpose of paying or securing a particular issue or series of Parity Debt or any specific group of issues or series of Parity Debt and the amounts, once deposited into said accounts or subaccounts, shall no longer constitute Security for all Parity Debt but shall be held solely for the benefit of the owners of the particular issue or series or group of issues or series of Parity Debt for which such account or subaccount was established. Each such account or subaccount shall be designated in such manner as is necessary to identify the Parity Debt it secures and to distinguish such account

or subaccount from any other accounts created for the benefit of any other Parity Debt. Any such reserve accounts or subaccounts shall be established in the Supplement related to such series or issue of Parity Debt. The City may, in its discretion, provide in the applicable Supplement for a surety bond, insurance policy or other Credit Agreement, to the extent then authorized by State law, to be held for the benefit of such a reserve account or subaccount.

(f) Other Accounts. The City reserves the right to establish, in connection with the issuance of Parity Debt or for other purposes, one or more additional accounts or subaccounts for such other purposes as the City may determine from time to time. The City may, at its option, declare in the action establishing the account or subaccount that the amounts in such additional account or subaccount will be either included within or excluded from the Security.

Section 4. FLOW OF FUNDS. All Gross Revenues shall be deposited into the System Account immediately upon receipt by the City. All Gross Revenues are hereby and shall be appropriated, deposited, and transferred from the System Account to the other accounts and subaccounts to the extent required for the following uses and in the order of priority shown:

FIRST: to the payment of all necessary and reasonable Maintenance and Operating Expenses as defined herein or required by statute, including, but not limited to, Chapter 1502, Texas Government Code, as amended, to be a first charge on and claim against the Gross Revenues, including any reserve amount based upon the budgeted amount of Maintenance and Operating Expenses for the current Fiscal Year as determined by the Chief Financial Officer, which amount shall be retained in the System Account;

SECOND: to the payment of amounts required to be deposited and credited to the Interest and Sinking Account to meet all financial obligations of the City relating to the Financing Program, including payments due on or with respect to the payment of Parity Debt as the same mature or come due;

THIRD: pro rata, on the basis that the Outstanding Principal Amount of each particular issue or series of Parity Debt secured by a reserve account bears to the aggregate Outstanding Principal Amount of all such issues or series of such Parity Debt secured by any reserve account, to the payment of the amounts required to be deposited and credited to each reserve account created and established to maintain a reserve in accordance with the provisions of any Supplement relating to the issuance of any Parity Debt;

FOURTH: any amounts to be deposited into any other fund, account or subaccount to the extent required pursuant to the provisions of any Supplement relating to the issuance of Parity Debt;

FIFTH: to the extent required by any resolution or other instrument adopted or approved by the City pursuant to which Subordinated Debt is issued, the amount necessary to meet all financial obligations on such Subordinated Debt and to accumulate or restore any required reserves to ensure payment of such principal, premium, and interest shall be deposited to any account or subaccount created for such purpose; and

SIXTH: all remaining Pledged Revenues shall be retained in the System Account and may be used for any lawful purpose authorized pursuant to the Enabling Act and other State law.

SCHEDULE VII

RATE COVENANT

All terms used in this Schedule VII shall have the meaning assigned to such terms as provided in the Master Ordinance. All section references used in this Schedule VII shall be references to the appropriate section in the Master Ordinance. All references to "herein" or "hereof" in this Schedule VII shall be references to the Master Ordinance. The following is intended to copy (without change) the provisions of Section 5 of the Master Ordinance as of the Effective Date. For reference purposes, certain defined terms of the Master Ordinance used in this Schedule VII, as of the Effective Date, are set forth in Schedule V.

Section 5. RATE COVENANT. The City covenants and agrees with the Owners of the Parity Debt that so long as any Parity Debt, or any interest thereon, remain Outstanding and unpaid, to establish and maintain rates and charges for facilities and services afforded by the Utility System that are reasonably expected, on the basis of available information and experience and with due allowance for contingencies, to produce Gross Revenues in each Fiscal Year reasonably anticipated to be sufficient to:

- (a) pay Maintenance and Operating Expenses;
- (b) produce Pledged Revenues at least equal to the greater of 1.25 times the average Annual Debt Service Requirements or 1.10 times the maximum Annual Debt Service Requirements;
- (c) produce Pledged Revenues in amounts sufficient to enable the City to make the deposits and credits, if any, from Pledged Revenues to the accounts and subaccounts required by this Master Ordinance and any Supplement including to fund or restore any reserve account required by a Supplement, including the payment of any Reserve Account Obligation then due;
- (d) produce Pledged Revenues, together with any other lawfully available funds (including the proceeds of Debt which the City expects will be utilized to pay all or part of the principal of and/or interest on any obligations) sufficient to meet all financial obligations for Subordinated Debt issued by the City; and
- (e) pay any other Debt payable from the Pledged Revenues and/or secured by a lien on the Security.

Should the annual audit report reflect that the Security for the Fiscal Year covered thereby is less than necessary to meet the requirements of this Section, the City Council will review the operations of the Utility System and the rates and charges for services provided, and the City Council will make the necessary adjustments or revisions, if any, in order that the Security for the succeeding year will be sufficient to satisfy the foregoing coverage requirements.

SCHEDULE VIII

ADDITIONAL DEBT TEST

All terms used in this Schedule VIII shall have the meaning assigned to such terms as provided in the Master Ordinance. All section references used in this Schedule VIII shall be references to the appropriate section in the Master Ordinance. All references to "herein" or "hereof" in this Schedule VIII shall be references to the Master Ordinance. The following is intended to copy (without change) the provisions of Section 7 of the Master Ordinance as of the Effective Date. For reference purposes, certain defined terms of the Master Ordinance used in this Schedule VIII, as of the Effective Date, are set forth in Schedule V.

Section 7. ISSUANCE OF PARITY DEBT.

(a) General. The City reserves and shall have the right and power to issue or incur Parity Debt for any purpose authorized by State law, including the refunding of Parity Debt, Subordinated Debt, or other obligations of the City issued to finance the costs of a project authorized to be financed under the Financing Program, pursuant to the provisions of this Master Ordinance and Supplements to be hereafter authorized. The City hereby covenants and agrees to comply with all constitutional and statutory requirements of State law and, to the extent applicable, federal law governing the issuance of Parity Debt.

(b) Parity Debt. Provided that the City is in compliance with the requirements of any then applicable provisions of State law, the City may from time to time incur, assume, guarantee, or otherwise become liable in respect of Parity Debt if, in the applicable Supplement, the City finds that, upon the issuance of such Parity Debt, the Security will be sufficient to meet the financial obligations relating to the Financing Program, including Security in amounts sufficient to satisfy the Annual Debt Service Requirements of the Financing Program. In addition, the City shall not issue or incur such Parity Debt unless (i) an Authorized Representative shall deliver to the City an Officer's Certificate stating that, to the best of his or her knowledge, the City, has not failed to comply with the covenants contained in this Master Ordinance and any Supplement, to any material extent, and are not in default, to any material extent, in the performance and observance of any of the terms, provisions, and conditions hereof, thereof or under any Credit Agreement that constitutes Parity Debt and (ii) the Chief Financial Officer signs and delivers to the City a written certificate to the effect that, during either the next preceding Fiscal Year, or any twelve consecutive calendar month period ending not more than ninety (90) days prior to the date of the then proposed Parity Debt, the Net Earnings were, in the opinion thereof, at least equal to the sum of 1.25 times the average Annual Debt Service Requirements (computed on a Fiscal Year basis) of the Parity Debt to be outstanding after the issuance of the then proposed Parity Debt and 1.10 times the average Annual Debt Service Requirements (computed in the same manner as for Parity Debt) of the Subordinated Debt to be outstanding after the issuance of the then proposed Parity Debt.

In making a determination of Net Earnings for any of the purposes described in this Section, the Chief Financial Officer may take into consideration a change in the rates and charges for services and facilities afforded by the Utility System that became effective at least sixty (60) days prior to the last day of the period for which Net Earnings are determined and, for purposes of satisfying the Net Earnings tests described above, make a pro forma determination of the Net

Earnings of the Utility System for the period of time covered by said Chief Financial Officer's certification or opinion based on such change in rates and charges being in effect for the entire period covered by the Chief Financial Officer's certificate or opinion.

As used in this Section, the term “**Net Earnings**” shall mean the Gross Revenues of the Utility System after deducting the Maintenance and Operating Expenses of the Utility System but not expenditures which, under standard accounting practice, should be charged to capital expenditures.

(c) Credit Agreements. To the extent permitted by law, the City may execute and deliver one or more Credit Agreements (i) upon the delivery to the City of the Chief Financial Officer's Certificate to the effect that the Credit Agreement is in the best interest of the City and (ii) compliance with the requirements of subsection (b) or (c) of this section, as the case may be, if the Credit Agreement is to constitute Parity Debt. Each Credit Agreement shall be approved by the City, to the extent required by law, either pursuant to a Supplement or by other action. Credit Agreements and the obligations thereunder may, pursuant to their terms, constitute (i) Parity Debt secured by a pledge of the Security on parity with other Parity Debt, (ii) Subordinated Debt secured by a pledge of the Security subordinate to Parity Debt, or (iii) partially Parity Debt and partially Subordinated Debt.

(d) Non-Recourse Debt and Subordinated Debt. Non-Recourse Debt and Subordinated Debt may be incurred by the City in accordance with State law.

SCHEDULE 12(o)
CONSTRUCTION CONTRACTS

Existing Construction Contracts

NONE

EXHIBIT A

FORM OF WIFIA BOND

**UNITED STATES OF AMERICA
STATE OF TEXAS
COUNTIES OF TRAVIS AND WILLIAMSON
CITY OF PFLUGERVILLE, TEXAS
UTILITY SYSTEM REVENUE BOND,**

(WATER TREATMENT PLANT EXPANSION – 30 MGD PROJECT), SERIES 2022

No. R-1

<u>EFFECTIVE</u> <u>DATE:</u>	<u>INTEREST</u> <u>RATE:</u>	<u>FINAL</u> <u>MATURITY</u> <u>DATE:</u>	<u>CUSIP:</u>
October 28, 2022	As shown below	As shown below	71710KDQ7

Principal Amount: \$52,049,683

REGISTERED OWNER: The **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**, acting by and through the Administrator of the United States Environmental Protection Agency

CITY OF PFLUGERVILLE, TEXAS, a municipal body politic and corporate duly formed, validly existing under the laws of the State of Texas (the “**City**”), for value received, hereby promises to pay to the order of the Registered Owner named above (the “**WIFIA Lender**”), or its registered assigns as hereinafter provided, but solely from the sources hereafter mentioned, the aggregate unpaid principal amount of all disbursements up to \$52,049,683 made by the WIFIA Lender pursuant to the WIFIA Loan Agreement (as defined below) (the “**Disbursements**”), minus the aggregate principal amount thereof repaid by the City, as determined in accordance with **Exhibit F** (*WIFIA Debt Service*) to the WIFIA Loan Agreement, being hereinafter referred to as the “**Outstanding Principal Sum**”), together with accrued and unpaid interest (including, if applicable, interest at the Default Rate, as defined in the WIFIA Loan Agreement) on the Outstanding Principal Sum and all fees, costs and other amounts payable in connection therewith, all as more fully described in the WIFIA Loan Agreement. The principal hereof shall be payable in the manner and at the place provided in the WIFIA Loan Agreement in accordance with **Exhibit F** (*WIFIA Debt Service*) to the WIFIA Loan Agreement, as revised from time to time in accordance with the WIFIA Loan Agreement, until paid in full (which **Exhibit F**, as modified from time to

time in accordance with the terms of the WIFIA Loan Agreement, is incorporated in and is a part of this WIFIA Bond). The WIFIA Lender is hereby authorized to modify the Loan Amortization Schedule included in **Exhibit F** to the WIFIA Loan Agreement from time to time in accordance with the terms of the WIFIA Loan Agreement to reflect the amount of each disbursement made thereunder and the date and amount of principal or interest paid by the City thereunder. Absent manifest error, the WIFIA Lender's determination of such matters as set forth on **Exhibit F** to the WIFIA Loan Agreement shall be conclusive evidence thereof; provided, however, that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner the City's obligations hereunder or under any other WIFIA Loan Document.

The interest rate on this WIFIA Bond shall be [_____] percent ([_____]%) per annum (the "**WIFIA Interest Rate**"). Interest will accrue and be computed on the Outstanding Principal Sum (as well as on any past due interest to the extent permitted under State law, including specifically Chapter 1204, Texas Government Code, as amended) from time to time on the basis of a three hundred sixty (360) day year of twelve (12) thirty (30) day months; provided, that, upon the occurrence of an Event of Default, the City shall pay interest on the Outstanding Principal Sum at the Default Rate (as defined in the WIFIA Loan Agreement to be the sum of (a) the WIFIA Interest Rate set forth above plus (b) 200 basis points) in accordance with Section 6 (*Interest Rate*) of the WIFIA Loan Agreement.

Payments hereon are to be made in accordance with Section 8(d) (*Payment of Principal and Interest – Manner of Payment*) and Section 31 (*Notices*) of the WIFIA Loan Agreement as the same become due. Principal of and interest on this WIFIA Bond shall be paid in funds available on or before the due date and in any lawful coin or currency of the United States of America that at the date of payment is legal tender for the payment of public and private debts.

The "Final Maturity Date" of this WIFIA Bond is the earlier of (i) August 1, 2053 or such earlier date as is set forth in an updated **Exhibit F** (*WIFIA Debt Service*) to the WIFIA Loan Agreement pursuant to Section 8(e) (*Payment of Principal and Interest – Adjustments to Loan Amortization Schedule*) thereof; and (ii) the Payment Date immediately preceding the date that is thirty-five (35) years following the Substantial Completion Date.

This WIFIA Bond has been executed under and pursuant to that certain WIFIA Loan Agreement, dated as of October 28, 2022, between the WIFIA Lender and the City (the "**WIFIA Loan Agreement**") and is issued to evidence the obligation of the City under the WIFIA Loan Agreement to repay the loan made by the WIFIA Lender and any other payments of any kind required to be paid by the City under the WIFIA Loan Agreement or the other WIFIA Loan Documents referred to therein. Reference is made to the WIFIA Loan Agreement for all details relating to the City's obligations hereunder. All capitalized terms used in this WIFIA Bond and not defined herein shall have the meanings set forth in the WIFIA Loan Agreement.

This WIFIA Bond may be prepaid at the option of the City in whole on any date or in part on any Payment Date (and, if in part, the amounts thereof to be prepaid shall be determined by the Borrower; provided, that such prepayments shall be in principal amounts of \$500,000 or any integral multiple of \$1.00 in excess thereof), from time to time, without penalty or premium, but not more than once annually from the City's excess revenues (after payment of debt service then due on the City's Project Obligations, including any reserve fund requirements, if applicable), by

paying to the WIFIA Lender all or part of the principal amount of the WIFIA Bond in accordance with the WIFIA Loan Agreement.

This WIFIA Bond is a duly authorized issue of bonds dated as of the Effective Date and designated as “City of Pflugerville, Texas Utility System Revenue Bond (Water Treatment Plant Expansion – 30 MGD Project), Series 2022,” issued pursuant to the laws of the State of Texas, including specifically Chapters 1502 and 1371, Texas Government Code, as amended and initially under and pursuant to an ordinance of the City adopted on October 25, 2022, and entitled Fourth Supplemental Ordinance to the Master Ordinance establishing the City of Pflugerville, Texas Utility System Revenue Financing Program (the “Fourth Supplement”) for the purpose of paying a portion of the Eligible Project Costs (as defined in the WIFIA Loan Agreement) related to the Project (as defined in the WIFIA Loan Agreement) pursuant to the application for WIFIA financial assistance dated July 26, 2021. This WIFIA Bond is secured by a first lien on and pledge of the Security as defined in the Master Ordinance adopted on September 14, 2021 (the “**Master Ordinance**”), on parity with all other Parity Debt (as defined in the Master Ordinance and the Fourth Supplement).

The Master Ordinance, as supplemented by the Fourth Supplement, is referred to in this WIFIA Bond as the “**Ordinance.**”

This WIFIA Bond is a special obligation of the City payable solely from and equally secured by a lien on and pledge of the Security. This WIFIA Bond does not constitute a legal or equitable pledge, charge, lien, or encumbrance upon any property of the City, except with respect to the Security.

Subject to satisfying the terms and conditions stated in the Ordinance, the City has reserved the right to issue additional Parity Debt payable solely from and equally and ratably secured by a parity lien on and pledge of the Security and other moneys and securities pledged under the Ordinance to the payment of this WIFIA Bond.

Reference is hereby made to the Ordinance, a copy of which is on file in the designated office of the Paying Agent/Registrar, and to all of the provisions of which any Registered Owner of this WIFIA Bond by his acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the security for this WIFIA Bond; the Security; the nature and extent and manner of enforcement of the pledge; the terms and conditions for the issuance of additional Parity Debt; the conditions upon which the Ordinance may be amended or supplemented with or without the consent of the Registered Owner of this WIFIA Bond; the rights and remedies of the Registered Owner hereof with respect hereto and thereto; the rights, duties and obligations of the City; the terms and provisions upon which the liens, pledges, charges, and covenants made therein may be discharged at or prior to the maturity or redemption of this WIFIA Bond and this WIFIA Bond thereafter no longer to be secured by the Ordinance or be deemed to be outstanding thereunder; and for the other terms and provisions thereof.

This WIFIA Bond, subject to certain limitations contained in the Ordinance, may be transferred only upon its presentation and surrender at the designated office of the Paying Agent/Registrar named below, or its successor with the Assignment hereon duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar

duly executed by, the Registered Owner hereof, or his duly authorized agent, and such transfer is noted on the Security Register by the Paying Agent/Registrar. When a transfer occurs, one or more new fully-registered WIFIA Bond of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued to the designated transferee or transferees.

The City and the Paying Agent/Registrar, and any agent of either, shall treat the Registered Owner whose name appears on the Security Register (i) on the record date, which shall be the fifteenth day of the next preceding month as the owner entitled to payment of interest hereon, (ii) on the date of surrender of this WIFIA Bond as the owner entitled to payment of principal hereof at its maturity or its redemption, in whole or in part, and (iii) on any other date as the owner for all other purposes, and neither the City nor the Paying Agent/Registrar, nor any agent of either, shall be affected by notice to the contrary.

To the fullest extent permitted by applicable law and pursuant to Section 1371.059(c) of the Texas Government Code, as amended, with respect to its obligations arising under this WIFIA Bond, the Borrower has, in the Fourth Supplement, waived sovereign immunity from suit and liability for the purpose of adjudicating a claim to enforce its duties and obligations under this WIFIA Bond or for damages for breach hereof.

It is hereby certified, recited, represented, and declared that the City is a duly organized and legally existing home-rule city, organized under and by virtue of the Constitution and laws of the State of Texas; that the issuance of this WIFIA Bond and the series of which it is a part are duly authorized by law; that all acts, conditions, and things required to exist and be done precedent to and in the issuance of this WIFIA Bond to render the same lawful and valid have been properly done, have happened, and have been performed in regular and due time, form, and manner as required by the Constitution and laws of the State of Texas and the Ordinance; that this series of bonds does not exceed any Constitutional or statutory limitation; and that due provision has been made for the payment of this WIFIA Bond and the Series of which it is a part as aforesated. In case any provision in this WIFIA Bond shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The terms and provisions of this WIFIA Bond and the Ordinance shall be construed in accordance with and shall be governed by the laws of the State of Texas. The holder of this WIFIA Bond is not entitled to demand payment of this WIFIA Bond out of any money raised by taxation.

IN TESTIMONY WHEREOF, the City has caused its seal to be impressed or a facsimile thereof to be printed hereon and this Bond to be executed in the name of and on behalf of the City with the manual or facsimile signatures of its Mayor, and attested by the City Secretary.

CITY OF PFLUGERVILLE, TEXAS,

By: _____
City Secretary

By: _____
Mayor

(SEAL)

Form of Registration Certificate of Comptroller of Public Accounts
to Appear on the initial WIFIA Bond only.

**REGISTRATION CERTIFICATE OF
COMPTROLLER OF PUBLIC ACCOUNTS**

**OFFICE OF THE COMPTROLLER §
OF PUBLIC ACCOUNTS §
THE STATE OF TEXAS § REGISTER NO . _____**

I HEREBY CERTIFY that this WIFIA Bond has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and duly registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS my signature and seal of office this _____.

Comptroller of Public Accounts of the State
of Texas

(SEAL)

**AUTHENTICATION CERTIFICATE OF
PAYING AGENT/REGISTRAR**

(To be executed if this Bond is not accompanied by an executed Registration Certificate of the
Comptroller of Public Accounts of the State of Texas)

This WIFIA Bond has been duly issued and registered under the provisions of the within-mentioned Ordinance; the bond or bonds of the above titled and designated series originally delivered having been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts, as shown by the records of the Paying Agent/Registrar.

UMB Bank, N.A.,
as Paying Agent/Registrar

Registered this date:

By: _____
Authorized Signature

Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto

(Please insert Social Security or Taxpayer Identification Number of Transferee)

(Please print or typewrite name and address, including zip code, of Transferee)

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney, to transfer the within WIFIA Bond on the books kept for registration thereof, with full power of substitution in the premises.

DATED: _____

Signature guaranteed by:

NOTICE: The signature to this assignment must correspond with the name of the Registered Owner as it appears upon the face of the within WIFIA Bond in every particular, without alteration or enlargement or any change whatever.

EXHIBIT B

ANTICIPATED WIFIA LOAN DISBURSEMENT SCHEDULE

<u>Federal Fiscal Year</u>	<u>Amount</u>
2022	\$2,975,097
2023	\$17,049,196
2024	\$17,123,458
2025	\$14,901,932

EXHIBIT C

FORM OF NON-DEBARMENT CERTIFICATE

The undersigned, on behalf of CITY OF PFLUGERVILLE, TEXAS (the “City”), hereby certifies that the City has fully complied with its verification obligations under 2 C.F.R. § 180.320 and hereby further confirms, based on such verification, that, to its knowledge, the City and its principals (as defined in 2 C.F.R. § 180.995 and supplemented by 2 C.F.R. 1532.995):

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

(b) Have not within a three (3) year period preceding the Effective Date been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and

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

Dated: October 28, 2022

CITY OF PFLUGERVILLE, TEXAS,
by its authorized representative

By: _____
Name: Melissa Moore
Title: Finance Director

EXHIBIT D-1

REQUISITION PROCEDURES

This **Exhibit D-1** sets out the procedures which the City agrees to follow in submitting Requisitions for the disbursement of WIFIA Loan proceeds in respect of the Eligible Project Costs incurred in connection with the Project. Section 1 sets out the manner in which Requisitions are to be submitted and reviewed. Sections 2 through 4 set out the circumstances in which the WIFIA Lender may reject or correct Requisitions submitted by the City or withhold a disbursement. The City expressly agrees to the terms hereof, and further agrees that (i) the rights of the WIFIA Lender contained herein are in addition to (and not in lieu of) any other rights or remedies available to the WIFIA Lender under the WIFIA Loan Agreement, and (ii) nothing contained herein shall be construed to limit the rights of the WIFIA Lender to take actions including administrative enforcement action and actions for breach of contract against the City if it fails to carry out its obligations under the WIFIA Loan Agreement during the term thereof.

Section 1. General Requirements. All requests by the City for the disbursement of WIFIA Loan proceeds shall be made by electronic mail or overnight delivery service by submission to the WIFIA Lender, in accordance with Section 31 (*Notices*) of the WIFIA Loan Agreement, of a Requisition, in form and substance satisfactory to the WIFIA Lender and completed and executed by the City's Authorized Representative. The form of Requisition is attached as **Appendix One** (*Form of Requisition*) to this **Exhibit D-1**.

Supporting documentation should be submitted with the requisition. If the City anticipates that it will draw down all or a portion of the proceeds of the WIFIA Loan to reimburse the City for Eligible Project Costs paid by or on behalf of the City prior to such disbursement of WIFIA Loan proceeds, whether paid from funds of the City or proceeds of Obligations issued by the City, including for the purpose of paying or redeeming such Obligations, the City shall deliver appropriate documentation, including invoices and records, evidencing such incurred or paid Eligible Project Costs (the "**Eligible Project Costs Documentation**"). Each time the City delivers Eligible Project Costs Documentation to the WIFIA Lender, and the Servicer (if any), the City shall also deliver to such entities a certificate, substantially in the form of **Exhibit D-2** (*Certification of Eligible Project Costs Documentation*) and duly executed by the City's Authorized Representative. The Eligible Project Costs Documentation must provide sufficient detail to enable the WIFIA Lender to verify that such costs are Eligible Project Costs paid by the City, in connection with the reimbursement of such Eligible Project Costs or for the purpose of paying or redeeming, in whole or part, the portion of any such short-term interim financing in respect of which the proceeds were used to pay such documented Eligible Project Costs. The WIFIA Lender shall review the Eligible Project Costs Documentation for compliance with WIFIA disbursement requirements, and any amounts approved by the WIFIA Lender as Eligible Project Costs will be disbursed at such time as the City submits a Requisition in respect of such approved amounts.

The WIFIA Lender agrees to promptly send to the City in accordance with Section 31 (*Notices*) of the WIFIA Loan Agreement, an acknowledgement of receipt of each Requisition in the form attached as **Appendix Two** (*[Approval/Disapproval] of the WIFIA Lender*) to this **Exhibit D-1** setting forth the date of receipt by the WIFIA Lender of such Requisition and setting

forth the Business Day on which disbursement will be made absent denial by the WIFIA Lender. All disbursement requests must be received by the WIFIA Lender at or before 5:00 P.M. (EST) on the first (1st) Business Day of a calendar month in order to obtain disbursement by the fifteenth (15th) day of such calendar month or, if either such day is not a Business Day, the next succeeding Business Day. If a Requisition is approved by the WIFIA Lender, the WIFIA Lender will notify the City of such approval and of the amount so approved.

Section 2. Rejection. A Requisition may be rejected in whole or in part by the WIFIA Lender if it is: (a) submitted without signature; (b) submitted under signature of a Person other than a City's Authorized Representative; (c) submitted after prior disbursement of all proceeds of the WIFIA Loan; (d) submitted without adequate Eligible Project Costs Documentation, including (i) copies of invoices and records evidencing the Eligible Project Costs, (ii) a summary of the progress of construction of the Project and a general description of the work done for which the funds being requisitioned are being applied (or a certification that no change has occurred since the date of the latest quarterly report provided pursuant to Section 16(d) (*Reporting Requirements – Construction Reporting*)), and (iii) a copy of the most recent update to the City's risk register, if requested by the WIFIA Lender.

The WIFIA Lender will notify the City of any Requisition so rejected, and the reasons therefor. Any Requisition rejected for the reasons specified above (other than Section 2(c)) must be resubmitted in proper form in order to be considered for approval. If a Requisition exceeds the balance of the WIFIA Loan proceeds remaining to be disbursed, the request will be treated as if submitted in the amount of the balance so remaining, and the WIFIA Lender will so notify the City.

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

Section 4. Withholding. The WIFIA Lender shall be entitled to withhold approval (in whole or in part) of any pending or subsequent requests for the disbursement of WIFIA Loan proceeds if: (a) a Default or an Event of Default shall have occurred and be continuing; (b) the City (i) knowingly takes any action, or omits to take any action, amounting to fraud or violation of any applicable law, in connection with the transactions contemplated hereby; (ii) prevents or materially impairs the ability of the WIFIA Lender to monitor compliance by the City with applicable law pertaining to the Project or with the terms and conditions of the WIFIA Loan Agreement; (iii) fails to observe or comply with any applicable law, or any term or condition of the WIFIA Loan Agreement; (iv) fails to satisfy the conditions set forth in Section 4 (*Disbursement Conditions*) and Section 11(b) (*Conditions Precedent – Conditions Precedent to Disbursements*) of the WIFIA Loan Agreement; or (v) fails to deliver Eligible Project Costs Documentation satisfactory to the WIFIA Lender at the times and in the manner specified by the WIFIA Loan Agreement; provided, that in such case of Section 4(v), the WIFIA Lender may, in its sole discretion, partially approve a disbursement request in respect of any amounts for which adequate Eligible Project Costs has been provided and may, in its sole discretion, disburse in respect of such properly documented amounts.

APPENDIX 1
FORM OF REQUISITION

United States Environmental Protection Agency³
1200 Pennsylvania Avenue NW
WJC-W 6201A
Washington, D.C. 20460
Attention: WIFIA Director

Re: City of Pflugerville Water Treatment Plant (WTP) Expansion – 30 MGD (WIFIA - N20166TX)

Ladies and Gentlemen:

Pursuant to Section 4 (*Disbursement Conditions*) of the WIFIA Loan Agreement, dated as of October 28, 2022 (the “**WIFIA Loan Agreement**”), by and between CITY OF PFLUGERVILLE, TEXAS (the “**City**”) and the UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, acting by and through the Administrator (the “**WIFIA Lender**”), the City hereby requests disbursement in the amount set forth below in respect of Eligible Project Costs paid or incurred by the City. Capitalized terms used but not defined herein have the meaning set forth in the WIFIA Loan Agreement.

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

1.	Project name	City of Pflugerville Water Treatment Plant (WTP) Expansion – 30 MGD
2.	City name	City of Pflugerville, Texas
3.	WIFIA reference number	N20166TX
4.	Requisition number	[]
5.	Requested disbursement amount	[\$ []]

³ If there is a Servicer for the WIFIA Loan, provide a copy to the Servicer as well and include its notice details here.

6.	Requested disbursement date (the “Disbursement Date”)	[]
7.	Total amounts previously disbursed under the WIFIA Loan Agreement	[\$ []]
8.	Wire instructions	[]

9. The amounts hereby requisitioned have been paid or incurred and approved for payment by or on behalf of the City for Eligible Project Costs and have not been paid for or reimbursed by any previous disbursement from WIFIA Loan proceeds. No portion of the amounts requisitioned will be applied to pay for Eligible Project Costs that have been previously paid, or are expected to be paid, with proceeds of debt of the City that is not the WIFIA Loan (“**Other Debt**”)[.], except as set forth below:

Source of Other Debt	Amount of Other Debt
[]	[\$ []]
Total Amount of Other Debt	[\$ []]

The portion of the amount requisitioned equal to the total amount of the Other Debt set forth above will be promptly applied by the City to either (i) discharge a like principal amount of such Other Debt or (ii) reimburse the applicable fund or account from which the proceeds of such Other Debt were spent.]⁴

10. The aggregate amount of all disbursements of the WIFIA Loan (including the amount requested under this Requisition but excluding any interest that is capitalized in accordance with the WIFIA Loan Agreement) does not exceed (a) the amount of the WIFIA Loan, (b) the amount of Eligible Project Costs paid or incurred by the City, and (c) the cumulative disbursements through the end of the current Federal Fiscal Year as set forth in the Anticipated WIFIA Loan Disbursement Schedule.
11. The City has sufficient available funds committed to the Project, which together with funds that remain available and not yet drawn under the WIFIA Loan, will be sufficient to pay the reasonably anticipated remaining Total Project Costs.

⁴ This paragraph should be included when the Eligible Project Costs for which the proceeds of the requisition are to be applied were previously funded with bond anticipation notes or other short-term interim financing by the Borrower on a temporary basis with the intent of redeeming the bond anticipation notes or other obligations with proceeds of the WIFIA Loan as permanent financing, or reimbursing the applicable funds of the other obligations such that they become available for payment of other Project costs.

12. The total federal assistance provided to the Project, including the maximum principal amount of the WIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), does not exceed eighty percent (80%) of Total Project Costs.
13. The City has all Governmental Approvals necessary as of the date hereof and as of the Disbursement Date (immediately after giving effect to the above-requested disbursement of WIFIA Loan proceeds), for the development, construction, operation and maintenance of the Project and each such Governmental Approval has been issued and is in full force and effect (and is not subject to any notice of violation, breach or revocation).
14. Each of the insurance policies obtained by the City in satisfaction of Section 11(a)(xvi) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement is in full force and effect, and no notice of termination thereof has been issued by the applicable insurance provider.
15. As of the date hereof and on the Disbursement Date (immediately after giving effect to the above-requested disbursement of WIFIA Loan proceeds), (i) no Default or Event of Default and (ii) no event of default under any other Related Document and no event that, with the giving of notice or the passage of time or both, would constitute an event of default under any Related Document, in each case, has occurred and is continuing. No Material Adverse Effect, or any event or condition that could reasonably be expected to have a Material Adverse Effect, has occurred or arisen since the date of the Application.
16. The City, and each of its contractors and subcontractors at all tiers with respect to the Project, has complied with all applicable laws, rules, regulations and requirements, including without limitation 40 U.S.C. §§3141-3144, 3146, and 3147 (relating to Davis-Bacon Act requirements) (and regulations relating thereto) and 33 U.S.C. §3914 (relating to American iron and steel products). Supporting documentation, such as certified payroll records and certifications for all iron and steel products used for the Project, are being maintained and are available for review upon request by the WIFIA Lender.
17. The representations and warranties of the City set forth in the WIFIA Loan Agreement and in each other Related Document are true and correct as of the date hereof and as of the Disbursement Date, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).

18. The current estimated percentage of physical completion of the Project is [___]%. The City is in compliance with Section 16(d) (*Reporting Requirements – Construction Reporting*) and no change has occurred since the date of the most recently delivered quarterly construction progress report that could reasonably be expected to cause a Material Adverse Effect.⁵
19. All documentation evidencing the Eligible Project Costs to be reimbursed to the City [or to be used to pay Eligible Project Costs previously paid from proceeds of Other Debt] by the above-requested disbursement has been delivered by the City to the WIFIA Lender at the times and in the manner specified by the WIFIA Loan Agreement, including the details set forth [in the attachment hereto, which is in form satisfactory to the WIFIA Lender][below:

								WIFIA USE ONLY	
Vendor or Contractor Name ⁶	Invoice Number ⁷	Invoice Date	Payment Date	Invoice Amount	WIFIA Requested Amount ⁸	Activity Type ⁹	Description of Activity ¹⁰	Approved Amount	Notes

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

⁵ The most recent quarterly progress report should set out a summary of the progress of construction of the Project, as well as a general description of the work done for which the funds being requisitioned are being applied and a summary of any material changes/risks. If not, PM should request additional information (including a risk register, if applicable).

⁶ If seeking reimbursement for internal costs, enter “Internally financed activities.”

⁷ Vendor’s number indicated on the invoice sent to the Borrower.

⁸ If the amount requested for reimbursement by the WIFIA Lender is less than the total amount of the invoice, include an explanation for the difference.

⁹ Specify whether activity is: (a) **Development phase activity**, which includes planning, preliminary engineering, design, environmental review, revenue forecasting and other pre-construction activities; (b) **Construction**, which includes construction, reconstruction, rehabilitation and replacement activities; (c) **Acquisition of real property**, which includes acquiring an interest in real property, environmental mitigation, construction contingencies and acquisition of equipment; (d) **Carrying costs**, including capitalized interest, as necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses and other carrying costs during construction; (e) **WIFIA fees**, including for application and credit processing; or (f) **Other**, with an explanation in the “Description of Activity” column.

¹⁰ Provide a brief description of the activities included in the invoice for which WIFIA funds are being requested and any other notes that will aid in the review of the disbursement request.

Date: _____

CITY OF PFLUGERVILLE, TEXAS,
by its authorized representative

By: _____

Name:

Title:

APPENDIX TWO TO EXHIBIT D-1

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

Requisition Number [_____] is [approved in the amount of \$[_____] [approved in part in the amount of \$[_____] [not approved, for the reasons set forth in Annex A attached hereto,]¹¹ by the WIFIA Lender (as defined herein) pursuant to Section 4 (*Disbursement Conditions*) of the WIFIA Loan Agreement, dated as of October 28, 2022, by and between the City of Pflugerville, Texas (the “City”) and the United States Environmental Protection Agency, acting by and through the Administrator (the “WIFIA Lender”).

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

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

By: _____
WIFIA Lender’s Authorized Representative
Name:
Title:
Dated:

¹¹If there is any partial or full denial of approval, the WIFIA Lender should provide a separate attachment setting forth the reasons for such partial or full denial of approval.

EXHIBIT D-2

CERTIFICATION OF ELIGIBLE PROJECT COSTS DOCUMENTATION

[Date]

United States Environmental Protection Agency¹²
1200 Pennsylvania Avenue NW
WJC-W 6201A
Washington, D.C. 20460
Attention: WIFIA Director

Re: City of Pflugerville Water Treatment Plant (WTP) Expansion – 30 MGD (WIFIA - N20166TX)

Ladies and Gentlemen:

Pursuant to Section 4 (*Disbursement Conditions*) of the WIFIA Loan Agreement, dated as of October 28, 2022 (the “**WIFIA Loan Agreement**”), by and between the CITY OF PFLUGERVILLE, TEXAS (the “**City**”) and the UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, acting by and through the Administrator (the “**WIFIA Lender**”), we hereby present this certificate in connection with the City’s delivery of Eligible Project Costs Documentation to the WIFIA Lender. Capitalized terms used but not defined herein have the meaning set forth in the WIFIA Loan Agreement.

The undersigned does hereby represent and certify the following:

1. This certificate is being delivered to the WIFIA Lender in connection with the Eligible Project Costs Documentation and is applicable to the period between [_____] and [_____].
2. Documentation evidencing the Eligible Project Costs to be reimbursed to the City is set forth [in the attachment hereto, which is in form satisfactory to the WIFIA Lender][below:

¹² If there is a Servicer for the WIFIA Loan, provide a copy to the Servicer as well and include its notice details here.

							WIFIA USE ONLY	
Vendor or Contractor Name ¹³	Invoice Number ¹⁴	Invoice Date	Payment Date	Invoice Amount	Activity Type ¹⁵	Description of Activity ¹⁶	Approved Amount	Notes

3. The sources of funding for such Eligible Project Costs are [listed below / set forth in Exhibit [] to this certificate].
4. [The funds for which reimbursement will be sought were expended solely in connection with the payment or reimbursement of Eligible Project Costs.]

Date: _____

CITY OF PFLUGERVILLE, TEXAS¹⁷

By: _____

Name:

Title:

¹³ If seeking reimbursement for internal costs, enter "Internally financed activities."

¹⁴ Vendor's number indicated on the invoice sent to the Borrower.

¹⁵ Specify whether activity is: (a) **Development phase activity**, which includes planning, preliminary engineering, design, environmental review, revenue forecasting and other pre-construction activities; (b) **Construction**, which includes construction, reconstruction, rehabilitation and replacement activities; (c) **Acquisition of real property**, which includes acquiring an interest in real property, environmental mitigation, construction contingencies and acquisition of equipment; (d) **Carrying costs**, including capitalized interest, as necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses and other carrying costs during construction; (e) **WIFIA fees**, including for application and credit processing; or (f) **Other**, with an explanation in the "Description of Activity" column.

¹⁶ Provide a brief description of the activities included in the invoice for which WIFIA funds are being requested and any other notes that will aid in the review of the documentation.

¹⁷ To be executed by the Borrower's Authorized Representative.

EXHIBIT E

FORM OF NON-LOBBYING CERTIFICATE

The undersigned, on behalf of CITY OF PFLUGERVILLE, TEXAS, hereby certifies, to the best of his or her knowledge and belief, that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the City, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of the WIFIA Loan and the amendment or modification of the WIFIA Loan Agreement.

(b) If any funds other than proceeds of the WIFIA Loan have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the WIFIA Loan, the City shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(c) The City shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

Capitalized terms used in the certificate and not defined shall have the respective meanings ascribed to such terms in the WIFIA Loan Agreement, dated as of October 28, 2022 (the "**WIFIA Loan Agreement**"), by and between the United States Environmental Protection Agency, acting by and through the Administrator (the "**WIFIA Lender**"), and the City, as the same may be amended from time to time.

This certification is a material representation of fact upon which reliance was placed when the WIFIA Lender entered into the WIFIA Loan Agreement. Submission of this certification is a prerequisite to the effectiveness of the WIFIA Loan Agreement imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Dated: October 28, 2022

CITY OF PFLUGERVILLE, TEXAS,

by its authorized representative

By: _____

Name: Melissa Moore

Title: Finance Director

EXHIBIT F
WIFIA DEBT SERVICE

[See attached pages]

EXHIBIT G-1

OPINIONS REQUIRED FROM COUNSEL TO CITY

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

(a) The City is a home rule city, public body corporate and politic, duly organized and existing under the laws of the State, including Article XI, Section 5 of the Texas Constitution, the City of Pflugerville Home Rule Charter, and has a substantial amount of one or more of the following sovereign powers: (a) the power to tax, (b) the power of eminent domain, and (c) the police power.

(b) The City has all requisite power and authority to conduct its business and to execute and deliver, and to perform its obligations under the Related Documents to which it is a party.

(c) The execution and delivery by the City of, and the performance of its respective obligations under, the Related Documents to which it is a party, have been duly authorized by all necessary organizational or regulatory action pursuant to Ordinance No. [_____] duly enacted on October 25, 2022.

(d) The City has duly executed and delivered each Related Document to which it is a party and each such Related Document constitutes the legal, valid and binding obligation of the City; enforceable against the City in accordance with their respective terms.

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

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

(g) The City is not an investment company required to register under the Investment Company Act of 1940, as amended.

(h) No actions, proceedings, investigations, or litigation of any nature has been undertaken or filed or is now pending or, to our knowledge, threatened, to restrain or enjoin the activities governed by or in connection with the Related Documents or the Utility System (including the Project), and that so far as we know and believe no such actions, proceedings, investigations, or litigation is threatened.

EXHIBIT G-2

OPINIONS REQUIRED FROM BOND COUNSEL

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

(a) The City is a home rule city duly created, organized and existing under the laws of the State, including specifically Article XI, Section 5 of the State Constitution and the City's home rule charter.

(b) The City has the right and power under the laws of the State, including the Acts, to issue the WIFIA Bond and to enter into the Ordinance, the WIFIA Loan Agreement and the Paying Agent/Registrar Agreement, and each (i) has been duly authorized, executed and delivered by the City, (ii) is in full force and effect and (iii) assuming the due and valid authorization, execution and delivery by the applicable counterparty thereto, constitutes a legal, valid and binding agreement of the City enforceable against the City in accordance with its respective terms and conditions.

(c) The payment obligations of the City under the WIFIA Bond (i) constitute Parity Debt pursuant to the terms of the Ordinance payable, with any then outstanding Parity Debt, from and secured by a lien on and pledge of the Security, as provided in the Ordinance and (ii) are of equal rank in right of payment and right of security with all Parity Debt and are senior in right of payment and right of security to all other debt that may have a lien on Security.

(d) The Ordinance creates a valid and binding assignment and pledge of the Security to secure the payment of the principal of, interest on, and other amounts payable in respect of, the WIFIA Bond as Parity Debt. Chapter 1208, Texas Government Code, as amended ("Chapter 1208"), provides that a security interest established by an issuer that secures payment or performance of public securities, such as the lien on, pledge of and security interest in the Security granted by the City in the Ordinance, is valid and effective and that such security interest will remain continuously perfected without the need for any filings or further action by such an issuer until the security interest terminates according to its terms. Therefore, since Chapter 1208 applies to the issuance or incurrence of the WIFIA Bond and the lien on, pledge on and security interest in the Security, such security interest is valid, effective and perfected and will remain so without the need of further action by the City until the lien on, pledge of and security interest in the Security terminates according to the terms of the Ordinance.

(e) The City has taken all necessary action required to be taken to ensure that the WIFIA Loan Agreement complies in all respects with Chapter 1502, Texas Government Code, as amended, and the Ordinance.

EXHIBIT H

FORM OF CLOSING CERTIFICATE

Reference is made to that certain WIFIA Loan Agreement, dated as of October 28, 2022 (the “**WIFIA Loan Agreement**”), by and among the City of Pflugerville, Texas (the “**City**”) and the United States Environmental Protection Agency, acting by and through the Administrator (the “**WIFIA Lender**”). Capitalized terms used in this certificate and not defined shall have the respective meanings ascribed to such terms in the WIFIA Loan Agreement.

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

- (a) pursuant to Section 11(a)(viii) of the WIFIA Loan Agreement, attached hereto as Annex A is an incumbency certificate that lists all persons, together with their positions and specimen signatures, who are duly authorized by the City to execute the Related Documents to which the City is or will be a party, and who have been appointed as a City’s Authorized Representative in accordance with Section 21 (*City’s Authorized Representative*) of the WIFIA Loan Agreement, a true, correct and complete copy of which is included in the closing transcripts for the WIFIA Loan;
- (b) pursuant to Section 11(a)(ii) of the WIFIA Loan Agreement, the City has delivered to the WIFIA Lender copies of the WIFIA Loan Documents, together with any amendments, waivers or modifications thereto, that has been entered into on or prior to the Effective Date, true, correct and complete copies of which are included in the closing transcripts for the WIFIA Loan, and each such document is complete, fully executed, and in full force and effect, and all conditions contained in such documents that are necessary to the closing of the WIFIA transactions contemplated hereby have been fulfilled;
- (c) pursuant to Section 11(a)(iii) of the WIFIA Loan Agreement, the City has delivered to the WIFIA Lender copies of each Existing Construction Contract, together with any amendments, waivers or modifications thereto, and each such document is complete, fully executed, and in full force and effect;
- (d) pursuant to Section 11(a)(iv) of the WIFIA Loan Agreement, the City has delivered to the WIFIA Lender a copy of the City Charter as in effect on the Effective Date, a true, correct and complete copy of which is included in the closing transcripts for the WIFIA Loan, which City Charter is in full force and effect. Other than the WIFIA Supplement, there are no additional instruments or documents necessary for the City to execute and deliver, or to perform its obligations under, the WIFIA Loan Documents to which it is a party and to consummate and implement the transactions contemplated by the WIFIA Loan Documents;

- (e) pursuant to Section 11(a)(viii)(1) of the WIFIA Loan Agreement, the aggregate of all funds committed to the development and construction of the Project as set forth in the Project Budget are sufficient to carry out the Project, pay all Total Project Costs anticipated for the Project and achieve Substantial Completion by the Projected Substantial Completion Date;
- (f) pursuant to Section 11(a)(viii)(2) of the WIFIA Loan Agreement, the City has obtained all Governmental Approvals necessary (i) as of the Effective Date in connection with the Project and (ii) to execute and deliver, and perform its obligations under the WIFIA Loan Documents, and each such Governmental Approval is in full force and effect (and is not subject to any notice of violation, breach or revocation);
- (g) pursuant to Section 11(a)(viii)(3) of the WIFIA Loan Agreement, (i) the maximum principal amount of the WIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), together with the amount of any other credit assistance provided under the Act to the City, does not exceed forty-nine percent (49%) of reasonably anticipated Eligible Project Costs and (ii) the total federal assistance provided to the Project, including the maximum principal amount of the WIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), does not exceed eighty percent (80%) of Total Project Costs;
- (h) pursuant to Section 11(a)(viii)(4) of the WIFIA Loan Agreement, the City is in compliance with NEPA and any applicable federal, state or local environmental review and approval requirements with respect to the Project, and, if requested by the WIFIA Lender, has provided evidence satisfactory to the WIFIA Lender of such compliance;
- (i) pursuant to Section 11(a)(vii)(5) of the WIFIA Loan Agreement, the City has developed, and identified adequate revenues to implement, a plan for operating, maintaining and repairing the Project during its useful life;
- (j) pursuant to Section 11(a)(viii)(6) of the WIFIA Loan Agreement, (i) the City's Federal Employer Identification Number is 74-1737408, and the City has delivered to the WIFIA Lender evidence (in the form of a signed W9) of such Federal Employer Identification Number, a true, correct and complete copy of which is included in the closing transcripts for the WIFIA Loan, (ii) the City's Unique Entity Identifier Number is NR96V4FVM5F7, and the City has delivered to the WIFIA Lender evidence of such Unique Entity Identifier Number, a true, correct and complete copy of which is included in the closing transcripts for the WIFIA Loan, and (iii) the City has registered with, and obtained confirmation of active registration status from, the federal System for Award Management (www.SAM.gov), and the City has delivered to the WIFIA Lender evidence of such confirmation of active registration status, a true, correct and complete copy of which is included in the closing transcripts for the WIFIA Loan;

- (k) pursuant to Section 11(a)(viii)(7) of the WIFIA Loan Agreement, the CUSIP number for the WIFIA Bond is 71710KDQ7, a true, correct and complete copy of which is included in the closing transcripts for the WIFIA Loan;
- (l) pursuant to Section 11(a)(viii)(8) of the WIFIA Loan Agreement, the representations and warranties of the City set forth in the WIFIA Loan Agreement and in each other Related Document to which the City is a party are true and correct on and as of the date hereof, except to the extent that such representations and warranties expressly relate to an earlier date, in which case such representations and warranties were true and correct as of such earlier date;
- (m) pursuant to Section 11(a)(viii)(9) of the WIFIA Loan Agreement, no Material Adverse Effect, or any event or condition that could reasonably be expected to have a Material Adverse Effect, has occurred or arisen since the date of the Application;
- (n) pursuant to Section 11(a)(ix) of the WIFIA Loan Agreement, the public Investment Grade Rating on the WIFIA Bond assigned by at least one (1) Nationally Recognized Rating Agency evidenced by the rating letter delivered to the WIFIA Lender pursuant to such Section 11(a)(x) has not been reduced, withdrawn or suspended as of the Effective Date; and
- (o) pursuant to Section 11(a)(x) of the WIFIA Loan Agreement, the City has delivered to the WIFIA Lender the Base Case Financial Model, a true, correct and complete copy of which is included in the closing transcripts for the WIFIA Loan, which (i) demonstrates that projected Net Revenues are sufficient to meet the Loan Amortization Schedule, (ii) demonstrates compliance with the Rate Covenant for each City Fiscal Year through the Final Maturity Date, (iii) reflects principal amortization and interest payment schedules acceptable to the WIFIA Lender, (iv) demonstrates that the City has developed, and identified adequate revenues to implement, a plan for operating, maintaining and repairing the Project over its useful life and (v) otherwise meets the requirements of such Section 11(a)(xi).

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

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

CITY OF PFLUGERVILLE, TEXAS,
by its authorized representative

By: _____
Name: Melissa Moore
Title: Finance Director

[Signature Page to City of Pflugerville Water Treatment Plant (WTP) Expansion – 30 MGD Project – Borrower Closing Certificate]

ANNEX A TO EXHIBIT H

INCUMBENCY CERTIFICATE

The undersigned certifies that he/she is the City Secretary of the City of Pflugerville, Texas, a municipal body politic and corporate created under the laws of the State of Texas (the “City”), and as such he/she is authorized to execute this certificate and further certifies that the following persons have been elected or appointed, are qualified, and are now acting as officers or authorized persons of the City in the capacity or capacities indicated below, and that the signatures set forth opposite their respective names are their true and genuine signatures. He/She further certifies that any of the officers listed below is authorized to sign agreements and give written instructions with regard to any matters pertaining to the WIFIA Loan Documents as the City’s Authorized Representative (each as defined in that certain WIFIA Loan Agreement, dated as of October 28, 2022, between the City and the United States Environmental Protection Agency, acting by and through the Administrator):

<u>Name</u>	<u>Title</u>	<u>Signature</u>
Sereniah Breland	City Manager	_____
James Hartshorn	Deputy City Manager	_____
Emily Barron	Assistant City Manager	_____
Melissa Moore	Finance Director	_____
Victor Gonzales	Mayor	_____

IN WITNESS WHEREOF, the undersigned has executed this certificate as of this 28th day of October, 2022.

CITY OF PFLUGERVILLE, TEXAS,
by its authorized representative

By: _____
Name: Trista Evans
Title: City Secretary

[Signature Page to City of Pflugerville Water Treatment Plant (WTP) Expansion – 30 MGD Project – Borrower Incumbency Certificate]

EXHIBIT I

FORM OF CERTIFICATE OF SUBSTANTIAL COMPLETION

[Letterhead of City]

[Date]

WIFIA Program Office
[Insert Proper Address]
Attention: Administrator

Project: City of Pflugerville Water Treatment Plant (WTP) Expansion – 30 MGD (WIFIA - N20166TX)

Dear Director:

This Notice is provided pursuant to Section 16(a)(i)(A) (*Affirmative Covenants – Notice – Substantial Completion*) of that certain WIFIA Loan Agreement (the “**WIFIA Loan Agreement**”), dated as of October 28, 2022, by and between City of Pflugerville, Texas (the “**City**”) and the United States Environmental Protection Agency, acting by and through its Administrator (the “**WIFIA Lender**”).

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

I, the undersigned, in my capacity as the City’s Authorized Representative and not in my individual capacity, do hereby certify to the WIFIA Lender that:

- (a) on *[insert date Substantial Completion requirements were satisfied]*, the Project satisfied each of the requirements for Substantial Completion set forth in the *[Insert reference to the concession agreement, design-build or similar agreement for the Project]*;
- (b) Substantial Completion has been declared under each of the above-referenced agreements and copies of the notices of Substantial Completion under such agreements are attached to this certification; and
- (c) Substantial Completion, as defined in the WIFIA Loan Agreement, has been achieved.

CITY OF PFLUGERVILLE, TEXAS,
by its authorized representative

By: _____
Name:
Title:

**EXHIBIT J
OPTION 1:
FORM OF QUARTERLY REPORT FOR INDIVIDUAL PROJECTS**

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

Re: City of Pflugerville Water Treatment Plant (WTP) Expansion – 30 MGD (WIFIA – N20166TX)

This Quarterly Report for the period of *[insert relevant quarterly period]* is provided pursuant to Section 16(d) (*Reporting Requirements – Construction Reporting*) of the WIFIA Loan Agreement, dated as of October 28, 2022 (the “**WIFIA Loan Agreement**”), by and between the City of Pflugerville (the “**City**”) and the United States Environmental Protection Agency, acting by and through the Administrator of the Environmental Protection Agency (the “**WIFIA Lender**”). Unless otherwise defined herein, all capitalized terms in this Quarterly Report have the meanings assigned to those terms in the WIFIA Loan Agreement.

- (i) **Project Status.** Provide a narrative summary of the Project’s construction progress since the last quarterly reporting period, including project components where appropriate. Complete the table in Appendix A to update the Project scope, schedule, and costs with the latest information.

--

Current projection of Substantial Completion Date: _____

If the current projection for the substantial completion date is later than previously reported in the prior Quarterly Report, provide a description in reasonable detail for such projected delay:

--

- (ii) **Material Problems (if any)**

Note any problems encountered or anticipated during the construction of the Project during the preceding quarter that (1) impedes project completion within the scope, costs, and schedule outlined in the WIFIA Loan Agreement or (2) relates to unforeseen complications in connection with the construction of the Project. This may include commissioning/start-up issues, constructability issues for the project as planned, adverse impacts to project surroundings, change in or issues with meeting environmental compliance requirements, and unanticipated or abnormal

permit approval timelines. Include an assessment of the impact and any current plans to address the problems.

(iii) Other matters related to the Project

Date: _____

CITY OF PFLUGERVILLE, TEXAS,
by its authorized representative or agent

By: _____

Name:

Title:

APPENDIX A OF SCHEDULE J¹⁸

Project Scope		Project Schedule						Project Costs		
Project Component	Completed (Y/N)	Contract/Vendor	Bid Advertisement Date	Contract Award Date	NTP Effective Date	Original Substantial Completion Date	Estimated Substantial Completion Date	Original Contract Amount	Estimated Costs to Complete	Costs Earned or Paid to Date
Total										

Table Definitions:

Project Component – project name or ID as tracked by the City

Complete (Y/N) – indication that project is complete, and no additional updates will be provided

Contract/Vendor – the contract identifier and contractor that is/will be completing the project construction.

Bid Advertisement Date – the date the bid was advertised

Contract Award date – the date the contract was awarded

NTP Effective date – the effective date to proceed with the construction in the Notice to Proceed

Original Substantial Completion Date – the substantial completion date for the given project as noted in the original contract award

Estimated Substantial Completion Date – the latest date estimate for substantial completion for the given project component

Original Contract Amount – the original contract award amount

Estimated Costs to Complete – the latest cost estimates to complete the given project component

Costs Earned or Paid to Date – the latest incurred contract costs for the given project component

Total – Total the cost amounts across all project components and contracts

¹⁸ Appendix A summarizes all project components that will be bid in the next quarter, are currently under construction, or have completed construction. It should be a cumulative list of projects that is updated each quarter. A Microsoft Excel spreadsheet with similar table format is acceptable.

**EXHIBIT J
OPTION 2:
FORM OF QUARTERLY REPORT FOR PROGRAM OF PROJECTS**

- (i) **Project Status.** Provide a narrative summary of the Project's construction progress since the last quarterly reporting period, including project components where appropriate. Complete the table in Appendix A to update the Project scope, schedule, and costs with the latest information.

Current projection of Substantial Completion Date: _____

If the current projection for the substantial completion date is later than previously reported in the prior Quarterly Report, provide a description in reasonable detail for such projected delay:

- (ii) **Material Problems (if any)**

Note any problems encountered or anticipated during the construction of the Project during the preceding quarter that (1) impedes project completion within the scope, costs, and schedule outlined in the WIFIA Loan Agreement or (2) relates to unforeseen complications in connection with the construction of the Project. This may include commissioning/start-up issues, constructability issues for the project as planned, adverse impacts to project surroundings, change in or issues with meeting environmental compliance requirements, and unanticipated or abnormal permit approval timelines. Include an assessment of the impact and any current plans to address the problems.

- (iii) **Other matters related to the Project**

Date: _____

CITY OF PFLUGERVILLE, TEXAS,
by its authorized representative or agent

By: _____

Name:

Title:

APPENDIX A OF SCHEDULE J¹⁹

Project Scope					Project Schedule						Project Costs		
Project Component	Complete (Y/N)	Description	Location	Covered by existing NEPA?	Contract/Vendor	Bid Advertisement Date	Contract Award Date	NTP Effective Date	Original Substantial Completion Date	Estimated Substantial Completion Date	Original Contract Amount	Estimated Costs to Complete	Costs Earned or Paid to Date
Total													

Table Definitions:

Project Component – project name or ID as tracked by the City

Complete (Y/N) – indication that project is complete, and no additional updates will be provided

Description (program of projects only) – brief overview of scope of work for the project component.

Location (program of projects only) – physical project boundaries

Covered by existing NEPA? (program of projects only) – refer to the environmental review documents that is the basis for the NEPA finding. Is the project within the geographic scope and scope of activities described in the documents?

Contract/Vendor – the contract identifier and contractor that is/will be completing the project construction.

Bid Advertisement Date – the date the bid was advertised

Contract Award date – the date the contract was awarded

NTP Effective date – the effective date to proceed with the construction in the Notice to Proceed

Original Substantial Completion Date – the substantial completion date for the given project as noted in the original contract award

Estimated Substantial Completion Date – the latest date estimate for substantial completion for the given project component

Original Contract Amount – the original contract award amount

Estimated Costs to Complete – the latest cost estimates to complete the given project component

Costs Earned or Paid to Date – the latest incurred contract costs for the given project component

Total – Total the cost amounts across all project components and contracts

¹⁹ Appendix A summarizes all project components that will be bid in the next quarter, are currently under construction, or have completed construction. It should be a cumulative list of projects that is updated each quarter. A Microsoft Excel spreadsheet with similar table format is acceptable.

EXHIBIT K

FORM OF PUBLIC BENEFITS REPORT

Pursuant to [Section 11(a)(xi)] [and] [Section 16(e)] of the WIFIA Loan Agreement, the City of Pflugerville, Texas (the “City”) is providing this Public Benefits Report in connection with the City of Pflugerville Water Treatment Plant (WTP) Expansion – 30 MGD (WIFIA – N20166TX):

Reporting Period: [Prior to the Effective Date] [within ninety (90) days following the Substantial Completion Date] [within ninety (90) days following the fifth (5th) anniversary of the Substantial Completion Date]

- (i) **The number of total jobs and direct jobs projected to be created by the Project during the period between the Effective Date and the Substantial Completion Date:**

WIFIA projects that the Project will create 325 total jobs.

- (ii) **Provide a narrative description of the environmental, societal, or quality of life benefits to the community as a result of the Project:**

The Project will implement the City’s plan for a phased expansion of its system to meet projected water demands for its service area.

- (iii) **Indicate (yes or no) whether the Project will assist the City in complying with applicable regulatory requirements, and if yes, describe how the project assists with regulatory compliance:**

Yes

The Project will improve treatment of its source water to meet EPA regulations (LT2ESWTR).

- (iv) **The Project will assist the City with the following environmental measure:**

The Project will expand the City’s existing water treatment plant from 17 to 30 MGD.

EXHIBIT C
TERM SHEET

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

October 28, 2022

City of Pflugerville, Texas
100 E. Main Street
Pflugerville, TX 78660

RE: WIFIA Term Sheet for the City of Pflugerville Water Treatment Plant (WTP) Expansion
– 30 MGD (WIFIA Project No. N20166TX)

Ladies and Gentlemen:

This WIFIA Term Sheet (this “**Term Sheet**”) constitutes (a) the approval of the United States Environmental Protection Agency, acting by and through the Administrator of the Environmental Protection Agency (hereinafter, the “**USEPA**”), of the application for credit assistance of the Borrower (as defined below) dated July 26, 2021 (the “**Application**”) and (b) the agreement of USEPA to provide financing for the above-referenced project (as further described below, the “**Project**”) in the form of a secured loan (the “**WIFIA Loan**”), pursuant to the Water Infrastructure Finance and Innovation Act (“**WIFIA**”), § 5021 *et seq.* of Public Law 113-121 (as amended by Public Law 114-94, Public Law 114-322 and Public Law 115-270) (the “**Act**”), codified as 33 U.S.C. §§ 3901-3915, subject in all respects to (i) the terms and conditions contained herein and (ii) the execution and delivery of the WIFIA loan agreement to be entered into on or after the date hereof (the “**WIFIA Loan Agreement**”) and the terms and conditions contained therein. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the WIFIA Loan Agreement.

USEPA’s agreement to provide WIFIA credit assistance to the Project is based upon the Application and the supplemental information and documents, including the base case financial model, provided to USEPA. This Term Sheet is an agreement of USEPA only to the terms specified herein, which may be modified or supplemented by USEPA in its discretion at any time and from time to time during the course of its due diligence and credit approval process.

By executing this Term Sheet, the Borrower confirms its agreement to reimburse USEPA for any and all fees and expenses that USEPA incurs for legal counsel, financial advice, and other consultants in connection with the evaluation of the Project and the negotiation and preparation of the WIFIA Loan Agreement and related documents, whether or not such agreement is ultimately executed.

This Term Sheet shall be governed by the federal laws of the United States of America if and to the extent such federal laws are applicable, and the internal laws of the State of Texas, if and to the extent such federal laws are not applicable.

INDICATIVE TERMS OF THE WIFIA LOAN

WIFIA LENDER	United States Environmental Protection Agency, an agency of the United States of America, acting by and through the Administrator of the Environmental Protection Agency (the “ WIFIA Lender ”).
BORROWER	City of Pflugerville, Texas, a municipal body politic and corporate organized and existing under the laws of the State of Texas (the “ Borrower ”).
PROJECT	The Project consists of the planning, design, and expansion of the water treatment plant for the Borrower, comprising lake raw water pump station improvements, water treatment plant pretreatment system improvements, water treatment plant filtration system improvements, water treatment plant disinfection and treatment chemical feed and storage system improvements, water treatment plant finished water pumping improvements, water treatment plant solids/residuals management process improvements, and acquisition of land and real property interests necessary to complete the Project (the “ Project ”).
WIFIA LOAN AMOUNT	A maximum principal amount (sum of disbursements) not to exceed \$52,049,683; provided that (a) the maximum principal amount of the WIFIA Loan, together with the amount of any other credit assistance provided under the Act, shall not exceed forty-nine percent (49%) of reasonably anticipated Eligible Project Costs, and (b) the total federal assistance for the Project, including but not limited to the maximum principal amount of the WIFIA Loan and all federal direct and indirect grants, shall not exceed eighty percent (80%) of Total Project Costs.
INTEREST RATE	<p>The WIFIA Loan shall bear interest at a fixed rate, calculated by adding one basis point (0.01%) to the rate of securities of a similar maturity (based on the weighted-average life of the WIFIA Loan) as published, on the execution date of the WIFIA Loan Agreement, in the United States Treasury Bureau of Public Debt’s daily rate table for State and Local Government Series (SLGS) securities, currently located on the Internet at https://www.treasurydirect.gov/GA-SL/SLGS/selectSLGSDate.htm.</p> <p>Interest shall accrue and be computed on the basis of a 360-day year of twelve (12) thirty (30) day months.</p> <p>The WIFIA Loan shall also bear default interest at a rate of 200 basis points above the otherwise applicable interest rate, at such times and upon such terms as are provided in the WIFIA Loan Agreement.</p>

PAYMENT DATES	<p>Principal of the WIFIA Loan shall be repaid in annual installments on August 1 of each year, beginning on August 1, 2023.</p> <p>Interest shall be paid in arrears on February 1 and August 1 of each year, commencing on the Debt Service Payment Commencement Date.</p> <p>The Debt Service Payment Commencement Date shall in no event be later than five (5) years after the Substantial Completion Date of the Project.</p>
FINAL MATURITY DATE	<p>The earlier of (a) August 1, 2053 (or such earlier date as is set forth in an updated Exhibit F (<i>WIFIA Debt Service</i>) pursuant to Section 8(e) (<i>Payment of Principal and Interest – Adjustments to Loan Amortization Schedule</i>)); and (b) the Payment Date immediately preceding the date that is thirty-five (35) years following the Substantial Completion Date.</p>
PROJECTED SUBSTANTIAL COMPLETION DATE	<p>December 31, 2025</p>
DEDICATED SOURCE OF REPAYMENT	<p>The dedicated source of repayment for the WIFIA Loan shall be the Gross Revenues. “Gross Revenues” means all revenues, income and receipts of every nature derived or received by the Borrower from the operation and ownership of the Utility System including any lawfully available impact fees and the interest income from investment or deposit of money in any account or subaccount created by the Master Ordinance or maintained by the Borrower in connection with the Utility System (except any account or subaccount not pledged as Security under the Master Ordinance or any Supplement) and any other revenues hereafter pledged to the payment of all Parity Debt. Any interest income related to any reserve account shall operate as provided in the applicable Supplement.</p>
SECURITY AND LIEN PRIORITY	<p>The WIFIA Bond shall be secured by the Liens on the Security on a parity with the Parity Debt and senior to all Subordinated Debt. “Security” means, subject to the provisions of Section 1.02(c) of the WIFIA Supplement, all of the interests of the Borrower in (a) the Pledged Revenues; (b) all amounts in the System Account (subject to the payment of Maintenance and Operating Expenses as provided in Section 4 of the Master Ordinance) and the Interest and Sinking Account; (c) any additional account or subaccount that is subsequently established and so designated as being included within the Security pursuant to Section 3(f) of the Master Ordinance; (d) all of the proceeds of the foregoing, including, without limitation, investments thereof; (e) any applicable Credit Agreement to the extent set forth in such Credit Agreement; and (f) with respect to any applicable series of Parity Debt, all</p>

	<p>amounts in any reserve account or subaccount applicable to such Parity Debt pursuant to Section 3(e) of the Master Ordinance, including any reserve fund surety policy or other Credit Agreement entered into for the benefit of such account or subaccount.</p> <p>“Pledged Revenues” means (1) the Net Revenues plus (2) any additional revenues, income, receipts, or other resources, including, without limitation, any grants, donations or income received or to be received from the United States Government, or any other public or private source, whether pursuant to an agreement or otherwise, which hereafter are pledged by the Borrower to the payment of the Parity Debt, and excluding those revenues excluded from Gross Revenues.</p> <p>The debt obligation of the Borrower under the WIFIA Loan shall be evidenced through the issuance by the Borrower of the WIFIA Bond.</p> <p>The Borrower has agreed and covenanted in the Master Ordinance that all Gross Revenues shall be deposited into the System Account immediately upon receipt by the Borrower and applied in accordance with the requirements specified in Section 4 of the Master Ordinance, a copy of which is attached hereto as Attachment B (Flow of Funds). For avoidance of doubt, moneys on deposit in the System Account not required to make any of the payments required above or expended by the Borrower at any time for any lawful purpose authorized pursuant to the Enabling Act and other State law shall remain in the System Account and remain subject to the pledge and lien provided in the WIFIA Loan Agreement.</p>
PREPAYMENT	<p>The Borrower may prepay the WIFIA Loan in whole on any date or in part on any Payment Date (and, if in part, the amounts thereof to be prepaid shall be determined by the Borrower; <u>provided</u>, that such prepayments shall be in principal amounts of \$500,000 or any integral multiple of \$1.00 in excess thereof), from time to time but not more than once annually from the Borrower’s excess revenues (after payment of debt service then due on the Borrower’s Project Obligations, including any reserve fund requirements, if applicable), and otherwise in accordance with the WIFIA Loan Agreement.</p>
RATE COVENANT	<p>The Borrower has agreed and covenanted in the Master Ordinance with the Owners of the Parity Debt that so long as any Parity Debt, or any interest thereon, remain Outstanding and unpaid, to establish and maintain rates and charges for facilities and services afforded by the Utility System that are reasonably expected, on the basis of available information and experience and with due</p>

	allowance for contingencies, to produce Gross Revenues in each Fiscal Year to satisfy the requirements specified in Section 5 of the Master Ordinance, a copy of which is attached hereto as Attachment C (Rate Covenant) .
ADDITIONAL INDEBTEDNESS	<ul style="list-style-type: none"> (i) Except for Permitted Debt, the Borrower shall not without the prior written consent of the WIFIA Lender issue or incur any Debt. (ii) The Borrower shall not create, incur or suffer to exist (A) any Debt the payments of which are senior or prior in right to the payment by the Borrower of the Parity Debt, or (B) any Additional Parity Debt Project Obligations that are secured by a Lien on any assets or property of the Borrower other than the Security. (iii) The Borrower shall not issue or incur any Parity Debt or Subordinated Debt except in accordance with all requirements and conditions set forth in Section 7 of the Master Ordinance, a copy of which is attached hereto as Attachment D (Additional Debt Test).
HEDGING	The Borrower shall not enter into any swap or hedging transaction with respect to or payable from all or part of the Security, including inflation indexed swap transactions, “cap” or “collar” transactions, futures, or any other hedging transaction, for any speculative purpose. For the avoidance of doubt, the Borrower is permitted to enter into a swap or hedging transaction with respect to or payable from all or part of the Security, including inflation indexed swap transactions, “cap” or “collar” transactions, futures, or any other hedging transaction with respect to or payable from all or part of the Security with respect to Parity Debt that bears interest at a variable interest rate so long as the Borrower’s obligations to pay any termination payments with respect thereto are made junior and subordinate in all respects to Parity Debt.
WIFIA LOAN DOCUMENTATION	The WIFIA Loan shall be subject to the preparation, execution and delivery of the WIFIA Loan Agreement and any other loan documentation required by the WIFIA Lender in connection therewith, in each case acceptable to the WIFIA Lender and the Borrower, which will contain certain conditions precedent, representations and warranties, affirmative and negative covenants, events of default, and other provisions as are typical of WIFIA loan agreements.
GOVERNING LAW	Federal laws of the United States of America, if and to the extent such federal laws are applicable, and the internal laws of the State of Texas, if and to the extent such federal laws are not applicable.
COUNTERPARTS	This Term Sheet, and any amendments, waivers, consents or supplements hereto may be executed in any number of

	<p>counterparts and by the parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument. Signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document. Electronic delivery of an executed counterpart of a signature page shall be effective as delivery of an original executed counterpart.</p>
--	--

[Signature pages follow]

If the foregoing terms are acceptable, please countersign this letter in the space indicated below.

Sincerely,

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

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

ACKNOWLEDGED AND AGREED:

CITY OF PFLUGERVILLE, TEXAS,
by its authorized representative

By: _____
Name: Victor Gonzales
Title: Mayor

ATTACHMENT A

DEFINED TERMS FROM MASTER ORDINANCE

All terms used in this Attachment A shall have the meaning assigned to such terms as provided in the Master Ordinance and, in the case of the definition of the term "Security," the WIFIA Supplement. All section references used in this Attachment A shall be references to the appropriate section in the Master Ordinance. All references to "herein" or "hereof" in this Attachment A shall be references to the Master Ordinance. The following is intended to copy (without change) certain defined terms in the Master Ordinance (and, in the case of the definition of the term "Security," in the WIFIA Supplement) as of the Effective Date.

"Annual Debt Service Requirements" means, for any Fiscal Year, (i) the principal of, premium, if any, and interest on all Parity Debt coming due at Maturity or Stated Maturity (or that could come due on demand of the owner thereof other than by acceleration or other demand conditioned upon default by the City on such Parity Debt, or be payable in respect of any required purchase of such Parity Debt by the City) plus (ii) all payments required to be made by the City under each Credit Agreement constituting Parity Debt (net of any credits as provided in (7) below) in such Fiscal Year, and minus (iii) all amounts on deposit to the credit of the Interest and Sinking Account from original proceeds from the sale of Parity Debt or from any other lawfully available source (other than moneys that would constitute Pledged Revenues in the subject annual period) and, for such purposes, any one or more of the following rules shall apply at the election of the City; provided, however, that this definition shall never be applied in a manner which results in Annual Debt Service Requirements for any Fiscal Year being an amount that is less than the aggregate amount actually required to be paid in such Fiscal Year with respect to Outstanding Parity Debt:

(1) **Committed Take Out.** If the City has entered into a Credit Agreement constituting Parity Debt and constituting a binding commitment within normal commercial practice, from any bank, savings and loan association, insurance company, or similar institution to discharge any of its Funded Debt at its Stated Maturity (or, if due on demand, at any date on which demand may be made) or to purchase any of its Funded Debt at any date on which such debt is subject to required purchase, all pursuant to arrangements whereby the City's obligation to repay the amounts advanced for such discharge or purchase constitutes Funded Debt, then the portion of the Funded Debt committed to be discharged or purchased shall be excluded from such calculation and the principal of and interest on the Funded Debt incurred for such discharge or purchase that would be due in the Fiscal Year for which the calculation is being made, if incurred at the Stated Maturity or purchase date of the Funded Debt to be discharged or purchased, shall be added to such calculation, and the remaining provisions of this definition shall be applied to such added Funded Debt;

(2) **Balloon Debt.** If the principal, including the accretion of interest resulting from original issue discount or compounding of interest (collectively, "Principal"), of any series or issue of Funded Debt due (or payable in respect of any required purchase of such Funded Debt by the City) in any Fiscal Year either is equal to at least 25% of the total

Principal of such Funded Debt or exceeds by more than 50% the greatest amount of Principal of such series or issue of Funded Debt due in any preceding or succeeding Fiscal Year (such Principal due in such Fiscal Year for such series or issue of Funded Debt being referred to herein as “Balloon Debt”), the amount of Principal of such Balloon Debt taken into account during any Fiscal Year shall be equal to the debt service calculated using the Principal of such Balloon Debt amortized over the Term of Issue on a level debt service basis at an assumed interest rate equal to the rate borne by such Balloon Debt on the date of calculation;

(3) Consent Sinking Fund. In the case of Balloon Debt (as defined in clause (2) above), if an Authorized Representative shall deliver to the City an Officer’s Certificate providing for the retirement of (and the instrument creating such Balloon Debt shall permit the retirement of), or for the accumulation of a sinking fund for (and the instrument creating such Balloon Debt shall permit the accumulation of a sinking fund for), such Balloon Debt according to a fixed schedule stated in such Officer’s Certificate ending on or before the Fiscal Year in which such principal (and premium, if any) is due, then the principal of (and, in the case of retirement, or to the extent provided for by the sinking fund accumulation, the premium, if any, and interest and other payments due on) such Balloon Debt shall be computed as if the same were due in accordance with such schedule, provided that this clause (3) shall apply only to Balloon Debt for which the installments previously scheduled have been paid or deposited to the sinking fund established with respect to such debt on or before the times required by such schedule; and provided further that this clause (3) shall not apply where the City has elected to apply the rule set forth in clause (2) above;

(4) Prepaid Debt. Principal of, premium, if any, and interest on Parity Debt, or portions thereof, shall not be included in the computation of the Annual Debt Service Requirements for any Fiscal Year for which such principal, premium, if any, or interest are payable from funds on deposit or set aside in trust for the payment thereof at the time of such calculations (including, without limitation, capitalized interest and accrued interest so deposited or set aside in trust) with a financial institution acting as fiduciary with respect to the payment of such Parity Debt;

(5) Variable Rate. As to any Parity Debt that bears interest at a variable interest rate which cannot be ascertained at the time of calculation of the Annual Debt Service Requirement, at the election of the City, the interest rate for such Parity Debt shall be determined to be either (i) an interest rate equal to the average rate borne by such Parity Debt (or by comparable debt in the event that such Parity Debt has not been outstanding during the preceding twenty-four (24) months) for any twenty-four (24) month period ending within thirty (30) days prior to the date of calculation, (ii) if the Parity Debt bears interest at tax-exempt rates, an interest rate equal to twenty-four (24) month average of the Bond Market Association Bond Index (as most recently published in The Bond Buyer), unless such index is no longer published in The Bond Buyer, in which case the index to be used in its place shall be that index which the City determines most closely replicates such index as set forth in a certificate of an Authorized Representative, (iii) if the Parity Debt bears interest at taxable rates, an interest rate equal to the rate of the thirty (30) day London Interbank Offered Rate, (iv) that interest rate which, in the judgment of the Chief Financial Officer, based, to the extent possible, upon an accepted market index which corresponds

with the provisions of the subject Parity Debt, is the average rate anticipated to be in effect with respect to such Parity Debt or (v) that interest rate which, in the judgment of the Chief Financial Officer, based upon the interest rate methodology in the applicable Credit Agreement if calculating payments under a Credit Agreement in accordance with paragraph 7 of this definition, is the average rate anticipated to be in effect;

(6) Short-Term Obligations. Notwithstanding anything in the foregoing to the contrary, with respect to any Parity Debt issued as Short-Term Obligations, the debt service on such Parity Debt shall be calculated assuming that such Parity Debt will be refunded and refinanced to mature over a 20-year period with level debt service requirements and bearing interest at then current market rates; provided, however, that to the extent permitted by law, if in the judgment of the Chief Financial Officer, as set forth in an Officer's Certificate delivered to the City, the result of the foregoing calculation is inconsistent with the reasonable expectations of the City, the interest on such Parity Debt shall be calculated in the manner provided in clause (5) of this definition and the maturity schedule shall be calculated in the manner provided in clause (2) of this definition; and

(7) Credit Agreement Payments. If the City has entered into a Credit Agreement in connection with an issue of Parity Debt, payments due under any such Credit Agreement (other than payments for fees and expenses) from either the City or the provider of a Credit Agreement shall be included in such calculation, except to the extent that the payments are already taken into account under clauses (1) through (6) above and any payments otherwise included under clauses (1) through (6) above which are to be replaced by payments under such a Credit Agreement, from either the City or the provider under a Credit Agreement, shall be excluded from such calculation.

“Authorized Representative” means the City Manager, any Assistant City Manager or Chief Financial Officer or such other individuals so designated by the City to perform the duties of an Authorized Representative under this Master Ordinance.

“Chief Financial Officer” means the Finance Director of the City or such other officer or employee of the City or such other individual so designated by the City to perform the duties of Chief Financial Officer under this Master Ordinance.

“Credit Agreement” means, collectively, a loan agreement, revolving credit agreement, agreement establishing a line of credit, letter of credit, reimbursement agreement, insurance contract, commitments to purchase Debt, purchase or sale agreements, interest rate swap, cap and/or floor agreement or commitment, or other contract or agreement authorized, recognized, and approved by the City as a Credit Agreement in connection with the authorization, issuance, sale, resale, security, exchange, payment, purchase, remarketing, or redemption of Debt, the interest on Debt, or both.

“Fiscal Year” means the twelve-month accounting period used by the City in connection with the operation of the Utility System, currently ending on September 30 of each year, which may be any twelve consecutive month period established by the City, but in no event may the Fiscal Year be changed more than one time in any three (3) calendar year period.

“Funded Debt” means all Parity Debt created, assumed, or guaranteed by the City that matures by its terms (in the absence of the exercise of any earlier right of demand), or is renewable at the option of the City to a date, more than one year after the original creation, assumption, or guarantee of such Debt by the City.

“Gross Revenues” and **“Gross Revenues of the City’s Utility System”** mean all revenues, income and receipts of every nature derived or received by the City from the operation and ownership of the Utility System including any lawfully available impact fees and the interest income from investment or deposit of money in any account or subaccount created by this Master Ordinance or maintained by the City in connection with the Utility System (except any account or subaccount not pledged as Security under this Master Ordinance or any Supplement) and any other revenues hereafter pledged to the payment of all Parity Debt. Any interest income related to any reserve account shall operate as provided in the applicable Supplement.

“Maintenance and Operating Expenses” means the reasonable and necessary expenses of operation and maintenance of the Utility System as required by Section 1502.056, Texas Government Code, as amended, or other applicable State law including all salaries, labor, materials, repairs and extensions necessary to render efficient service (but only such repairs and extensions as, in the judgment of the Chief Financial Officer, are necessary to keep the Utility System in operation and render adequate service to the City and the inhabitants thereof, or such as might be necessary to meet some physical accident or conditions which would otherwise impair the Parity Debt), and all payments under contracts now or hereafter defined as operating expenses by State law. Depreciation shall never be considered as a Maintenance and Operating Expense.

“Maturity” when used with respect to any Debt means the date on which the principal of such Debt or any installment thereof becomes due and payable as therein provided, whether at the Stated Maturity thereof or by call for redemption, or otherwise.

“Net Revenues” and **“Net Revenues of the City’s Utility System”** mean all Gross Revenues remaining after deducting the Maintenance and Operating Expenses.

“Non-Recourse Debt” means any debt secured by a lien (other than a lien on the Security), liability for which is effectively limited to the property subject to such lien with no recourse, directly or indirectly, to the Security.

“Officer’s Certificate” means a certificate signed by an Authorized Representative.

“Outstanding Principal Amount” means, as of any record date established by a Registrar in connection with a proposed amendment of this Master Ordinance or any Supplement, with respect to all Parity Debt or to a series of Parity Debt that is in the form of bonds, notes, or other similar instruments that have a stated principal amount, the outstanding and unpaid principal amount of such Parity Debt on which interest is paid on a current basis and the outstanding and unpaid principal and compounded interest on such Parity Debt paying accrued, accreted, or compounded interest only at maturity and, with respect to Credit Agreements shall total the amount, if any, then due under such Credit Agreement if it was to be terminated as of the date of calculation of Outstanding Principal Amount.

“Pledged Revenues” means (1) the Net Revenues plus (2) any additional revenues, income, receipts, or other resources, including, without limitation, any grants, donations or income received or to be received from the United States Government, or any other public or private source, whether pursuant to an agreement or otherwise, which hereafter are pledged by the City to the payment of the Parity Debt, and excluding those revenues excluded from Gross Revenues.

“Reserve Account Obligation” means a surety bond or insurance policy deposited in any reserve account established pursuant to a Supplement whereby the issuer is obligated to provide funds up to and including the maximum amount and under the conditions specified in such agreement or instrument.

“Security” means, subject to the provisions of Section 1.02(c) of the WIFIA Supplement, all of the interests of the City in (a) the Pledged Revenues; (b) all amounts in the System Account (subject to the payment of Maintenance and Operating Expenses as provided in Section 4 of this Master Ordinance) and the Interest and Sinking Account; (c) any additional account or subaccount that is subsequently established and so designated as being included within the Security pursuant to Section 3(f) of this Master Ordinance; (d) all of the proceeds of the foregoing, including, without limitation, investments thereof; (e) any applicable Credit Agreement to the extent set forth in such Credit Agreement; and (f) with respect to any applicable series of Parity Debt, all amounts in any reserve account or subaccount applicable to such Parity Debt pursuant to Section 3(e) of this Master Ordinance, including any reserve fund surety policy or other Credit Agreement entered into for the benefit of such account or subaccount.

“Stated Maturity” when used with respect to any Parity Debt or any installment of interest thereon means any date specified in the instrument evidencing or authorizing such Parity Debt or such installment of interest as a fixed date on which the principal of such Parity Debt or any installment thereof or the fixed date on which such installment of interest is due and payable.

“Term of Issue” means with respect to any Balloon Debt a period of time equal to the greater of (i) the period of time commencing on the date of issuance of such Balloon Debt and ending on the final maturity date of such Balloon Debt or the maximum maturity date in the case of commercial paper or (ii) twenty-five years.

“Utility System” or **“System”** means as currently comprised, the City’s combined waterworks and sewer system, which includes all properties, facilities, plants, improvements, equipment, interests and rights currently owned, operated and maintained by the City for the supply, treatment, and transmission and distribution of treated potable water and collection and treatment of wastewater, and for water reuse, together with all future extensions, improvements, purchases, repairs, replacements and additions thereto, whether situated within or without the limits of the City, and all water (in any form) owned by the City; provided, however, that the City expressly retains the right to (i) sell or disaggregate the Utility System as set forth in Section 6(q) of this Master Ordinance and (ii) incorporate any other utility system (other than telecommunications system) as provided by the laws of the State as a part of the Utility System. The Utility System shall not include any Special Project or any disaggregated part of the Utility System as provided in this Master Ordinance.

ATTACHMENT B

FLOW OF FUNDS

All terms used in this Attachment B shall have the meaning assigned to such terms as provided in the Master Ordinance. All section references used in this Attachment B shall be references to the appropriate section in the Master Ordinance. All references to "herein" or "hereof" in this Attachment B shall be references to the Master Ordinance. The following is intended to copy (without change) the provisions of Section 4 of the Master Ordinance as of the Effective Date. For reference purposes, certain defined terms of the Master Ordinance used in this Attachment B, as of the Effective Date, are set forth in Attachment A.

Section 4. FLOW OF FUNDS. All Gross Revenues shall be deposited into the System Account immediately upon receipt by the City. All Gross Revenues are hereby and shall be appropriated, deposited, and transferred from the System Account to the other accounts and subaccounts to the extent required for the following uses and in the order of priority shown:

FIRST: to the payment of all necessary and reasonable Maintenance and Operating Expenses as defined herein or required by statute, including, but not limited to, Chapter 1502, Texas Government Code, as amended, to be a first charge on and claim against the Gross Revenues, including any reserve amount based upon the budgeted amount of Maintenance and Operating Expenses for the current Fiscal Year as determined by the Chief Financial Officer, which amount shall be retained in the System Account;

SECOND: to the payment of amounts required to be deposited and credited to the Interest and Sinking Account to meet all financial obligations of the City relating to the Financing Program, including payments due on or with respect to the payment of Parity Debt as the same mature or come due;

THIRD: pro rata, on the basis that the Outstanding Principal Amount of each particular issue or series of Parity Debt secured by a reserve account bears to the aggregate Outstanding Principal Amount of all such issues or series of such Parity Debt secured by any reserve account, to the payment of the amounts required to be deposited and credited to each reserve account created and established to maintain a reserve in accordance with the provisions of any Supplement relating to the issuance of any Parity Debt;

FOURTH: any amounts to be deposited into any other fund, account or subaccount to the extent required pursuant to the provisions of any Supplement relating to the issuance of Parity Debt;

FIFTH: to the extent required by any resolution or other instrument adopted or approved by the City pursuant to which Subordinated Debt is issued, the amount necessary to meet all financial obligations on such Subordinated Debt and to accumulate or restore any required reserves to ensure payment of such principal, premium, and interest shall be deposited to any account or subaccount created for such purpose; and

SIXTH: all remaining Pledged Revenues shall be retained in the System Account and may be used for any lawful purpose authorized pursuant to the Enabling Act and other State law.

ATTACHMENT C

RATE COVENANT

All terms used in this Attachment C shall have the meaning assigned to such terms as provided in the Master Ordinance. All section references used in this Attachment C shall be references to the appropriate section in the Master Ordinance. All references to “herein” or “hereof” in this Attachment C shall be references to the Master Ordinance. The following is intended to copy (without change) the provisions of Section 5 of the Master Ordinance as of the Effective Date. For reference purposes, certain defined terms of the Master Ordinance used in this Attachment C, as of the Effective Date, are set forth in Attachment A.

Section 5. RATE COVENANT. The City covenants and agrees with the Owners of the Parity Debt that so long as any Parity Debt, or any interest thereon, remain Outstanding and unpaid, to establish and maintain rates and charges for facilities and services afforded by the Utility System that are reasonably expected, on the basis of available information and experience and with due allowance for contingencies, to produce Gross Revenues in each Fiscal Year reasonably anticipated to be sufficient to:

- (a) pay Maintenance and Operating Expenses;
- (b) produce Pledged Revenues at least equal to the greater of 1.25 times the average Annual Debt Service Requirements or 1.10 times the maximum Annual Debt Service Requirements;
- (c) produce Pledged Revenues in amounts sufficient to enable the City to make the deposits and credits, if any, from Pledged Revenues to the accounts and subaccounts required by this Master Ordinance and any Supplement including to fund or restore any reserve account required by a Supplement, including the payment of any Reserve Account Obligation then due;
- (d) produce Pledged Revenues, together with any other lawfully available funds (including the proceeds of Debt which the City expects will be utilized to pay all or part of the principal of and/or interest on any obligations) sufficient to meet all financial obligations for Subordinated Debt issued by the City; and
- (e) pay any other Debt payable from the Pledged Revenues and/or secured by a lien on the Security.

Should the annual audit report reflect that the Security for the Fiscal Year covered thereby is less than necessary to meet the requirements of this Section, the City Council will review the operations of the Utility System and the rates and charges for services provided, and the City Council will make the necessary adjustments or revisions, if any, in order that the Security for the succeeding year will be sufficient to satisfy the foregoing coverage requirements.

ATTACHMENT D

ADDITIONAL DEBT TEST

All terms used in this Attachment D shall have the meaning assigned to such terms as provided in the Master Ordinance. All section references used in this Attachment D shall be references to the appropriate section in the Master Ordinance. All references to "herein" or "hereof" in this Attachment D shall be references to the Master Ordinance. The following is intended to copy (without change) the provisions of Section 7 of the Master Ordinance as of the Effective Date. For reference purposes, certain defined terms of the Master Ordinance used in this Attachment D, as of the Effective Date, are set forth in Attachment A.

Section 7. ISSUANCE OF PARITY DEBT.

(a) General. The City reserves and shall have the right and power to issue or incur Parity Debt for any purpose authorized by State law, including the refunding of Parity Debt, Subordinated Debt, or other obligations of the City issued to finance the costs of a project authorized to be financed under the Financing Program, pursuant to the provisions of this Master Ordinance and Supplements to be hereafter authorized. The City hereby covenants and agrees to comply with all constitutional and statutory requirements of State law and, to the extent applicable, federal law governing the issuance of Parity Debt.

(b) Parity Debt. Provided that the City is in compliance with the requirements of any then applicable provisions of State law, the City may from time to time incur, assume, guarantee, or otherwise become liable in respect of Parity Debt if, in the applicable Supplement, the City finds that, upon the issuance of such Parity Debt, the Security will be sufficient to meet the financial obligations relating to the Financing Program, including Security in amounts sufficient to satisfy the Annual Debt Service Requirements of the Financing Program. In addition, the City shall not issue or incur such Parity Debt unless (i) an Authorized Representative shall deliver to the City an Officer's Certificate stating that, to the best of his or her knowledge, the City, has not failed to comply with the covenants contained in this Master Ordinance and any Supplement, to any material extent, and are not in default, to any material extent, in the performance and observance of any of the terms, provisions, and conditions hereof, thereof or under any Credit Agreement that constitutes Parity Debt and (ii) the Chief Financial Officer signs and delivers to the City a written certificate to the effect that, during either the next preceding Fiscal Year, or any twelve consecutive calendar month period ending not more than ninety (90) days prior to the date of the then proposed Parity Debt, the Net Earnings were, in the opinion thereof, at least equal to the sum of 1.25 times the average Annual Debt Service Requirements (computed on a Fiscal Year basis) of the Parity Debt to be outstanding after the issuance of the then proposed Parity Debt and 1.10 times the average Annual Debt Service Requirements (computed in the same manner as for Parity Debt) of the Subordinated Debt to be outstanding after the issuance of the then proposed Parity Debt.

In making a determination of Net Earnings for any of the purposes described in this Section, the Chief Financial Officer may take into consideration a change in the rates and charges for services and facilities afforded by the Utility System that became effective at least sixty (60) days prior to the last day of the period for which Net Earnings are determined and, for purposes of satisfying the Net Earnings tests described above, make a pro forma determination of the Net

Earnings of the Utility System for the period of time covered by said Chief Financial Officer's certification or opinion based on such change in rates and charges being in effect for the entire period covered by the Chief Financial Officer's certificate or opinion.

As used in this Section, the term “**Net Earnings**” shall mean the Gross Revenues of the Utility System after deducting the Maintenance and Operating Expenses of the Utility System but not expenditures which, under standard accounting practice, should be charged to capital expenditures.

(c) Credit Agreements. To the extent permitted by law, the City may execute and deliver one or more Credit Agreements (i) upon the delivery to the City of the Chief Financial Officer's Certificate to the effect that the Credit Agreement is in the best interest of the City and (ii) compliance with the requirements of subsection (b) or (c) of this section, as the case may be, if the Credit Agreement is to constitute Parity Debt. Each Credit Agreement shall be approved by the City, to the extent required by law, either pursuant to a Supplement or by other action. Credit Agreements and the obligations thereunder may, pursuant to their terms, constitute (i) Parity Debt secured by a pledge of the Security on parity with other Parity Debt, (ii) Subordinated Debt secured by a pledge of the Security subordinate to Parity Debt, or (iii) partially Parity Debt and partially Subordinated Debt.

(d) Non-Recourse Debt and Subordinated Debt. Non-Recourse Debt and Subordinated Debt may be incurred by the City in accordance with State law.

EXHIBIT D
PAYING AGENT/REGISTRAR AGREEMENT

PAYING AGENT/REGISTRAR AGREEMENT

THIS AGREEMENT entered into as of October 28, 2022 (this "Agreement"), by and between the City of Pflugerville, Texas (the "Issuer"), municipal corporation and political subdivision of the State of Texas, and UMB Bank, N.A., a banking corporation duly organized and existing under the laws of the United States of America (the "Bank").

RECITALS

WHEREAS, the Issuer has duly authorized and provided for the issuance of its Utility System Revenue Bond (Water Treatment Plant Expansion – 30 MGD Project), Series 2022 in a principal amount of \$52,049,683 (the "Obligations"), such Obligations to be issued in fully registered form only as to the payment of principal and interest thereon; and

WHEREAS, the Obligations are scheduled to be delivered to the initial purchaser thereof on or about October 28, 2022; and

WHEREAS, the Issuer has selected the Bank to serve as Paying Agent/Registrar in connection with the payment of the principal of, premium, if any, and interest on the Obligations and with respect to the registration, transfer and exchange thereof by the registered owners thereof; and

WHEREAS, the Bank has agreed to serve in such capacities for and on behalf of the Issuer and has full power and authority to perform and serve as Paying Agent/Registrar for the Obligations;

NOW, THEREFORE, it is mutually agreed as follows:

ARTICLE ONE APPOINTMENT OF BANK AS PAYING AGENT AND REGISTRAR

Section 1.01. Appointment.

The Issuer hereby appoints the Bank to serve as Paying Agent with respect to the Obligations. As Paying Agent for the Obligations, the Bank shall be responsible for paying on behalf of the Issuer the principal, premium (if any), and interest on the Obligations as the same become due and payable to the registered owners thereof, all in accordance with this Agreement and the "Ordinance" (hereinafter defined).

The Issuer hereby appoints the Bank as Registrar with respect to the Obligations. As Registrar for the Obligations, the Bank shall keep and maintain for and on behalf of the Issuer books and records as to the ownership of the Obligations and with respect to the transfer and exchange thereof as provided herein and in the "Ordinance."

The Bank hereby accepts its appointment and agrees to serve as the Paying Agent and Registrar for the Obligations.

Section 1.02. Compensation.

As compensation for the Bank's services as Paying Agent/Registrar, the Issuer hereby agrees to pay the Bank the fees and amounts set forth in Schedule A attached hereto for the first year of this Agreement and thereafter the fees and amounts set forth in the Bank's current fee schedule then in effect for services as Paying Agent/Registrar for political subdivisions, which shall be supplied to the Issuer on or before 90 days prior to the close of the Fiscal Year of the Issuer, and shall be effective upon the first day of the following Fiscal Year.

In addition, the Issuer agrees to reimburse the Bank upon its request for all reasonable expenses, disbursements and advances incurred or made by the Bank in accordance with any of the provisions hereof (including the reasonable compensation and the expenses and disbursements of its agents and counsel).

**ARTICLE TWO
DEFINITIONS**

Section 2.01. Definitions.

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

"Bank Office" means the designated office for payment of the Bank as indicated in Section 6.03 hereof. The Bank will notify the Issuer in writing of any change in location of the Bank Office.

"Fiscal Year" means the fiscal year of the Issuer, ending September 30.

"Holder" means the Person in whose name an Obligation is registered in the Security Register.

"Legal Holiday" means a day on which the Bank is required or authorized to be closed.

"Ordinance" means the orders, ordinances or resolutions of the governing body of the Issuer pursuant to which the Obligations are issued, certified by the City Secretary of the Issuer or any other officer of the Issuer and delivered to the Bank.

"Person" means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision of a government.

"Predecessor Obligations" of any particular Obligation means every previous Obligation evidencing all or a portion of the same obligation as that evidenced by such particular Obligation (and, for the purposes of this definition, any mutilated, lost, destroyed, or stolen Obligation for

which a replacement Obligation has been registered and delivered in lieu thereof pursuant to Section 4.06 hereof and the Ordinance).

"Responsible Officer" when used with respect to the Bank means the Chairman or Vice-Chairman of the Board of Directors, the Chairman or Vice-chairman of the Executive Committee of the Board of Directors, the President, any Vice President, the Secretary, any Assistant Secretary, the Treasurer, any Assistant Treasurer, the Cashier, any Assistant Cashier, any Trust Officer or Assistant Trust Officer, or any other officer of the Bank customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to any particular matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject.

"Security Register" means a register maintained by the Bank on behalf of the Issuer providing for the registration and transfer of the Obligations.

"Stated Maturity" means the date specified in the Ordinance on which the principal of an Obligation is scheduled to be due and payable.

Section 2.02. Other Definitions.

The terms "Bank," "Issuer," and "Obligations (Obligation)" have the meanings assigned to them in the recital paragraphs of this Agreement.

The term "Paying Agent/Registrar" refers to the Bank in the performance of the duties and functions of this Agreement.

Any other terms not defined herein, shall have the meaning given to them in the Ordinance, unless the context otherwise requires.

**ARTICLE THREE
PAYING AGENT**

Section 3.01. Duties of Paying Agent.

As Paying Agent, the Bank shall, provided adequate collected funds have been provided to it for such purpose by or on behalf of the Issuer, pay on behalf of the Issuer the principal of each Obligation at its Stated Maturity or Redemption Date to the Holder upon surrender of the Obligation to the Bank at the Bank Office.

As Paying Agent, the Bank shall, provided adequate collected funds have been provided to it for such purpose by or on behalf of the Issuer, pay on behalf of the Issuer the interest on each Obligation when due, by computing the amount of interest to be paid each Holder and preparing and sending checks by United States Mail, first-class postage prepaid, on each payment date, to the Holders of the Obligations (or their Predecessor Obligations) on the respective Record Date, to the

address appearing on the Obligation Register or by such other method, acceptable to the Bank, requested in writing by the Holder at the Holder's risk and expense.

Section 3.02. Payment Dates.

The Issuer hereby instructs the Bank to pay the principal of and interest on the Obligations on the dates specified in the Ordinance.

Section 3.03. Reporting Requirements.

To the extent required by the Internal Revenue Code of 1986, as amended, or the Treasury Regulations, the Bank shall report to or cause to be reported to the Holders and the Internal Revenue Service the amount of interest paid or the amount treated as interest accrued on the Obligations which is required to be reported by the Holders on their returns of federal income tax.

**ARTICLE FOUR
REGISTRAR**

Section 4.01. Security Register - Transfers and Exchanges.

The Bank agrees to keep and maintain for and on behalf of the Issuer at the Bank Office books and records (herein sometimes referred to as the "Security Register"), and, if the Bank Office is located outside the State of Texas, a copy of such books and records shall be kept in the State of Texas, for recording the names and addresses of the Holders of the Obligations, the transfer, exchange and replacement of the Obligations and the payment of the principal of and interest on the Obligations to the Holders and containing such other information as may be reasonably required by the Issuer and subject to such reasonable regulations as the Issuer and the Bank may prescribe. The Bank also agrees to keep a copy of the Security Register within the State of Texas. All transfers, exchanges and replacement of Obligations shall be noted in the Security Register.

Every Obligation surrendered for transfer or exchange shall be duly endorsed or be accompanied by a written instrument of transfer, the signature on which has been guaranteed by an officer of a federal or state bank or a member of the Financial Industry Regulatory Authority, in form satisfactory to the Bank, duly executed by the Holder thereof or his agent duly authorized in writing.

The Bank may request any supporting documentation it feels necessary to effect a re-registration, transfer or exchange of the Obligations.

To the extent possible and under reasonable circumstances, the Bank agrees that, in relation to an exchange or transfer of Obligations, the exchange or transfer by the Holders thereof will be completed and new Obligations delivered to the Holder or the assignee of the Holder in not more than three (3) business days after the receipt of the Obligations to be cancelled in an exchange or transfer and the written instrument of transfer or request for exchange duly executed by the Holder, or his duly authorized agent, in form and manner satisfactory to the Paying Agent/Registrar.

Section 4.02. Form of Security Register.

The Bank, as Registrar, will maintain the Security Register relating to the registration, payment, transfer and exchange of the Obligations in accordance with the Bank's general practices and procedures in effect from time to time. The Bank shall not be obligated to maintain such Security Register in any form other than those which the Bank has currently available and currently utilizes at the time.

The Security Register may be maintained in written form or in any other form capable of being converted into written form within a reasonable time.

Section 4.03. List of Holders.

The Bank will provide the Issuer at any time requested by the Issuer, upon payment of the required fee, a copy of the information contained in the Security Register. The Issuer may also inspect the information contained in the Security Register at any time the Bank is customarily open for business, provided that reasonable time is allowed the Bank to provide an up-to-date listing or to convert the information into written form.

The Bank will not release or disclose the contents of the Security Register to any person other than to, or at the written request of, an authorized officer or employee of the Issuer, except upon receipt of a court order or as otherwise required by law. Upon receipt of a court order or other notice of a legal proceeding and prior to the release or disclosure of any of the contents of the Security Register, the Bank will notify the Issuer so that the Issuer may contest the same or such release or disclosure of the contents of the Security Register.

Section 4.04. Return of Cancelled Certificates.

The Bank will, at such reasonable intervals as it determines, surrender to the Issuer, Obligations in lieu of which or in exchange for which other Obligations have been issued, or which have been paid.

Section 4.05. Mutilated, Destroyed, Lost or Stolen Obligations.

The Issuer hereby instructs the Bank, subject to the applicable provisions of the Ordinance, to deliver and issue Obligations certificates in exchange for or in lieu of mutilated, destroyed, lost, or stolen Obligations certificates.

In case any Obligation shall be mutilated, or destroyed, lost or stolen, the Bank, in its discretion, may execute and deliver a replacement Obligation of like form and tenor, and in the same denomination and bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Obligation, or in lieu of and in substitution for such destroyed lost or stolen Obligation, only after (i) the filing by the Holder thereof with the Bank of evidence satisfactory to the Bank of the destruction, loss or theft of such Obligation, and of the authenticity of

the ownership thereof and (ii) the furnishing to the Bank of indemnification in an amount satisfactory to hold the Issuer and the Bank harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Obligation shall be borne by the Holder of the Obligation mutilated, or destroyed, lost or stolen.

Section 4.06. Transaction Information to Issuer.

The Bank will, within a reasonable time after receipt of written request from the Issuer, furnish the Issuer information as to the Obligations certificates it has paid pursuant to Section 3.01, Obligations certificates it has delivered upon the transfer or exchange of any Obligations certificates pursuant to Section 4.01, and Obligations certificates it has delivered in exchange for or in lieu of mutilated, destroyed, lost, or stolen Obligations certificates pursuant to Section 4.06.

**ARTICLE FIVE
THE BANK**

Section 5.01. Duties of Bank.

The Bank undertakes to perform the duties set forth herein and agrees to use reasonable care in the performance thereof.

The Bank is also authorized to transfer funds relating to the closing and initial delivery of the Obligations in the manner disclosed in the closing memorandum approved by the Issuer as prepared by the Issuer's financial advisor or other agent. The Bank may act on a facsimile transmission of the closing memorandum to be followed by an original of the closing memorandum signed by the financial advisor or the Issuer.

Section 5.02. Reliance on Documents, Etc.

(a) The Bank may conclusively rely, as to the truth of the statements and correctness of the opinions expressed therein, on certificates or opinions furnished to the Bank by the Issuer.

(b) The Bank shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it shall be proven that the Bank was grossly negligent in ascertaining the pertinent facts.

(c) No provisions of this Agreement shall require the Bank to expend or risk its own funds or otherwise incur any financial liability for performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity satisfactory to it against such risks or liability is not assured to it.

(d) The Bank may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, security, or other paper or document believed by it to be genuine and to have been

signed or presented by the proper party or parties. Without limiting the generality of the foregoing statement, the Bank need not examine the ownership of any Obligations, but is protected in acting upon receipt of Obligations certificates containing an endorsement or instruction of transfer or power of transfer which appears on its face to be signed by the Holder or an agent of the Holder. The Bank shall not be bound to make any investigation into the facts or matters stated in a resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, security, or other paper or document supplied by the Issuer.

(e) The Bank may consult with legal counsel, and the written advice of such counsel or any opinion of counsel shall be full and complete authorization and protection with respect to any action taken, suffered, or omitted by it hereunder in good faith and in reliance thereon, provided that any such written advice or opinion is supplied to the Issuer by the Bank.

(f) The Bank may exercise any of the powers hereunder and perform any duties hereunder either directly or by or through agents or attorneys of the Bank.

Section 5.03. Recitals of Issuer.

The recitals contained herein with respect to the Issuer and in the Obligations shall be taken as the statements of the Issuer, and the Bank assumes no responsibility for their correctness.

The Bank shall in no event be liable to the Issuer, any Holder or Holders of any Obligation, or any other Person for any amount due on any Obligation from its own funds.

Section 5.04. May Hold Obligations.

The Bank, in its individual or any other capacity, may become the owner or pledgee of Obligations and may otherwise deal with the Issuer with the same rights it would have if it were not the Paying Agent/Registrar, or any other agent.

Section 5.05. Moneys Held by Bank.

If the Bank is not the sole holder of all of the Obligations, the Bank shall deposit any moneys received from the Issuer into a segregated account to be held by the Bank solely for the benefit of the owners of the Obligations to be used solely for the payment of the Obligations, with such moneys in the account that exceed the deposit insurance available to the Issuer by the Federal Deposit Insurance Corporation, to be fully collateralized with Obligations or obligations that are eligible under the laws of the State of Texas to secure and be pledged as collateral for such accounts until the principal and interest on such Obligations have been presented for payment and paid to the owner thereof. Payments made from such account shall be made by check drawn on such account unless the owner of such Obligations shall, at its own expense and risk, request such other medium of payment.

Subject to the Unclaimed Property Law of the State of Texas, any money deposited with the Bank for the payment of the principal, premium (if any), or interest on any Obligation and remaining unclaimed for three years after the final maturity of the Obligation has become due and payable will

be paid by the Bank to the Issuer if the Issuer so elects, and the Holder of such Obligation shall hereafter look only to the Issuer for payment thereof, and all liability of the Bank with respect to such monies shall thereupon cease. If the Issuer does not elect, the Bank is directed to report and dispose of the funds in compliance with Title Six of the Texas Property Code, as amended.

Section 5.06. Indemnification.

To the extent permitted by law, the Issuer agrees to indemnify the Bank for, and hold it harmless against, any loss, liability, or expense incurred without negligence or bad faith on the Bank's part, arising out of or in connection with the Bank's acceptance or administration of its duties hereunder, including the cost and expense incurred by the Bank in defending against any claim or from liability imposed on the Bank in connection with the Bank's exercise or performance of any of its powers or duties under this Agreement.

Section 5.07. Interpleader.

The Issuer and the Bank agree that the Bank may seek adjudication of any adverse claim, demand, or controversy over its person as well as funds on deposit, in either a Federal or State District Court located in the State of Texas and County where either the Bank Office or the administrative offices of the Issuer are located, and agree that service of process by certified or registered mail, return receipt requested, to the address referred to in Section 6.03 of this Agreement shall constitute adequate service. The Issuer and the Bank further agree that the Bank has the right to file a Bill of Interpleader in any court of competent jurisdiction in the State of Texas to determine the rights of any Person claiming any interest herein.

**ARTICLE SIX
MISCELLANEOUS PROVISIONS**

Section 6.01. Amendment.

This Agreement may be amended only by an agreement in writing signed by both of the parties hereto.

Section 6.02. Assignment.

This Agreement may not be assigned by either party without the prior written consent of the other.

Section 6.03. Notices.

Any request, demand, authorization, direction, notice, consent, waiver, or other document provided or permitted hereby to be given or furnished to the Issuer or the Bank shall be mailed or delivered to the Issuer or the Bank, respectively, at the addresses set forth below:

Issuer

City of Pflugerville, Texas
100 East Main Street
Pflugerville, Texas 78691
Attn: Chief Financial Officer

Paying Agent/Registrar

UMB Bank, N.A.
Corporate Trust and Escrow Group
6034 West Courtyard Drive, Suite 370
Austin, Texas 78730

Attn: Corporate Trust and Escrow Group

Section 6.04. Effect of Headings.

The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

Section 6.05. Successors and Assigns.

All covenants and agreements herein by the Issuer and the Bank shall bind their respective successors and assigns, whether so expressed or not.

Section 6.06. Severability.

In case any provision herein shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 6.07. Benefits of Agreement.

Nothing herein, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, any benefit or any legal or equitable right, remedy, or claim hereunder.

Section 6.08. Entire Agreement.

This Agreement and the Ordinance constitute the entire agreement between the parties hereto relative to the Bank acting as Paying Agent/Registrar and if any conflict exists between this Agreement and the Ordinance, the Ordinance shall govern.

Section 6.09. Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall be

deemed an original and all of which shall constitute one and the same Agreement.

Section 6.10. Termination.

This Agreement will terminate (i) on the date of final payment of the principal of and interest on the Obligations to the Holders thereof or (ii) may be earlier terminated by either party upon thirty (30) days written notice; provided, however, an early termination of this Agreement by either party shall not be effective until (a) a successor Paying Agent/Registrar has been appointed by the Issuer and such appointment accepted and (b) notice has been given to the Holders of the Obligations of the appointment of a successor Paying Agent/Registrar. Furthermore, the Bank and Issuer mutually agree that the effective date of an early termination of this Agreement shall not occur at any time which would disrupt, delay or otherwise adversely affect the payment of the Obligations.

Upon an early termination of this Agreement, the Bank agrees to promptly transfer and deliver the Security Register (or a copy thereof), together with other pertinent books and records relating to the Obligations, to the successor Paying Agent/Registrar designated and appointed by the Issuer.

The provisions of Section 1.02, 5.02, 5.03 and 5.06 of this Agreement shall survive and remain in full force and effect following the termination of this Agreement.

Section 6.11. Governing Law.

This Agreement shall be construed in accordance with and governed by the laws of the State of Texas.

Section 6.12. Certifications Regarding Texas Government Code.

(a) This Agreement has a value of less than \$100,000 for purposes of Sections 2271.002 and 2274.002, Texas Government Code.

(b) The Bank represents that, neither the Bank, nor any parent company, wholly- or majority-owned subsidiaries or affiliates of the same, if any, are companies identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website:

<https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,
<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or
<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Bank and each parent company, wholly- or majority-owned subsidiaries, and other affiliates of the same, if any, that the United States government has affirmatively declared to be

excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Bank understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with the Bank and exists to make a profit.

Section 6.13. Interested Parties Form Exemption.

The Bank represents and warrants that it is exempt from the requirements of Section 2252.908 of the Texas Government Code, as amended, pursuant to subsection (c)(4) thereof, and, accordingly, the Bank is not required to file a Certificate of Interested Parties Form 1295 otherwise prescribed thereunder.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

UMB BANK, N.A.

By: _____
Title: _____

Mailing Address:

UMB Bank, N.A.
Corporate Trust and Escrow Group
6034 West Courtyard Drive, Suite 370
Austin, Texas 78730

Signature Page

CITY OF PFLUGERVILLE, TEXAS

By _____
Mayor

100 East Main Street
Pflugerville, Texas 78691

Signature Page

SCHEDULE A

Paying Agent/Registrar Fee Schedule

Schedule A



**FEES AND EXPENSES
FOR:**

**CITY OF PFLUGERVILLE, TEXAS
UTILITY SYSTEM REVENUE BONDS,
(WATER TREATMENT PLANT EXPANSION – 30 MGD PROJECT),
SERIES 2022**

Fees for services are as follows:

Acceptance Fee:	WAIVED
------------------------	---------------

A one-time fee payable at closing to cover the review of governing documents, communication with financing team, set-up of account records and customary duties and responsibilities relating to the closing.

Annual Paying Agent/Registrar Fee:	\$400.00
---	-----------------

Annual fee to cover the duties and responsibilities of the Paying Agent/Registrar related to the administration of the transaction including the maintenance of account records on various systems, the monitoring of required compliance items, payment of debt services and all routine duties as contemplated by the governing documents.

- First year annual fee is payable in advance on the closing date and annually thereafter until termination.
- A \$300 fee will be billed for Optional Redemptions at the time of service.

Extraordinary Services/ Miscellaneous Fees:
--

The fees, charges and expenses specified herein are for the typical and customary services as Bond Registrar and Paying Agent. UMB may also charge for typical out-of-pocket expenses and other expenses connected with paying agent and registrar services for bond issues of similar size and type such as: postage, supplies, bond redemptions, courier, wire transfer and long distance telephone. Fees for additional or extraordinary services not now part of the customary services provided, such as special services during defaults, additional government reporting requirements, or document amendments will be charged at the then current rates for such services. Extraordinary expenses, such as legal fees and travel expenses, shall be invoiced to the client based upon the actual out of pocket cost to the Agent/Trustee. UMB reserves the right to renegotiate its current fee schedule to correspond with changing economic conditions, inflation, and changing requirements relating to the day to day service delivery. Final acceptance of the appointment is subject to approval of authorized officers of UMB Bank, N.A. and full review and execution of all documentation related hereto. Fees paid in advance are not subject to proration. Execution of the governing documents constitutes agreement to the fee schedule noted above.